

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 852

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 3, 1996

The Senate Education Committee reports favorably Senate Bill No. 852 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. Any final action must be taken in a public meeting and the bidder being disqualified, having been informed of the date, time and place of the meeting, must be allowed to appear and offer testimony. 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 final action must be taken in a public meeting at which the bidder being disqualified may appear and offer testimony. The amendments also delete several items from the definition of "prior negative experience" and add the factors of failure to complete work in a timely manner, the use of another contractor to correct or complete the project, and the invoking of the liquidated damage clause.