

ASSEMBLY, No. 269

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assembl~~y~~men **BATEMAN and LANCE**

1 AN ACT concerning contracting by county colleges and amending
2 P.L.1982, c.189.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended to
8 read as follows:

9 5. Any purchase, contract or agreement of the character described
10 in section 4 may be made, negotiated or awarded by the county college
11 by resolution at a public meeting of its board of trustees without public
12 advertising for bids or bidding therefor if:

13 a. The subject matter thereof consists of:

14 (1) Professional services; or

15 (2) Extraordinary unspecifiable services and products which cannot
16 reasonably be described by written specifications, subject however, to
17 procedures consistent with open public bidding whenever possible; or

18 (3) Materials or supplies which are not available from more than
19 one potential bidder, including without limitation materials or supplies
20 which are patented or copyrighted; or

21 (4) The doing of any work by employees of the county college; or

22 (5) The printing of all legal notices and legal briefs, records and
23 appendices to be used in any legal proceeding to which the county
24 college may be a party; or

25 (6) Textbooks, copyrighted materials, student produced
26 publications and services incidental thereto, library materials including
27 without limitation books, periodicals, newspapers, documents,
28 pamphlets, photographs, reproductions, microfilms, pictorial or
29 graphic works, musical scores, maps, charts, globes, sound recordings,
30 slides, films, filmstrips, video and magnetic tapes, other printed or
31 published matter and audiovisual and other materials of a similar
32 nature, necessary binding or rebinding of library materials and

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 specialized library services; or
- 2 (7) Food supplies and services including food supplies and
3 management contracts for student centers, dining rooms and
4 cafeterias; or
- 5 (8) The supplying of any product or the rendering of any service
6 by the public utility which is subject to the jurisdiction of the Board of
7 Public Utilities, in accordance with tariffs and schedules of charges
8 made, charged and exacted, filed with said board; or
- 9 (9) Equipment repair service if in the nature of an extraordinary
10 unspecifiable service and necessary parts furnished in connection with
11 such services; or
- 12 (10) Specialized machinery or equipment of a technical nature
13 which will not reasonably permit the drawing of specifications, and the
14 procurement thereof without advertising is in the public interest; or
- 15 (11) Insurance, including the purchase of insurance coverage and
16 consulting services, which exceptions shall be in accordance with the
17 requirements for extraordinary unspecifiable services; or
- 18 (12) Publishing of legal notices in newspapers, as required by law;
19 or
- 20 (13) The acquisition of artifacts or other items of unique intrinsic,
21 artistic or historic character; or
- 22 (14) The collection of amounts due on student loans, including
23 without limitation loans guaranteed by or made with funds of the
24 United States of America; or
- 25 (15) Professional consulting services; or
- 26 (16) Entertainment, including without limitation theatrical
27 presentations, band and other concerts, movies and other audiovisual
28 productions; or
- 29 (17) Contracts employing funds created by student activities fees
30 charged to students or otherwise raised by students, not under the
31 direct control of the college and expended by student organizations;
32 or
- 33 (18) Printing, including without limitation catalogs, yearbooks and
34 course announcements; or
- 35 (19) Data processing, software programs, systems and service and
36 the rental or lease of data processing equipment; or
- 37 (20) Personnel recruitment and advertising, including without
38 limitation advertising seeking student enrollment; or
- 39 (21) Educational supplies, books, articles of clothing and other
40 miscellaneous articles purchased by a county college bookstore, or by
41 a service or management company under contract with a county
42 college to operate a county college book store for resale to college
43 students and employees; or
- 44 (22) Purchase or rental of graduation caps and gowns and award
45 certificates or plaques.
- 46 b. It is to be made or entered into with the United States of

1 America, the State of New Jersey, a county or municipality or any
2 board, body, or officer, agency or authority or any other state or
3 subdivision thereof.

4 c. The county college has advertised for bids pursuant to section
5 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has
6 received no bids on both occasions in response to its advertisement, or
7 (ii) has rejected such bids on two occasions because the county college
8 has determined that they are not reasonable as to price, on the basis of
9 cost estimates prepared for or by the county college prior to the
10 advertising therefor, or have not been independently arrived at in open
11 competition, or (iii) on one occasion no bids were received pursuant
12 to (i) and on one occasion all bids were rejected pursuant to (ii), in
13 whatever sequence; any such contract or agreement may then be
14 negotiated by a two-thirds affirmative vote of the authorized
15 membership of the board of trustees authorizing such contract or
16 agreement; provided, however, that:

17 (1) A reasonable effort is just made by the contracting agent to
18 determine that the same or equivalent materials or supplies at a cost
19 which is lower than the negotiated price are not available from any
20 agency or authority of the United States, the State of New Jersey or
21 of the county in which the county college is located, or any
22 municipality in close proximity to the county college;

23 (2) The terms, conditions, restrictions and specifications set forth
24 in the negotiated contract or agreement are not substantially different
25 from those which were the subject of competitive bidding pursuant to
26 section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

27 (3) Any minor amendment or modification of any of the terms,
28 conditions, restrictions and specifications, which were the subject of
29 competitive bidding pursuant to section 4 of P.L.1982, c.189
30 (C.18A:64A-25.4), shall be stated in the resolution awarding such
31 contract or agreement; provided, further, however, that if on the
32 second occasion the bids received are rejected as unreasonable as to
33 price, the county college shall notify each responsible bidder
34 submitting bids on the second occasion of its intention to negotiate
35 and afford each such bidder a reasonable opportunity to negotiate, but
36 the county college shall not award such contract or agreement unless
37 the negotiated price is lower than the lowest rejected bid price
38 submitted on the second occasion by a responsible bidder is the lowest
39 negotiated price offered by any responsible vendor, and is a reasonable
40 price for such work, materials, supplies or services.

41 Whenever a county college shall determine that a bid was not
42 arrived at independently in open competition pursuant to subsection
43 c. (ii) of this section, it shall thereupon notify the county prosecutor
44 of the county in which the county college is located and the Attorney
45 General of the facts upon which its determination is based and, when
46 appropriate, it may institute appropriate proceedings in any State or

1 federal court of competent jurisdiction for a violation of any State or
2 federal antitrust law or laws relating to the unlawful restraint of trade.

3 d. The board of trustees has solicited and received at least three
4 quotations on materials, supplies or equipment for which a State
5 contract has been issued pursuant to section 9 of P.L.1982, c.189
6 (C.18A:64A-25.9), and the lowest responsible quotation is at least
7 10% less than the price the board would be charged for the identical
8 materials, supplies or equipment, in the same quantities, under the
9 State contract.

10 (cf: P.L.1994, c.48, s.142)

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12 2. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is amended
13 to read as follows:

14 28. Duration of certain contracts. A county college may only enter
15 into a contract exceeding 12 consecutive months for the:

16 a. Supplying of:

17 (1) Fuel for heating purposes for any term not exceeding in the
18 aggregate three years; or

19 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles
20 or equipment for any term not exceeding in the aggregate three years;
21 or

22 b. Plowing and removal of snow and ice for any term not exceeding
23 in the aggregate three years; or

24 c. Collection and disposal of garbage and refuse for any term not
25 exceeding in the aggregate three years; or

26 d. Data processing programs, systems and services or rental or
27 lease of data processing equipment for any term of not more than five
28 years; or

29 e. Insurance, including the purchase of insurance coverages,
30 insurance consultant or administrative services, and including
31 participation in a joint self-insurance fund, risk management programs
32 or related services provided by a county college insurance group, or
33 participation in an insurance fund established by a county pursuant to
34 N.J.S.40A:10-6, for any term of not more than three years; or

35 f. Leasing or service of automobiles, motor vehicles, electronic
36 communications equipment, machinery and equipment of every nature
37 and kind for any term not exceeding in the aggregate five years; or

38 g. Supplying of any product or rendering of any service by a
39 telephone company which is subject to the jurisdiction of the Board of
40 Public Utilities, for a term not exceeding five years; or

41 h. The providing of food supplies and services, including food
42 supplies and management contracts for student centers, dining rooms
43 and cafeterias, for a term not exceeding three years; or

44 i. The performance of work or services or the furnishing of
45 materials or supplies for the purpose of conserving energy in buildings
46 owned by, or operations conducted by, the contracting unit, the entire

1 price of which is to be established as a percentage of the resultant
2 savings in energy costs, for a term not exceeding 10 years; provided
3 that a contract is entered into only subject to and in accordance with
4 rules and regulations adopted by the Department of Commerce,
5 Energy and Economic Development establishing a methodology for
6 computing energy cost savings; or

7 j. Any single project for the construction, reconstruction or
8 rehabilitation of a public building, structure or facility, or a public
9 works project including the retention of the services of an architect or
10 engineer in connection with the project, for the length of time
11 necessary for the completion of the actual construction; or

12 k. The management and operation of bookstores for a term not
13 exceeding five years; or

14 l. Custodial or janitorial services for any term not exceeding in the
15 aggregate three years; or

16 m. Security services contracts for any term not exceeding in the
17 aggregate three years.

18 All multi-year leases and contracts entered into pursuant to this
19 section, except contracts for the leasing or servicing of equipment
20 supplied by a telephone company which is subject to the jurisdiction
21 of the Board of Public Utilities, or contracts and agreements for the
22 provision of work or the supplying of equipment to promote energy
23 conservation and authorized pursuant to subsection i. of this section,
24 and except contracts for insurance coverages, insurance consultant or
25 administrative services, participation or membership in a joint
26 self-insurance fund, risk management programs or related services of
27 a county college insurance group, and participation in an insurance
28 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
29 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36
30 et seq.), shall contain a clause making them subject to the availability
31 and appropriation annually of sufficient funds to meet the extended
32 obligation or contain an annual cancellation clause.

33 (cf: P.L.1994, c.48, s.144)

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35 3. This act shall take effect immediately.

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STATEMENT

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40 This bill would permit a county college to enter into multi-year
41 contracts for security services. It also provides that a college would
42 not have to bid items which are available at a price 10% under that of
43 a State contract price. This latter provision is identical to an
44 exemption provided to public schools under the Public School
45 Contracts Law.

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3 Permits multi-year contracts for security services and exempts from

4 bidding items 10% below the State contract rate.

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