

ASSEMBLY, No. 1354

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman STUHLTRAGER

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

3

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

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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 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 the rules and regulations of the Board of Higher Education consistent  
18 with open public bidding whenever possible; or

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

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

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

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

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

1 certificates or plaques; or

2 (23) Security services, including the maintenance of applicable  
3 records, reports, and statistics pertaining to security measures.

4 b. It is to be made or entered into with the United States of  
5 America, the State of New Jersey, a county or municipality or any  
6 board, body, or officer, agency or authority or any other state or  
7 subdivision thereof.

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

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

26 (2) The terms, conditions, restrictions and specifications set forth  
27 in the negotiated contract or agreement are not substantially different  
28 from those which were the subject of competitive bidding pursuant to  
29 section 4; and

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

44 Whenever a county college shall determine that a bid was not  
45 arrived at independently in open competition pursuant to subsection  
46 c. (ii) of section 5, it shall thereupon notify the county prosecutor of

1 the county in which the county college is located and the Attorney  
2 General of the facts upon which its determination is based and, when  
3 appropriate, it may institute appropriate proceedings in any State or  
4 federal court of competent jurisdiction for a violation of any State or  
5 federal antitrust law or laws relating to the unlawful restraint of trade.  
6 (cf: P.L.1984, c.241, s.3)

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

10 28. A county college may only enter into a contract exceeding 12  
11 consecutive months for the:

12 a. Supplying of:

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

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

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

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

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

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

30 f. Leasing or service of automobiles, motor vehicles, electronic  
31 communications equipment, machinery and equipment of every nature  
32 and kind for any term not exceeding in the aggregate five years;  
33 provided, however, such contracts shall be entered into only subject  
34 to and in accordance with the rules and regulations promulgated by the  
35 Board of Higher Education; or

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

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

42 i. The performance of work or services or the furnishing of  
43 materials or supplies for the purpose of conserving energy in buildings  
44 owned by, or operations conducted by, the contracting unit, the entire  
45 price of which is to be established as a percentage of the resultant  
46 savings in energy costs, for a term not exceeding 10 years; provided

1 that a contract is entered into only subject to and in accordance with  
2 rules and regulations adopted by the Department of Commerce,  
3 Energy and Economic Development establishing a methodology for  
4 computing energy cost savings; or

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

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

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

14 m. Security services for any term not exceeding in the aggregate  
15 three years.

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

31 (cf: P.L.1988, c.144, s.4)

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33 3. This act shall take effect immediately.

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#### STATEMENT

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38 Since the relationship between an institution and a security  
39 contractor is very sensitive, this bill would exempt security services  
40 from the requirement for public advertising under the County College  
41 Contracts Act. The bill also permits a county college to enter into a  
42 three year contract for security services. The current limitation on  
43 these contracts is a twelve month period. The longer contract would  
44 serve to improve planning and could reduce costs for these services.

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3 Removes advertising requirement for county college security service

4 contracts and extends maximum length of contract to three years.