

6691

2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. BRENNAN, BENJAMIN, COLTON, GREENE, PERRY, SCARBOROUGH, GLICK, JACOBS, MARKEY, ORTIZ, ROBINSON, ABBATE -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the purchase and delivery of material goods, supplies and services by or to the chancellor of the city school district of the city of New York

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

1 Section 1. Subdivision 36 of section 2590-h of the education law, as  
2 amended by chapter 91 of the laws of 2002, is amended to read as  
3 follows:  
4 36. [Develop a procurement policy for the city school district of the  
5 city of New York and the districts and public schools therein. Such  
6 policy shall ensure the wise and prudent use of public money in the best  
7 interest of the taxpayers of the state; guard against favoritism, impro-  
8 vidence, extravagance, fraud, and corruption; and ensure that contracts  
9 are awarded consistent with law and on the basis of best value, includ-  
10 ing, but not limited to, the following criteria: quality, cost and effi-  
11 ciency. Such policy shall also include: (a) standards for quality, func-  
12 tion, and utility of all material goods, supplies, and services  
13 purchased by the chancellor, superintendents, or schools; (b) regu-  
14 lations for the purchase of material goods, supplies, and services by  
15 the chancellor, the superintendents, and the schools, including clearly  
16 articulated procedures which require a clear statement of product spec-  
17 ifications, requirements or work to be performed, a documentable process  
18 of soliciting bids, proposals, or other offers, and a balanced and fair  
19 method, established in advance of receipt of offers, for evaluating  
20 offers and awarding contracts; (c) regulations which enable superinten-  
21 dents and schools to purchase material goods, supplies, and services  
22 directly from vendors or suppliers when such products are available at  
23 prices or other terms more economically beneficial for the purposes of

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

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1 the acquiring superintendent or school; and (d) regulations shall  
2 include repair services and building supplies, as defined in such regu-  
3 lations, for expenditures from each district's minor repair and purchas-  
4 ing funds pursuant to section twenty-five hundred ninety-r of this arti-  
5 cle.] (A) ENSURE THAT ALL CONTRACTS OR AGREEMENTS INVOLVING THE PURCHASE  
6 OR DELIVERY OF MATERIAL GOODS, SUPPLIES AND SERVICES BY OR TO THE CHAN-  
7 CELLOR, THE SUPERINTENDENTS OR THE SCHOOLS, INCLUDING ANY FRANCHISE OR  
8 CONCESSION AGREEMENTS, REGARDLESS OF THE SOURCE OF FUNDS, ARE ENTERED  
9 INTO IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS THIRTEEN AND FOURTEEN  
10 OF THE NEW YORK CITY CHARTER AND THE RULES OF THE NEW YORK CITY PROCURE-  
11 MENT POLICY BOARD AND OF THE NEW YORK CITY FRANCHISE CONCESSION AND  
12 REVIEW COMMITTEE, PROVIDED THAT WHERE SUCH LAW OR RULES REQUIRE ACTION  
13 BY OR APPEAL TO THE MAYOR OR AN APPOINTEE OF THE MAYOR, OTHER THAN THE  
14 CHANCELLOR, SUCH ACTION SHALL INSTEAD BE TAKEN BY THE CHANCELLOR OR SUCH  
15 APPOINTEE OF THE CHANCELLOR AS THE CHANCELLOR MAY DELEGATE IN WRITING,  
16 AND PROVIDED FURTHER, ANY CONTRACT AWARDED WITHOUT COMPETITION OR IN  
17 EXCESS OF ONE MILLION DOLLARS SHALL BE SUBJECT TO THE VOTE OF THE FULL  
18 BOARD OF EDUCATION UNLESS SUCH CONTRACT SHALL BE DEEMED AN EMERGENCY AS  
19 DEFINED IN SECTION THREE HUNDRED FIFTEEN OF THE NEW YORK CITY CHARTER OR  
20 SHALL BE MADE IN ACCORDANCE WITH RULES OF THE PROCUREMENT POLICY BOARD  
21 ESTABLISHED PURSUANT TO SECTION THREE HUNDRED FOURTEEN OF THE NEW YORK  
22 CITY CHARTER. NO SUCH CONTRACT OR AGREEMENT SHALL BE IMPLEMENTED UNTIL  
23 IT HAS BEEN FILED AND REGISTERED BY THE COMPTROLLER PURSUANT TO CHAPTERS  
24 FIVE AND THIRTEEN OF THE NEW YORK CITY CHARTER. FOR THE PURPOSES OF THIS  
25 SUBDIVISION, THE TERMS "CONTRACT" OR "AGREEMENT" SHALL INCLUDE ANY  
26 CONTRACT THAT DIRECTLY OR INDIRECTLY BENEFITS THE CITY DISTRICT, INCLUD-  
27 ING ANY CONTRACT OR OTHER INSTRUMENT IN WHICH THE CITY, CITY BOARD OR  
28 ANY OF ITS OFFICERS AGREES TO GIVE OR RECEIVE A CONSIDERATION OTHER THAN  
29 THE PAYMENT OF MONEY;

30 (B) ESTABLISH STANDARDS FOR QUALITY, FUNCTION, AND UTILITY OF ALL  
31 MATERIAL GOODS, SUPPLIES, AND SERVICES PURCHASED BY THE CHANCELLOR,  
32 SUPERINTENDENTS, OR SCHOOLS; AND

33 (C) PROMULGATE REGULATIONS WHICH ENABLE SUPERINTENDENTS AND SCHOOLS TO  
34 PURCHASE MATERIAL GOODS, SUPPLIES, AND SERVICES DIRECTLY FROM VENDORS OR  
35 SUPPLIERS WHEN SUCH PRODUCTS ARE AVAILABLE AT PRICES OR OTHER TERMS MORE  
36 ECONOMICALLY BENEFICIAL FOR THE PURPOSES OF THE ACQUIRING SUPERINTENDENT  
37 OR SCHOOL. SUCH REGULATIONS SHALL ALSO INCLUDE REPAIR SERVICES AND  
38 BUILDING SUPPLIES, AS DEFINED IN SUCH REGULATIONS, FOR EXPENDITURES FROM  
39 EACH DISTRICT'S MINOR REPAIR AND PURCHASING FUNDS PURSUANT TO SECTION  
40 TWENTY-FIVE HUNDRED NINETY-R OF THIS ARTICLE.

41 S 2. This act shall take effect immediately, provided that the amend-  
42 ments to subdivision 36 of section 2590-h of the education law made by  
43 section one of this act shall not affect the expiration of such subdivi-  
44 sion and shall be deemed to expire therewith.