

1387

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. SCHIMEL, GALEF, BRADLEY, SPANO, SCHIMMINGER, DelMONTE, GUNTHER, JAFFEE, ZEBROWSKI, MOLINARO, KOLB, WALKER -- Multi-Sponsored by -- M. of A. BRENNAN, CONTE, CROUCH, FINCH, GABRYSZAK, GIGLIO, HOOPER, KELLNER, McKEVITT, MILLER, REILLY, ROBINSON, THIELE, WEISENBERG -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to creating an exception to the competitive bidding process for certain purchases and contracts by political subdivisions, districts and local authorities

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

1 Section 1. Subdivision 3 of section 103 of the general municipal law,
2 as amended by chapter 343 of the laws of 2007, is amended to read as
3 follows:
4 3. (A) Notwithstanding the provisions of subdivision one of this
5 section, any officer, board or agency of a political subdivision or of
6 any district [therein] LOCATED WITHIN SUCH POLITICAL SUBDIVISION OR ANY
7 LOCAL AUTHORITY THAT IS authorized to make purchases of materials,
8 equipment or supplies, or to contract for services, may make such
9 purchases, or may contract for services, other than services subject to
10 article eight or nine of the labor law, when available, through (I) the
11 county in which the political subdivision [or], district [is located or
12 through] OR LOCAL AUTHORITY IS LOCATED, SUBJECT TO THE RULES ESTABLISHED
13 PURSUANT TO SUBDIVISION TWO OF SECTION FOUR HUNDRED EIGHT-A OF THE COUN-
14 TY LAW; (II) ANY POLITICAL SUBDIVISION, DISTRICT OR LOCAL AUTHORITY
15 LOCATED WITHIN SUCH COUNTY, SUBJECT TO THE RULES ESTABLISHED IN PARA-
16 GRAPH (C) OF THIS SUBDIVISION; OR (III) any county within the state
17 subject to the rules established pursuant to subdivision two of section
18 four hundred eight-a of the county law; provided that the political
19 subdivision [or], district OR LOCAL AUTHORITY for which such officer,

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

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1 board or agency acts shall accept sole responsibility for any payment
2 due the vendor or contractor. All purchases and all contracts for such
3 services shall be subject to audit and inspection by the political
4 subdivision [or], district OR LOCAL AUTHORITY for which made. Prior to
5 making such purchases or contracts the officer, board or agency shall
6 consider whether such contracts will result in cost savings after all
7 factors, including charges for service, material, and delivery, have
8 been considered.

9 (B) No officer, board or agency of a political subdivision or of any
10 district therein OR OF ANY LOCAL AUTHORITY shall make any purchase or
11 contract for any such services through [the county in which the poli-
12 tical subdivision or district is located or through any county within
13 the state when] ANY COUNTY, POLITICAL SUBDIVISION, DISTRICT OR LOCAL
14 AUTHORITY DESCRIBED IN SUBPARAGRAPH (I), (II) OR (III) OF PARAGRAPH (A)
15 OF THIS SUBDIVISION, IF bids have been received for such purchase or
16 such services by such officer, board or agency, unless such purchase may
17 be made or the contract for such services may be entered into upon the
18 same terms, conditions and specifications at a lower price through [the]
19 SUCH county, POLITICAL SUBDIVISION, DISTRICT OR LOCAL AUTHORITY, AS
20 APPLICABLE.

21 (C) THE GOVERNING BOARD OF ANY POLITICAL SUBDIVISION, OR OF ANY
22 DISTRICT THEREIN, OR OF ANY LOCAL AUTHORITY, MAY INCLUDE, IN ANY
23 PURCHASE CONTRACT OR ANY CONTRACT FOR SERVICES, OTHER THAN SERVICES
24 SUBJECT TO ARTICLE EIGHT OR NINE OF THE LABOR LAW, THAT IT INTENDS TO
25 AWARD AFTER ADVERTISEMENT FOR BIDS TO THE LOWEST RESPONSIBLE BIDDER, A
26 PROVISION WHEREBY PURCHASES MAY BE MADE OR SUCH SERVICES MAY BE OBTAINED
27 UNDER SUCH CONTRACT BY ANY POLITICAL SUBDIVISION, DISTRICT OR LOCAL
28 AUTHORITY THAT IS LOCATED WITHIN THE SAME COUNTY AS THE POLITICAL SUBDI-
29 VISION, DISTRICT OR LOCAL AUTHORITY THAT AWARDS SUCH CONTRACT. IN SUCH
30 EVENT, THE GOVERNING BOARD SHALL ADOPT RULES PRESCRIBING THE CONDITIONS
31 UNDER WHICH, AND THE MANNER IN WHICH, SUCH PURCHASES MAY BE MADE OR SUCH
32 SERVICES MAY BE OBTAINED BY POLITICAL SUBDIVISIONS, DISTRICTS OR LOCAL
33 AUTHORITIES LOCATED IN THE SAME COUNTY.

34 S 2. Section 100 of the general municipal law is amended by adding a
35 new subdivision 4 to read as follows:

36 4. "LOCAL AUTHORITY" MEANS:

37 A. A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION CREATED BY OR
38 EXISTING UNDER THE PUBLIC AUTHORITIES LAW OR ANY OTHER LAW OF THE STATE
39 OF NEW YORK WHOSE MEMBERS DO NOT HOLD A CIVIL OFFICE OF THE STATE, ARE
40 NOT APPOINTED BY THE GOVERNOR OR ARE APPOINTED BY THE GOVERNOR SPECIF-
41 ICALLY UPON THE RECOMMENDATION OF THE LOCAL GOVERNMENT OR GOVERNMENTS;

42 B. A NOT-FOR-PROFIT CORPORATION AFFILIATED WITH, SPONSORED BY, OR
43 CREATED BY A COUNTY, CITY, TOWN OR VILLAGE GOVERNMENT;

44 C. A LOCAL INDUSTRIAL DEVELOPMENTAL AGENCY OR AUTHORITY OR OTHER LOCAL
45 PUBLIC BENEFIT CORPORATION; OR

46 D. AN AFFILIATE OF SUCH LOCAL AUTHORITY.

47 S 3. This act shall take effect immediately.