

SENATE, No. 4476

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 19, 2025

Sponsored by:

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Senator VIN GOPAL

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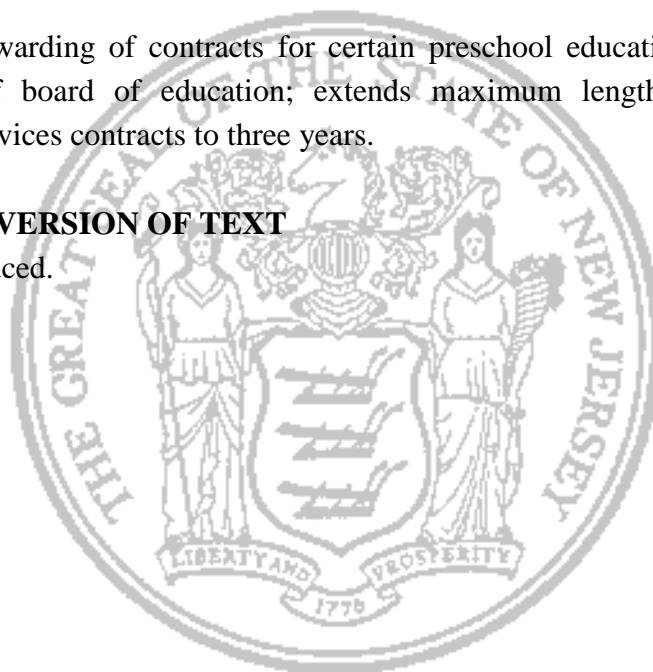
**Senator McKnight, Assemblywomen Murphy, Peterpaul, Speight, Bagolie,
Assemblyman Freiman and Assemblywoman Donlon**

SYNOPSIS

Permits awarding of contracts for certain preschool education services by resolution of board of education; extends maximum length of preschool education services contracts to three years.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2025)

1 AN ACT concerning contracting for preschool education services
2 and amending N.J.S.18A:18A-5 and N.J.S.18A:18A-42.

3

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

6

7 1. N.J.S.18A:18A-5 is amended to read as follows:

8 18A:18A-5. Exceptions to requirement for advertising. Any
9 contract, the amount of which exceeds the bid threshold, shall be
10 negotiated and awarded by the board of education by resolution at a
11 public meeting without public advertising for bids and bidding
12 therefor if

13 a. The subject matter thereof consists of:

14 (1) Professional services. The board of education shall in each
15 instance state supporting reasons for its action in the resolution
16 awarding each contract and shall forthwith cause to be printed once,
17 in an official newspaper, a brief notice stating the nature, duration,
18 service and amount of the contract, and that the resolution and
19 contract are on file and available for public inspection in the office
20 of the board of education;

21 (2) Extraordinary unspecifiable services which cannot
22 reasonably be described by written specifications. The application
23 of this exception as to extraordinary unspecifiable services shall be
24 construed narrowly in favor of open competitive bidding where
25 possible and the Director of the Division of Local Government
26 Services in the Department of Community Affairs is authorized to
27 establish rules and regulations after consultation with the
28 Commissioner of Education limiting its use in accordance with the
29 intention herein expressed; and the board of education shall in each
30 instance state supporting reasons for its action in the resolution
31 awarding the contract for extraordinary unspecifiable services and
32 shall forthwith cause to be printed, in the manner set forth in
33 paragraph (1) of this subsection, a brief notice of the award of such
34 contract;

35 (3) The doing of any work by employees of the board of
36 education;

37 (4) The printing of all legal notices; and legal briefs, records and
38 appendices to be used in any legal proceeding in which the board of
39 education may be a party;

40 (5) Library and educational goods and services;

41 (6) Food supplies, including food supplies for home economics
42 classes, when purchased pursuant to rules and regulations of the
43 State board and in accordance with the provisions of
44 N.J.S.18A:18A-6;

45 (7) The supplying of any product or the rendering of any service
46 by a public utility, which is subject to the jurisdiction of the Board

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

Matter underlined thus is new matter.

- 1 of Public Utilities, in accordance with the tariffs and schedules of
2 charges made, charged and exacted, filed with said board;
- 3 (8) The printing of bonds and documents necessary to the
4 issuance and sale thereof by a board of education;
- 5 (9) Equipment repair service if in the nature of an extraordinary
6 unspecifiable service and necessary parts furnished in connection
7 with such services, which exception shall be in accordance with the
8 requirements for extraordinary unspecifiable services;
- 9 (10) Insurance, including the purchase of insurance coverage
10 and consultant services, which exception shall be in accordance
11 with the requirements for extraordinary unspecifiable services;
- 12 (11) Publishing of legal notices in newspapers as required by
13 law;
- 14 (12) The acquisition of artifacts or other items of unique
15 intrinsic, artistic or historic character;
- 16 (13) Those goods and services necessary or required to prepare
17 and conduct an election;
- 18 (14) (Deleted by amendment, P.L.1999, c.440.)
- 19 (15) (Deleted by amendment, P.L.1999, c.270).
- 20 (16) (Deleted by amendment, P.L.1999, c.440.)
- 21 (17) The doing of any work by persons with disabilities
22 employed by a sheltered workshop;
- 23 (18) Expenses for travel and conferences;
- 24 (19) The provision or performance of goods or services for the
25 support or maintenance of proprietary computer hardware and
26 software, except that this provision shall not be utilized to acquire
27 or upgrade non-proprietary hardware or acquire or update non-
28 proprietary software;
- 29 (20) Purchases of goods and services at rates set by the
30 Universal Service Fund administered by the Federal
31 Communications Commission;
- 32 (21) Goods and services paid with funds that: are raised by or
33 collected from students to support the purchase of student-oriented
34 items or materials, such as yearbooks, class rings, and a class gift;
35 and are deposited in school or student activity accounts; and require
36 no budget appropriation from the board of education;
- 37 (22) Food services provided by food service management
38 companies pursuant to procedures established by the New Jersey
39 Department of Agriculture, Bureau of Child Nutrition Programs;
- 40 (23) Vending machines providing food or drink; or
- 41 (24) Preschool education services provided by a licensed
42 childcare provider or Head Start program and supported by
43 preschool education aid pursuant to section 12 of P.L.2007, c.260
44 (C.18A:7F-54).
- 45 b. It is to be made or entered into with the United States of
46 America, the State of New Jersey, county or municipality or any
47 board, body, officer, agency, authority or board of education or any
48 other state or subdivision thereof.

1 c. Bids have been advertised pursuant to N.J.S.18A:18A-4 on
2 two occasions and (1) no bids have been received on both occasions
3 in response to the advertisement, or (2) the board of education has
4 rejected such bids on two occasions because it has determined that
5 they are not reasonable as to price, on the basis of cost estimates
6 prepared for or by the board of education prior to the advertising
7 therefor, or have not been independently arrived at in open
8 competition, or (3) on one occasion no bids were received pursuant
9 to (1) and on one occasion all bids were rejected pursuant to (2), in
10 whatever sequence; any such contract may then be negotiated and
11 may be awarded upon adoption of a resolution by a two-thirds
12 affirmative vote of the authorized membership of the board of
13 education authorizing such a contract; provided, however, that:

14 (a) A reasonable effort is first made by the board of education to
15 determine that the same or equivalent goods or services, at a cost
16 which is lower than the negotiated price, are not available from an
17 agency or authority of the United States, the State of New Jersey or
18 of the county in which the board of education is located, or any
19 municipality in close proximity to the board of education;

20 (b) The terms, conditions, restrictions and specifications set
21 forth in the negotiated contract are not substantially different from
22 those which were the subject of competitive bidding pursuant to
23 N.J.S.18A:18A-4; and

24 (c) Any minor amendment or modification of any of the terms,
25 conditions, restrictions and specifications which were the subject of
26 competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in
27 the resolution awarding the contract; provided further, however,
28 that if on the second occasion the bids received are rejected as
29 unreasonable as to price, the board of education shall notify each
30 responsible bidder submitting bids on the second occasion of its
31 intention to negotiate, and afford each bidder a reasonable
32 opportunity to negotiate, but the board of education shall not award
33 such contract unless the negotiated price is lower than the lowest
34 rejected bid price submitted on the second occasion by a
35 responsible bidder, is the lowest negotiated price offered by any
36 responsible vendor, and is a reasonable price for such goods or
37 services.

38 d. Whenever a board of education shall determine that a bid
39 was not arrived at independently in open competition pursuant to
40 paragraph (2) of subsection c.[(2)] of [N.J.S.18A:18A-5] this
41 section, it shall thereupon notify the county prosecutor of the
42 county in which the board of education is located and the Attorney
43 General of the facts upon which its determination is based, and
44 when appropriate, it may institute appropriate proceedings in any
45 State or federal court of competent jurisdiction for a violation of
46 any State or federal antitrust law or laws relating to the unlawful
47 restraint of trade.

1 e. The board of education has solicited and received at least
2 three quotations on materials, supplies or equipment for which a
3 State contract has been issued pursuant to N.J.S.18A:18A-10, and
4 the lowest responsible quotation is at least ~~【10%】~~ 10 percent less
5 than the price the board would be charged for the identical
6 materials, supplies or equipment, in the same quantities, under the
7 State contract. Any such contract or agreement entered into
8 pursuant to subsection d. or subsection e. may be made, negotiated
9 or awarded only upon adoption of a resolution by the affirmative
10 vote of two-thirds of the full membership of the board of education
11 at a meeting thereof authorizing such a contract or agreement. The
12 purchase order relating to any such contract shall include a notation
13 that the material, supplies, or equipment was purchased at least 10%
14 below the State contract price. The board of education shall make
15 available to the Director of the Division of Local Government
16 Services in the Department of Community Affairs, upon request,
17 any documents relating to the solicitation and award of the contract,
18 including, but not limited to, quotations, requests for quotations,
19 and resolutions.

20 (cf: P.L.2007, c.42, s.2)

21

22 2. N.J.S.18A:18A-42 is amended to read as follows:

23 18A:18A-42. All contracts for the provision or performance of
24 goods or services shall be awarded for a period not to exceed 24
25 consecutive months, except that contracts for professional services
26 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
27 be awarded for a period not to exceed 12 consecutive months. Any
28 board of education may award a contract for longer periods of time
29 as follows:

30 a. Supplying of:

31 (1) Fuel for heating purposes, for any term not exceeding in the
32 aggregate, three years;

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

36 (3) Thermal energy produced by a cogeneration facility, for use
37 for heating or air conditioning or both, for any term not exceeding
38 40 years, when the contract is approved by the Board of Public
39 Utilities. For the purposes of this paragraph, "cogeneration" means
40 the simultaneous production in one facility of electric power and
41 other forms of useful energy such as heating or process steam; or

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

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

46 d. Data processing service, for any term of not more than seven
47 years; or

- 1 e. Insurance, including the purchase of insurance coverages,
2 insurance consultant or administrative services, and including
3 participation in a joint self-insurance fund, risk management
4 program or related services provided by a school board insurance
5 group, or participation in an insurance fund established by a county
6 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
7 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
8 not more than three years; or
- 9 f. Leasing or servicing of automobiles, motor vehicles,
10 electronic communications equipment, machinery and equipment of
11 every nature and kind and textbooks and non-consumable
12 instructional materials, for any term not exceeding in the aggregate,
13 five years; except that contracts for the leasing of fossil fuel school
14 buses may be awarded for any term not exceeding in the aggregate
15 10 years and contracts for the leasing of electric school buses and
16 related charging equipment and services may be awarded for any
17 term not exceeding the service life of the electric school buses.
18 Contracts awarded pursuant to this subsection shall be awarded only
19 subject to and in accordance with rules and regulations promulgated
20 by the State Board of Education; or
- 21 g. Supplying of any product or the rendering of any service by
22 a company providing voice, data, transmission or switching
23 services, for a term not exceeding five years; or
- 24 h. (Deleted by amendment, P.L.1999, c.440.)
- 25 i. Driver education instruction conducted by private, licensed
26 driver education schools, for any term not exceeding in the
27 aggregate, three years; or
- 28 j. (Deleted by amendment, P.L.2009, c.4).
- 29 k. Any single project for the construction, reconstruction or
30 rehabilitation of any public building, structure or facility, or any
31 public works project, including the retention of the services of any
32 architect or engineer in connection therewith, for the length of time
33 authorized and necessary for the completion of the actual
34 construction; or
- 35 l. Laundry service and the rental, supply and cleaning of
36 uniforms for any term of not more than three years; or
- 37 m. Food supplies and food services for any term of not more
38 than three years; or
- 39 n. Purchases made under a contract awarded by the Director of
40 the Division of Purchase and Property in the Department of the
41 Treasury for use by counties, municipalities or other contracting
42 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
43 term not to exceed the term of that contract; or
- 44 o. The provision or performance of goods or services for the
45 purpose of producing class I renewable energy, as that term is
46 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
47 to, buildings owned by any local board of education, the entire price
48 of which is to be established as a percentage of the resultant savings

1 in energy costs, for a term not to exceed 15 years; provided,
2 however, that these contracts shall be entered into only subject to
3 and in accordance with guidelines promulgated by the Board of
4 Public Utilities establishing a methodology for computing energy
5 cost savings and energy generation costs; or

6 p. The provision or performance of goods or services for the
7 purpose of providing electric school buses, on-site or off-site
8 electric school bus charging infrastructure, and related maintenance
9 and other related services, or any combination thereof for a
10 specified price for a term up to the service life of the vehicle being
11 contracted; or

12 q. Preschool education services provided by a licensed
13 childcare provider or Head Start program and supported by
14 preschool education aid pursuant to section 12 of P.L.2007, c.260
15 (C.18A:7F-54), for any term of not more than three years.

16 Any contract for services other than professional services, the
17 statutory length of which contract is for three years or less, may
18 include provisions for no more than one two-year, or two one-year,
19 extensions, subject to the following limitations: a. the contract shall
20 be awarded by resolution of the board of education upon a finding
21 by the board of education that the services are being performed in
22 an effective and efficient manner; b. no such contract shall be
23 extended so that it runs for more than a total of five consecutive
24 years; c. any price change included as part of an extension shall be
25 based upon the price of the original contract as cumulatively
26 adjusted pursuant to any previous adjustment or extension and shall
27 not exceed the change in the index rate for the 12 months preceding
28 the most recent quarterly calculation available at the time the
29 contract is renewed; and d. the terms and conditions of the contract
30 remain substantially the same.

31 All multiyear leases and contracts entered into pursuant to this
32 section, including any two-year or one-year extensions, except
33 contracts for insurance coverages, insurance consultant or
34 administrative services, participation or membership in a joint self-
35 insurance fund, risk management programs or related services of a
36 school board insurance group, participation in an insurance fund
37 established by a county pursuant to N.J.S.40A:10-6 or contracts for
38 thermal energy authorized pursuant to subsection a. above, and
39 contracts for the provision or performance of goods or services to
40 promote energy conservation through the production of class I
41 renewable energy, authorized pursuant to subsection o. of this
42 section, shall contain a clause making them subject to the
43 availability and appropriation annually of sufficient funds as may
44 be required to meet the extended obligation, or contain an annual
45 cancellation clause. All contracts shall cease to have effect at the
46 end of the contracted period and shall not be extended by any
47 mechanism or provision, unless in conformance with the "Public
48 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a

1 contract may be extended by mutual agreement of the parties to the
2 contract when a board of education has commenced rebidding prior
3 to the time the contract expires or when the awarding of a contract
4 is pending at the time the contract expires.
5 (cf: P.L.2024, c.38, s.1)

6

7 3. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill exempts certain contracts awarded for preschool
13 education services from public advertising and bidding and permits
14 the contracts to be awarded by a resolution of the board of
15 education. The bill also extends the maximum length of preschool
16 education services contracts to three years.

17 Under current law, certain contracts under the Public School
18 Contracts Law may be awarded by a resolution of the board of
19 education without public advertising and bidding. The bill permits
20 contracts for preschool education services provided by a licensed
21 childcare provider or Head Start program and supported by
22 preschool education aid to be awarded by a resolution of the board
23 of education without public advertising and bidding.

24 The Public School Contracts Law also limits awarded contracts
25 to no more than 24 consecutive months unless otherwise authorized
26 for a longer term. This bill permits contracts for preschool
27 education services provided by a licensed childcare provider or
28 Head Start program and supported by preschool education aid to be
29 awarded for a period not to exceed three years.