

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 466

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 29, 1996

The Assembly Education Committee favorably reports Assembly Bill No. 466 with committee amendments.

As amended by committee, this bill provides that a board of education shall not be required to award a contract to the lowest bidder if the board, because of a prior negative experience with that bidder, determines that it is not in the best interest of the district to do so. The bill defines "prior negative experience" to include the following: the bidder was found liable in an adjudicated case for noncompletion or failing to complete work in a timely manner or unsatisfactory job performance for work performed under a prior contract with the board; the board of education was required to withhold monies due the contractor to utilize the services of another contractor to correct or complete the project; or the liquidated damage clause of a contract had to be invoked against the contractor.

Under existing law, a board of education is required to provide information to the Department of Education on a contractor's performance at the time of the completion of the contract. This information is to be reviewed and used in any reconsideration of the bidder's qualification as a prospective bidder. The provisions of this bill continue to afford the bidder an opportunity to present information to the department to substantiate the bidder's classification, but allow the board of education to take final action on the bid if the board has had a prior negative experience with the bidder pursuant to the provisions of N.J.S.18A:18A-37.

The committee amended the bill to clarify that a board of education may take final action without notifying the bidder and without the board holding a hearing if there has been prior negative experience with that bidder. The amendments also delete from the definition of "prior negative experience" a determination by a board of education that the bidder did not complete work under a prior contract with the board in a timely and satisfactory manner. Failure to complete work under a prior contract in a timely manner would remain within the definition of "prior negative experience" if the bidder had been found liable in an adjudicated case for such failure.

This bill was pre-filed for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.