

4600--A

2009-2010 Regular Sessions

I N   S E N A T E

April 24, 2009

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Introduced by Sen. STEWART-COUSINS -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to audits by the state comptroller of certain organizations controlled by local government entities (Part A); to amend the general municipal law, in relation to acquisition and use of credit cards by local governments; and to amend the local finance law, in relation to credit card agreements by municipalities and school districts (Part B); to amend the general municipal law and the executive law, in relation to procurements by local governments (Part C); and to amend the local finance law, in relation to making technical amendments to the time frame within which a governing board of certain municipalities or school districts must act with respect to recommendations to the proposed budget (Part D)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. This act enacts into law major components of legislation  
2     which relate to enhanced accountability and transparency by the mandate  
3     relief for local governments. Each component is wholly contained within  
4     a Part identified as Parts A through D. The effective date for each  
5     particular provision contained within such Part is set forth in the last  
6     section of such Part. Any provision in any section contained within a  
7     Part, including the effective date of the Part, which makes reference to  
8     a section "of this act", when used in connection with that particular  
9     component, shall be deemed to mean and refer to the corresponding  
10    section of the Part in which it is found. Section three of this act sets  
11    forth the general effective date of this act.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD10318-05-0

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## PART A

2 Section 1. Section 34 of the general municipal law, as amended by  
3 chapter 233 of the laws of 2006, is amended to read as follows:

4 S 34. Powers and duties of examiners. 1. The comptroller and each  
5 examiner of municipal affairs shall have power to examine into the  
6 financial affairs of every such municipal corporation, industrial devel-  
7 opment agency, district, [fire company as defined in section two hundred  
8 four-a of this chapter,] agency and activity [and], ANY FIRE COMPANY AS  
9 DEFINED IN SECTION TWO HUNDRED FOUR-A OF THIS CHAPTER, AND ANY OTHER  
10 ORGANIZATION, EXCEPT A PUBLIC CORPORATION, THAT IS DIRECTLY OR INDIRECT-  
11 LY CONTROLLED BY ONE OR MORE OF ANY SUCH MUNICIPAL CORPORATIONS, INDUS-  
12 TRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES. AN ORGANIZATION SHALL  
13 BE DEEMED UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPORATIONS,  
14 INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES WHEN, AMONG OTHER  
15 CIRCUMSTANCES, THE LAW OR DOCUMENTS ESTABLISHING THE ORGANIZATION'S  
16 INTERNAL GOVERNANCE PROVIDE FOR ONE OR MORE OFFICERS OR EMPLOYEES OF ANY  
17 SUCH MUNICIPAL CORPORATION, INDUSTRIAL DEVELOPMENT AGENCY, DISTRICT OR  
18 AGENCY, ACTING IN THEIR OFFICIAL CAPACITIES, TO: (A) SELECT A MAJORITY  
19 OF A QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY OR THE  
20 ORGANIZATION'S CHIEF EXECUTIVE OFFICER; (B) CONSTITUTE A MAJORITY OF THE  
21 VOTING STRENGTH THAT SELECTS EITHER A MAJORITY OF A QUORUM OF THE ORGAN-  
22 IZATION'S HIGHEST POLICY-MAKING BODY OR THE ORGANIZATION'S CHIEF EXECU-  
23 TIVE OFFICER; OR (C) SERVE EX OFFICIO AS EITHER: (I) A MAJORITY OF A  
24 QUORUM OF THE ORGANIZATION'S HIGHEST POLICY-MAKING BODY; (II) THE ORGAN-  
25 IZATION'S CHIEF EXECUTIVE OFFICER; OR (III) A PARTNER IN THE ORGANIZA-  
26 TION. AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL CORPO-  
27 RATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES SHALL  
28 ALSO INCLUDE ANY OTHER ORGANIZATION THAT IS CONTROLLED BY SUCH ORGANIZA-  
29 TION.

30 2. IN CONNECTION WITH ANY EXAMINATION AUTHORIZED BY SUBDIVISION ONE OF  
31 THIS SECTION, THE COMPTROLLER AND EACH EXAMINER OF MUNICIPAL AFFAIRS  
32 SHALL HAVE POWER to administer an oath to any person whose testimony may  
33 be required, and to compel the appearance and attendance of such person  
34 for the purpose of any such examination and investigation, and the  
35 production of books and papers. In the case of a municipal corporation,  
36 industrial development agency, or school district, no such person shall  
37 be compelled to appear or be examined elsewhere than within such municip-  
38 al corporation, industrial development agency, or school district. In  
39 the case of any district other than a school district, no such person  
40 may be compelled to appear or be examined elsewhere than within the town  
41 or one of the towns in which such district or portion thereof is  
42 located. In the case of an urban renewal agency, no such person shall be  
43 compelled to appear or be examined outside the municipal corporation  
44 wherein such agency is established. In the case of a fire company, no  
45 such person shall be compelled to appear or be examined outside the area  
46 served by the company. In the case of an activity, no such person shall  
47 be compelled to appear outside the area served by the activity. IN THE  
48 CASE OF AN ORGANIZATION UNDER THE CONTROL OF ONE OR MORE MUNICIPAL  
49 CORPORATIONS, INDUSTRIAL DEVELOPMENT AGENCIES, DISTRICTS OR AGENCIES, NO  
50 SUCH PERSON SHALL BE COMPELLED TO APPEAR OR TO BE EXAMINED OUTSIDE THE  
51 COUNTY IN WHICH THE ORGANIZATION HAS ITS PRINCIPAL HEADQUARTERS. Willful  
52 false swearing in such examination shall be perjury and shall be punish-  
53 able as such.

54 S 2. This act shall take effect immediately.

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## PART B

2 Section 1. The general municipal law is amended by adding a new  
3 section 5-c to read as follows:

4 S 5-C. ACQUISITION AND USE OF CREDIT CARDS BY LOCAL GOVERNMENTS. 1.  
5 THE FOLLOWING TERMS, WHEN USED OR REFERRED TO IN THIS SECTION, SHALL  
6 HAVE THE FOLLOWING MEANING:

7 (A) "CREDIT CARD" MEANS ANY IDENTIFICATION PLATE, CARD OR SIMILAR  
8 DEVICE ISSUED BY A PERSON TO A LOCAL GOVERNMENT WHICH MAY BE USED TO  
9 PURCHASE OR LEASE PROPERTY OR ACQUIRE SERVICES ON THE CREDIT OF THE  
10 PERSON ISSUING THE CREDIT CARD OR A PERSON WHO HAS AGREED WITH THE  
11 ISSUER TO PAY OBLIGATIONS ARISING FROM THE USE OF A CREDIT CARD ISSUED  
12 TO ANOTHER PERSON. FOR PURPOSES OF THIS SECTION, "CREDIT CARD" SHALL NOT  
13 INCLUDE A DEBIT CARD OR SIMILAR DEVICE THE USE OF WHICH AUTHORIZES THE  
14 TRANSFER OR WITHDRAWAL OF ANY FUNDS OF THE LOCAL GOVERNMENT, AND NOTHING  
15 IN THIS SECTION SHALL BE DEEMED TO AUTHORIZE THE USE, BY OR ON BEHALF OF  
16 THE LOCAL GOVERNMENT OF A DEBIT CARD OR SIMILAR DEVICE THE USE OF WHICH  
17 AUTHORIZES THE TRANSFER OR WITHDRAWAL OF ANY FUNDS OF THE LOCAL GOVERN-  
18 MENT.

19 (B) "CARD ISSUER" MEANS ANY ISSUER OF A CREDIT CARD.

20 (C) "FINANCING AGENCY" MEANS ANY AGENCY DEFINED AS SUCH IN SUBDIVISION  
21 EIGHTEEN OF SECTION FOUR HUNDRED ONE OF THE PERSONAL PROPERTY LAW.

22 (D) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION OR ANY  
23 OTHER LEGAL OR COMMERCIAL ENTITY.

24 2. NO CREDIT CARD MAY BE USED BY OR ON BEHALF OF ANY LOCAL GOVERNMENT,  
25 AS SUCH TERM IS DEFINED IN SECTION TEN OF THIS ARTICLE, UNLESS THE  
26 GOVERNING BOARD OF THE LOCAL GOVERNMENT, BY LOCAL LAW, ORDINANCE OR  
27 RESOLUTION, DETERMINES THAT IT IS IN THE PUBLIC INTEREST TO AUTHORIZE  
28 SUCH LOCAL GOVERNMENT TO ENTER INTO AN AGREEMENT WITH ONE OR MORE  
29 FINANCING AGENCIES OR CARD ISSUERS TO PROVIDE FOR THE ISSUANCE OF ONE OR  
30 MORE CREDIT CARDS FOR THE PROCUREMENT OF COMMODITIES AND SERVICES AND  
31 FOR USE BY AUTHORIZED OFFICERS AND EMPLOYEES IN CONNECTION WITH TRAVEL  
32 AND OTHER ACTUAL AND NECESSARY EXPENSES. THE CREDIT CARD OR CARDS SHALL  
33 BE ISSUED IN THE NAME OF THE LOCAL GOVERNMENT AND THE SPECIFIC OFFICERS  
34 AND EMPLOYEES, IN THEIR OFFICIAL CAPACITIES, AUTHORIZED PURSUANT TO THE  
35 INTERNAL CREDIT CARD POLICY ADOPTED IN ACCORDANCE WITH SUBDIVISION FOUR  
36 OF THIS SECTION, TO UTILIZE THE CREDIT CARD OR CARDS ISSUED TO THE LOCAL  
37 GOVERNMENT. ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION SHALL INCLUDE AN  
38 INTERNAL CREDIT CARD POLICY, IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS  
39 SECTION, SETTING FORTH REQUIREMENTS FOR THE USE OF CREDIT CARDS ON  
40 BEHALF OF THE LOCAL GOVERNMENT. THE TERMS AND CONDITIONS OF SUCH AGREE-  
41 MENT MUST BE CONSISTENT WITH THIS SECTION AND THE INTERNAL CREDIT CARD  
42 POLICY OF THE LOCAL GOVERNMENT, AND SHALL BE DEEMED TO INCORPORATE THE  
43 PROVISIONS OF SUBDIVISION TEN OF THIS SECTION.

44 3. THE OFFICERS AND EMPLOYEES OF ANY LOCAL GOVERNMENT THAT HAS ENTERED  
45 INTO AN AGREEMENT WITH A FINANCING AGENCY OR CARD ISSUER AS AUTHORIZED  
46 BY THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION MAY USE CREDIT  
47 CARDS ONLY IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S INTERNAL CREDIT  
48 CARD POLICY FOR THE PROCUREMENT OF COMMODITIES AND SERVICES FOR PROPERLY  
49 AUTHORIZED MUNICIPAL PURPOSES, AND FOR PROPERLY AUTHORIZED TRAVEL AND  
50 OTHER ACTUAL AND NECESSARY EXPENSES. ANY SUCH OFFICER OR EMPLOYEE USING  
51 SUCH CREDIT CARD OR CARDS SHALL BE PERSONALLY LIABLE FOR ALL COSTS  
52 INCURRED BY THE LOCAL GOVERNMENT IN CONNECTION WITH THE IMPROPER OR  
53 UNAUTHORIZED USE BY THE OFFICER OR EMPLOYEE OF THE CREDIT CARD OR CARDS.

54 4. THE INTERNAL CREDIT CARD POLICY ADOPTED BY THE GOVERNING BOARD OF  
55 ANY LOCAL GOVERNMENT THAT HAS DETERMINED TO USE CREDIT CARDS FOR

1 PROCUREMENT OF COMMODITIES, SERVICES OR TRAVEL AND OTHER ACTUAL AND  
2 NECESSARY EXPENSES SHALL CONTAIN PROVISIONS PERTAINING TO:

3 (A) THE PARTICULAR OFFICERS AND EMPLOYEES, OTHERWISE EMPOWERED TO  
4 PROCURE COMMODITIES OR SERVICES ON BEHALF OF THE LOCAL GOVERNMENT, OR TO  
5 INCUR TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES, WHO ARE AUTHORIZED  
6 TO UTILIZE THE CREDIT CARD OR CARDS ISSUED TO THE LOCAL GOVERNMENT;

7 (B) AN AUTHORIZED CREDIT LIMIT FOR EACH CARD AND IN THE AGGREGATE FOR  
8 ALL CARDS ISSUED TO THE LOCAL GOVERNMENT, AND, IF THE GOVERNING BOARD  
9 CHOOSES, AN AUTHORIZED CREDIT LIMIT PER TRANSACTION;

10 (C) LIMITATIONS, IF ANY, ON THE TYPES OF COMMODITIES OR SERVICES, OR  
11 TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES, FOR WHICH THE CREDIT  
12 CARD OR CARDS MAY BE USED, AND THE CIRCUMSTANCES UNDER WHICH THE CREDIT  
13 CARD OR CARDS MAY BE USED FOR SUCH PURPOSES;

14 (D) THE PERIODIC MONITORING BY THE APPROPRIATE OFFICIALS OF THE LOCAL  
15 GOVERNMENT OF THE USE OF THE CREDIT CARD OR CARDS;

16 (E) THE DOCUMENTATION REQUIRED OF AN OFFICER OR EMPLOYEE USING THE  
17 CREDIT CARD FOR COMMODITIES OR SERVICES OR FOR TRAVEL AND OTHER ACTUAL  
18 AND NECESSARY EXPENSES, IN ORDER TO FACILITATE THE APPROPRIATE AUDIT OF  
19 THE RESULTING CLAIMS SUBMITTED BY A FINANCING AGENCY OR CARD ISSUER, AND  
20 THE TIMEFRAME IN WHICH SUCH DOCUMENTATION IS REQUIRED TO BE SUBMITTED BY  
21 THE OFFICER OR EMPLOYEE AFTER THEIR USE OF A CREDIT CARD;

22 (F) THE MEANS OF RECOUPING FROM THE RESPONSIBLE OFFICER OR EMPLOYEE  
23 COSTS INCURRED WITH RESPECT TO ANY ILLEGAL OR UNAUTHORIZED EXPENDITURES,  
24 OR IMPROPER USAGE OF THE CREDIT CARD OR CARDS; AND

25 (G) ANY OTHER TERMS OR CONDITIONS DEEMED BY THE GOVERNING BOARD TO BE  
26 NECESSARY TO EFFECTUATE THE PROPER USE OF A CREDIT CARD OR CARDS.

27 5. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, PROCUREMENTS OF  
28 COMMODITIES AND SERVICES FOR WHICH A CREDIT CARD IS USED SHALL BE  
29 SUBJECT TO ALL LAWS OTHERWISE APPLICABLE TO MUNICIPAL PROCUREMENTS,  
30 INCLUDING, BUT NOT LIMITED, TO SECTIONS ONE HUNDRED THREE AND ONE  
31 HUNDRED FOUR-B OF THIS CHAPTER. TRAVEL AND OTHER ACTUAL AND NECESSARY  
32 EXPENSES FOR WHICH A CREDIT CARD IS USED SHALL BE INCURRED IN ACCORDANCE  
33 WITH AND SHALL BE SUBJECT TO ALL LAWS OTHERWISE APPLICABLE TO THE INCUR-  
34 RING OF SUCH MUNICIPAL CHARGES BY OFFICERS AND EMPLOYEES.

35 6. NO PAYMENT TO A FINANCING AGENCY OR CARD ISSUER FOR COMMODITIES,  
36 SERVICES OR TRAVEL OR OTHER ACTUAL AND NECESSARY EXPENSES FOR WHICH A  
37 CREDIT CARD WAS USED MAY BE MADE UNLESS, IN ADDITION TO ALL OTHER  
38 REQUIREMENTS FOR THE AUDIT AND APPROVAL OF CLAIMS, THE DOCUMENTATION  
39 REQUIRED BY THE LOCAL GOVERNMENT'S INTERNAL CREDIT CARD POLICY ADOPTED  
40 IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS SECTION IS SUBMITTED TO THE  
41 AUDITING BODY OR OFFICIAL OF THE LOCAL GOVERNMENT AND A CLAIM FROM THE  
42 FINANCING AGENCY OR CARD ISSUER IS AUDITED AND APPROVED IN ACCORDANCE  
43 WITH LAWS GENERALLY APPLICABLE TO THE LOCAL GOVERNMENT'S AUDIT AND  
44 APPROVAL OF CLAIMS FUNCTION.

45 7. IF AFTER A CLAIM IS PRESENTED FOR AUDIT, A CREDIT CARD CHARGE IS  
46 DISALLOWED IN WHOLE OR IN PART, THE LOCAL GOVERNMENT SHALL NOT BE  
47 RESPONSIBLE FOR PAYMENT OF THE DISALLOWED CHARGE OR ANY INTEREST OR  
48 PENALTY WHICH SHALL HAVE ACCRUED AS A RESULT OF SUCH DISALLOWED CHARGE.  
49 ANY AGREEMENT THAT IS ENTERED INTO PURSUANT TO THIS SECTION SHALL BE  
50 DEEMED TO INCORPORATE THIS PROVISION. NOTHING CONTAINED HEREIN SHALL BE  
51 CONSTRUED TO LIMIT ANY RIGHT THAT A FINANCING AGENCY OR CREDIT CARD  
52 ISSUER MAY HAVE UNDER LAW TO RECOVER THE AMOUNT OF ANY DISALLOWED CHARGE  
53 OR INTEREST OR PENALTY THEREON FROM ANY OTHER PERSON OR ENTITY.

54 8. THE AUDIT OF ANY CLAIM SUBMITTED BY A FINANCING AGENCY OR CARD  
55 ISSUER SHALL BE UNDERTAKEN IN A TIMELY FASHION SO THAT, UPON APPROVAL OF

THE CLAIM, PAYMENT MAY BE MADE PRIOR TO THE IMPOSITION OF INTEREST OR PENALTY CHARGES.

9. CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION BETWEEN LOCAL GOVERNMENTS AND FINANCING AGENCIES OR CARD ISSUERS SHALL BE AWARDED AFTER THE SOLICITATION OF ALTERNATIVE PROPOSALS OR QUOTATIONS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S WRITTEN INTERNAL POLICIES AND PROCEDURES GOVERNING PROCUREMENTS ADOPTED PURSUANT TO SECTION ONE HUNDRED FOUR-B OF THIS CHAPTER. IN THE CASE OF A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, SUCH POLICIES AND PROCEDURES MAY PROVIDE FOR THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO ENGAGE THE SERVICES OF A FINANCING AGENCY OR CARD ISSUER PURSUANT TO A COOPERATIVE PROCUREMENT AGREEMENT FOR SUCH SERVICES WITH ONE OR MORE LOCAL GOVERNMENTS OF THIS STATE OR OF ANY OTHER STATE, OR THROUGH AN EXISTING COOPERATIVE PROCUREMENT AGREEMENT ENTERED INTO AMONG LOCAL GOVERNMENTS OF THIS STATE OR ANY OTHER STATE FOR SUCH SERVICES IF SUCH EXISTING CONTRACT HAS BEEN AWARDED PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSALS PROCESS AND HAS BEEN EXTENDED OR OFFERED FOR USE BY OTHER LOCAL GOVERNMENTS; PROVIDED, HOWEVER, THAT THE GOVERNING BOARD OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL FIRST DETERMINE THAT ENGAGING THE SERVICES OF A FINANCING AGENCY OR CARD ISSUER PURSUANT TO OR THROUGH A COOPERATIVE PROCUREMENT AGREEMENT WILL RESULT IN COST SAVINGS AND THAT ANY SUCH COOPERATIVE PROCUREMENT AGREEMENT IS FULLY IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

10. NO LIABILITY TO A FINANCING AGENCY OR CARD ISSUER UNDER A CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL CONSTITUTE A GENERAL OBLIGATION INDEBTEDNESS OF THE LOCAL GOVERNMENT, AND NEITHER THE FAITH AND CREDIT, NOR THE TAXING POWER OF THE LOCAL GOVERNMENT, MAY BE PLEDGED TO THE PAYMENT OF ANY AMOUNT DUE OR TO BECOME DUE UNDER SUCH A CONTRACT.

S 2. Section 20.00 of the local finance law is amended by adding a new paragraph e to read as follows:

E. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION FROM ENTERING INTO AN AGREEMENT WITH ONE OR MORE FINANCING AGENCIES OR CARD ISSUERS FOR THE ISSUANCE OF A CREDIT CARD OR CARDS IN THE NAME OF THE MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION OR FROM USING SUCH CREDIT CARD OR CARDS FOR THE PROCUREMENT OF COMMODITIES, SERVICES AND EXPENSES IN ACCORDANCE WITH SECTION FIVE-C OF THE GENERAL MUNICIPAL LAW.

S 3. This act shall take effect immediately.

## PART C

Section 1. Subdivision 5 of section 103 of the general municipal law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

5. Upon the adoption of a resolution by a vote of at least three-fifths of all the members of the governing body of a political subdivision or district therein stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies [of more than ten thousand dollars] IN EXCESS OF THE MONETARY THRESHOLD FIXED FOR PURCHASE CONTRACTS IN THIS SECTION may be awarded by the appropriate officer, board or agency of such political subdivision or any such district therein, to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the

1 manner provided in this section. Such resolution shall contain a full  
2 explanation of the reasons for its adoption.

3 S 2. Section 103 of the general municipal law is amended by adding a  
4 new subdivision 13 to read as follows:

5 13. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION,  
6 PURCHASE CONTRACTS INVOLVING AN EXPENDITURE NOT IN EXCESS OF TWENTY-FIVE  
7 THOUSAND DOLLARS MAY BE AWARDED BY THE APPROPRIATE OFFICER, BOARD OR  
8 AGENCY OF A POLITICAL SUBDIVISION OR DISTRICT THEREIN TO A  
9 MINORITY-OWNED OR WOMEN-OWNED BUSINESS ENTERPRISE, CERTIFIED PURSUANT TO  
10 SECTION THREE HUNDRED FOURTEEN OF THE EXECUTIVE LAW, WITHOUT ADVERTISING  
11 FOR COMPETITIVE BIDS.

12 S 3. Section 104 of the general municipal law, as amended by chapter  
13 137 of the laws of 2008, is amended to read as follows:

14 S 104. Purchase through office of general services; CERTAIN FEDERAL  
15 CONTRACTS. 1. Notwithstanding the provisions of section one hundred  
16 three of this article or of any other general, special or local law, any  
17 officer, board or agency of a political subdivision, of a district ther-  
18 ein, of a fire company or of a voluntary ambulance service authorized to  
19 make purchases of materials, equipment, food products, or supplies, or  
20 services available pursuant to sections one hundred sixty-one and one  
21 hundred sixty-seven of the state finance law, may make such purchases,  
22 except of printed material, through the office of general services  
23 subject to such rules as may be established from time to time pursuant  
24 to sections one hundred sixty-three and one hundred sixty-seven of the  
25 state finance law [or through the general services administration pursu-  
26 ant to section 1555 of the federal acquisition streamlining act of 1994,  
27 P.L. 103-355]; provided that any such purchase shall exceed five hundred  
28 dollars and that the political subdivision, district, fire company or  
29 voluntary ambulance service for which such officer, board or agency acts  
30 shall accept sole responsibility for any payment due the vendor. All  
31 purchases shall be subject to audit and inspection by the political  
32 subdivision, district, fire company or voluntary ambulance service for  
33 which made. No officer, board or agency of a political subdivision, or a  
34 district therein, of a fire company or of a voluntary ambulance service  
35 shall make any purchase through such office when bids have been received  
36 for such purchase by such officer, board or agency, unless such purchase  
37 may be made upon the same terms, conditions and specifications at a  
38 lower price through such office. Two or more fire companies or voluntary  
39 ambulance services may join in making purchases pursuant to this  
40 section, and for the purposes of this section such groups shall be  
41 deemed "fire companies or voluntary ambulance services."

42 2. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED THREE OF THIS  
43 ARTICLE OR OF ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ANY OFFICER,  
44 BOARD OR AGENCY OF A POLITICAL SUBDIVISION, OR OF A DISTRICT THEREIN,  
45 MAY MAKE PURCHASES FROM FEDERAL GENERAL SERVICE ADMINISTRATION SUPPLY  
46 SCHEDULES PURSUANT TO SECTION 211 OF THE FEDERAL E-GOVERNMENT ACT OF  
47 2002, P.L. 107-347, AND PURSUANT TO SECTION 1122 OF THE NATIONAL DEFENSE  
48 AUTHORIZATION ACT FOR FISCAL YEAR 1994, P.L. 103-160, IN ACCORDANCE WITH  
49 PROCEDURES ESTABLISHED PURSUANT THERETO. PRIOR TO MAKING SUCH PURCHASES  
50 THE OFFICER, BOARD OR AGENCY SHALL CONSIDER WHETHER SUCH PURCHASES WILL  
51 RESULT IN COST SAVINGS AFTER ALL FACTORS, INCLUDING CHARGES FOR SERVICE,  
52 MATERIAL, AND DELIVERY, HAVE BEEN CONSIDERED.

53 S 4. Paragraph b of subdivision 2 of section 104-b of the general  
54 municipal law, as added by chapter 413 of the laws of 1991, is amended  
55 to read as follows:

1 b. provide that, except for procurements made pursuant to [subdivi-  
2 sion] SUBDIVISIONS three AND THIRTEEN of section one hundred three or  
3 section one hundred four of this article, section [one hundred seventy-  
4 five-b] ONE HUNDRED SIXTY-TWO of the state finance law, section one  
5 hundred eighty-six of the correction law, or the policies and procedures  
6 adopted pursuant to paragraph f of this subdivision, alternative  
7 proposals or quotations for goods and services shall be secured by use  
8 of written requests for proposals, written quotations, verbal quotations  
9 or any other method of procurement which furthers the purposes of this  
10 section;

11 S 5. Subdivision 2 of section 314 of the executive law, as added by  
12 chapter 261 of the laws of 1988, is amended to read as follows:

13 2. For the purposes of this article, the office shall be responsible  
14 for verifying businesses as being owned, operated, and controlled by  
15 minority group members or women and for certifying such verified busi-  
16 nesses. The director shall prepare a directory of certified businesses  
17 for use by contracting agencies, POLITICAL SUBDIVISIONS AND DISTRICTS  
18 THEREIN AND PARTIES DOING BUSINESS, OR PROPOSING TO DO BUSINESS WITH  
19 POLITICAL SUBDIVISIONS OR DISTRICTS THEREIN, and contractors in carrying  
20 out the provisions of this article. The director shall periodically  
21 update the directory.

22 S 6. This act shall take effect immediately and shall apply to any  
23 contract let or awarded on or after such date; provided, however, that  
24 the amendment to subdivision 2 of section 314 of the executive law made  
25 by section five of this act shall not affect the expiration of such  
26 section and shall expire and be deemed repealed therewith.

27

## PART D

28 Section 1. Paragraph d of section 10.10 of the local finance law, as  
29 added by chapter 341 of the laws of 2007, is amended to read as follows:

30 d. beginning with the fiscal year during which the municipality or  
31 school district is authorized to incur debt to finance the deficit, to  
32 and including the last fiscal year during which such debt or any debt  
33 incurred to refund such debt is outstanding, the chief executive officer  
34 or other individual or individuals responsible for the preparation of  
35 the tentative budget, or in the case of a town, the preliminary budget,  
36 shall submit the tentative or preliminary budget for the next succeeding  
37 fiscal year to the state comptroller and, in the case of a school  
38 district, also to the commissioner of education, no later than thirty  
39 days before the date scheduled for the governing board's vote on the  
40 adoption of the final budget or the last date on which the budget may be  
41 finally adopted, whichever is sooner. The state comptroller and, in the  
42 case of a school district, the commissioner of education, shall examine  
43 such proposed budget and make such recommendations as deemed appropriate  
44 thereon to the municipality or school district prior to the adoption of  
45 the budget, but no later than ten days before the date scheduled for the  
46 governing board's vote on the adoption of the final budget or the last  
47 date on which the budget must be adopted, whichever is sooner. Such  
48 recommendations shall be made after examination into the estimates of  
49 revenues and expenditures of such municipality or school district. The  
50 governing board of the municipality or school district, no later than  
51 five days prior to the adoption of the budget, shall review any such  
52 recommendations and may make adjustments to its proposed budget consist-  
53 ent with any recommendations made by the state comptroller and, in the  
54 case of a school district, by the commissioner of education[, within

1 fifteen days after receipt of any such recommendations]. Any recommenda-  
2 tions that the board rejects shall be explained in writing to the state  
3 comptroller and, in the case of recommendations made by the commissioner  
4 of education, to the commissioner. The action or inaction of the state  
5 comptroller or the commissioner of education under this section shall  
6 not be construed to affect the legal validity of any budget of the muni-  
7 cipality or school district nor to affect the powers or duties of the  
8 municipality or school district with respect to the local budget proc-  
9 ess, provided, however, that the municipality or school district may not  
10 issue bonds for any object or purpose unless and until adjustments to  
11 its proposed budget consistent with any recommendations made by the  
12 state comptroller and, in the case of a school district, by the commis-  
13 sioner of education, are made, or any such recommendations that are  
14 rejected have been explained in writing to the state comptroller and, in  
15 the case of school districts, the commissioner of education.

16 S 2. This act shall take effect immediately.

17 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
18 sion, section or part of this act shall be adjudged by any court of  
19 competent jurisdiction to be invalid, such judgment shall not affect,  
20 impair, or invalidate the remainder thereof, but shall be confined in  
21 its operation to the clause, sentence, paragraph, subdivision, section  
22 or part thereof directly involved in the controversy in which such judg-  
23 ment shall have been rendered. It is hereby declared to be the intent of  
24 the legislature that this act would have been enacted even if such  
25 invalid provisions had not been included herein.

26 S 3. This act shall take effect immediately provided, however, that  
27 the applicable effective dates of Parts A through D of this act shall be  
28 as specifically set forth in the last section of such Parts.