SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 961

STATE OF NEW JERSEY

DATED: MARCH 3, 1997

The Senate State Government Committee reports favorably Senate, No. 961.

This bill establishes certain procedures to be followed by the State and certain of its agencies, authorities and other entities with regard to the issuance of bonds and the awarding of professional contracts. In addition to State departments and agencies, the bill applies to authorities and other entities which are authorized to incur debt or enter into contracts. The procedural requirements would not apply to State colleges and universities, although certain reporting requirements would.

The bill recognizes that there are certain circumstances in which a negotiated sale of State-backed bonds will better serve the requirements of a particular financing even though State policy is generally to require State-backed bonds to be sold on a competitive basis. Essentially consistent with Executive Order No. 26 (1994), the bill provides that negotiated sales can be utilized where the sale involves complex bonds involving a variety of revenue sources or complicated leasing structures, lower credit bonds backed by revenue sources that may not be as strong as other sources, a new and innovative financing structure which is proprietary in nature, volatile market conditions, large issue size, or other novel programs or financial techniques and variable rate transactions which generally involve greater interaction between the underwriter and issuer.

The bill requires issuers of State-backed bonds to follow certain procedures in the selection of financial advisors, senior managers and co-managers. The procedures to be followed include development of a request for proposal and criteria applicable to the proposal, joint selection of advisors and managers by the issuer and the State Treasurer for each financing, providing particular consideration for firms located in the State and for minority owned and women-owned firms, the publication of the names of the firms solicited and selected and the criteria used and the use of a pool of advisors and managers for multiple transactions.

In situations involving bonds issued by the State, its agencies, authorities or other entities which are not State-backed bonds, i.e., are not secured by the State's general revenues, the State's full faith and credit or otherwise secured, in whole or in part by State revenues, the

bill requires the issuer to develop procedures governing the sale of such bonds which are consistent with those required of State-backed bonds.

The bill provides for exceptions from the selection process required for issuers of State-backed bonds in cases where an innovative idea is brought to the issuer, a request for proposal cannot be developed without communicating the idea and the issue would not benefit from a competitive selection process.

The bill requires bond counsel appointments to be made on a competitive basis in accordance with guidelines to be developed by the Attorney General. The guidelines shall incorporate certain criteria specified in the bill including the experience of the bond counsel and the counsel's associates, the counsel's familiarity with State law relating to the bond issue, particular abilities with securities, tax and other financing law, the quality of the legal strategy and past legal services, and the counsel's fees.

The bill allows for direct appointments of bond counsel, on a noncompetitive basis, in those cases in which a transaction requires a bond counsel with particular expertise such as unique prior experience.

This bill also requires other professional service contracts with architects, engineers and accountants to be awarded by the State, its agencies or authorities on a competitive basis, whenever practicable, provided that the procedures followed promote the goal of ensuring the best services at the lowest costs.

Finally, the bill requires each issuer, and each State college and university, to submit a debt management plan to the State Treasurer on or before January 31 of each year. The plan shall describe the bond financing programs of each issuer.

The Advisory Panel on Government Contracting Procedures, created by Executive Order No. 6 (1994) issued on January 27, 1994, is required to report back to the Governor and the Legislature within one year of the effective date of the bill.

The advisory panel's report shall contain a review of the program's first year of operation together with any recommendations for improving its effectiveness.