

8561

2009-2010 Regular Sessions

I N A S S E M B L Y

May 28, 2009

Introduced by M. of A. HOYT -- (at request of the State Comptroller) --
read once and referred to the Committee on Local Governments

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 (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.

12 PART A

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

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

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

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

51 S 2. This act shall take effect immediately.

52 PART B

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

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

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

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

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

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

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

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

51 4. THE INTERNAL CREDIT CARD POLICY ADOPTED BY THE GOVERNING BOARD OF
52 ANY LOCAL GOVERNMENT THAT HAS DETERMINED TO USE CREDIT CARDS FOR
53 PROCUREMENT OF COMMODITIES, SERVICES OR TRAVEL AND OTHER ACTUAL AND
54 NECESSARY EXPENSES SHALL CONTAIN PROVISIONS PERTAINING TO:

55 (A) THE PARTICULAR OFFICERS AND EMPLOYEES, OTHERWISE EMPOWERED TO
56 PROCURE COMMODITIES OR SERVICES ON BEHALF OF THE LOCAL GOVERNMENT, OR TO

1 INCUR TRAVEL AND OTHER ACTUAL AND NECESSARY EXPENSES, WHO ARE AUTHORIZED
2 TO UTILIZE THE CREDIT CARD OR CARDS ISSUED TO THE LOCAL GOVERNMENT;

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

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

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

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

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

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

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

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

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

50 8. THE AUDIT OF ANY CLAIM SUBMITTED BY A FINANCING AGENCY OR CARD
51 ISSUER SHALL BE UNDERTAKEN IN A TIMELY FASHION SO THAT, UPON APPROVAL OF
52 THE CLAIM, PAYMENT MAY BE MADE PRIOR TO THE IMPOSITION OF INTEREST OR
53 PENALTY CHARGES.

54 9. CONTRACTS ENTERED INTO PURSUANT TO THIS SECTION BETWEEN LOCAL
55 GOVERNMENTS AND FINANCING AGENCIES OR CARD ISSUERS SHALL BE AWARDED
56 AFTER THE SOLICITATION OF ALTERNATIVE PROPOSALS OR QUOTATIONS IN ACCORD-

1 ANCE WITH THE LOCAL GOVERNMENT'S WRITTEN INTERNAL POLICIES AND PROCE-
2 DURES GOVERNING PROCUREMENTS ADOPTED PURSUANT TO SECTION ONE HUNDRED
3 FOUR-B OF THIS CHAPTER.

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

9 S 2. This act shall take effect immediately.

10 PART C

11 Section 1. Subdivision 1 of section 103 of the general municipal law,
12 as amended by chapter 741 of the laws of 2005, is amended to read as
13 follows:

14 1. Except as otherwise expressly provided by an act of the legislature
15 or by a local law adopted prior to September first, nineteen hundred
16 fifty-three, all contracts for public work involving an expenditure of
17 more than [twenty] FIFTY thousand dollars and all purchase contracts
18 involving an expenditure of more than [ten] TWENTY thousand dollars,
19 shall be awarded by the appropriate officer, board or agency of a poli-
20 tical subdivision or of any district therein including but not limited
21 to a soil conservation district, to the lowest responsible bidder
22 furnishing the required security after advertisement for sealed bids in
23 the manner provided by this section. In any case where a responsible
24 bidder's gross price is reducible by an allowance for the value of used
25 machinery, equipment, apparatus or tools to be traded in by a political
26 subdivision, the gross price shall be reduced by the amount of such
27 allowance, for the purpose of determining the low bid. In cases where
28 two or more responsible bidders furnishing the required security submit
29 identical bids as to price, such officer, board or agency may award the
30 contract to any of such bidders. Such officer, board or agency may, in
31 his, HER or its discretion, reject all bids and readvertise for new bids
32 in the manner provided by this section. NO POLITICAL SUBDIVISION OR
33 DISTRICT MAY AVOID THE REQUIREMENTS OF THIS SECTION BY ARTIFICIALLY
34 SPLITTING OR DIVIDING A SINGLE CONTRACT, OR BY ENTERING INTO A SERIES OF
35 CONTRACTS DURING A FISCAL YEAR FOR THE SAME TYPE OF WORK OR THE SAME OR
36 SIMILAR COMMODITIES. For purposes of this section, "sealed bids", as
37 that term applies to purchase contracts, shall include bids submitted in
38 an electronic format, provided that the governing board of the political
39 subdivision or district, by resolution, has authorized the receipt of
40 bids in such format. Submission in electronic format may not, however,
41 be required as the sole method for the submission of bids. Bids submit-
42 ted in an electronic format shall be transmitted by bidders to the
43 receiving device designated by the political subdivision or district.
44 Any method used to receive electronic bids shall comply with article
45 three of the state technology law, and any rules and regulations promul-
46 gated and guidelines developed thereunder and, at a minimum, must (a)
47 document the time and date of receipt of each bid received electron-
48 ically; (b) authenticate the identity of the sender; (c) ensure the
49 security of the information transmitted; and (d) ensure the confiden-
50 tiality of the bid until the time and date established for the opening
51 of bids. The timely submission of an electronic bid in compliance with
52 instructions provided for such submission in the advertisement for bids
53 and/or the specifications shall be the responsibility solely of each
54 bidder or prospective bidder. No political subdivision or district ther-

1 ein shall incur any liability from delays of or interruptions in the
2 receiving device designated for the submission and receipt of electronic
3 bids.

4 S 2. Subdivision 1 of section 103 of the general municipal law, as
5 amended by chapter 413 of the laws of 1991, is amended to read as
6 follows:

7 1. Except as otherwise expressly provided by an act of the legislature
8 or by a local law adopted prior to September first, nineteen hundred
9 fifty-three, all contracts for public work involving an expenditure of
10 more than [twenty] FIFTY thousand dollars and all purchase contracts
11 involving an expenditure of more than [ten] TWENTY thousand dollars,
12 shall be awarded by the appropriate officer, board or agency of a poli-
13 tical subdivision or of any district therein including but not limited
14 to a soil conservation district, to the lowest responsible bidder
15 furnishing the required security after advertisement for sealed bids in
16 the manner provided by this section. NO POLITICAL SUBDIVISION OR
17 DISTRICT MAY AVOID THE REQUIREMENTS OF THIS SECTION BY ARTIFICIALLY
18 SPLITTING OR DIVIDING A SINGLE CONTRACT, OR BY ENTERING INTO A SERIES OF
19 CONTRACTS DURING A FISCAL YEAR FOR THE SAME TYPE OF WORK OR THE SAME OR
20 SIMILAR COMMODITIES. In any case where a responsible bidder's gross
21 price is reducible by an allowance for the value of used machinery,
22 equipment, apparatus or tools to be traded in by a political subdivi-
23 sion, the gross price shall be reduced by the amount of such allowance,
24 for the purpose of determining the low bid. In cases where two or more
25 responsible bidders furnishing the required security submit identical
26 bids as to price, such officer, board or agency may award the contract
27 to any of such bidders. Such officer, board or agency may, in his, HER
28 or its discretion, reject all bids and readvertise for new bids in the
29 manner provided by this section.

30 S 3. Subdivision 5 of section 103 of the general municipal law, as
31 amended by chapter 413 of the laws of 1991, is amended to read as
32 follows:

33 5. Upon the adoption of a resolution by a vote of at least three-
34 fifths of all the members of the governing body of a political subdivi-
35 sion or district therein stating that, for reasons of efficiency or
36 economy, there is need for standardization, purchase contracts for a
37 particular type or kind of equipment, material or supplies [of more than
38 ten thousand dollars] IN EXCESS OF THE MONETARY THRESHOLD FIXED FOR
39 PURCHASE CONTRACTS IN THIS SECTION may be awarded by the appropriate
40 officer, board or agency of such political subdivision or any such
41 district therein, to the lowest responsible bidder furnishing the
42 required security after advertisement for sealed bids therefor in the
43 manner provided in this section. Such resolution shall contain a full
44 explanation of the reasons for its adoption.

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

47 13. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION,
48 PURCHASE CONTRACTS INVOLVING AN EXPENDITURE NOT IN EXCESS OF TWENTY-FIVE
49 THOUSAND DOLLARS MAY BE AWARDED BY THE APPROPRIATE OFFICER, BOARD OR
50 AGENCY OF A POLITICAL SUBDIVISION OR DISTRICT THEREIN TO A
51 MINORITY-OWNED OR WOMEN-OWNED BUSINESS ENTERPRISE, CERTIFIED PURSUANT TO
52 SECTION THREE HUNDRED FOURTEEN OF THE EXECUTIVE LAW, WITHOUT ADVERTISING
53 FOR COMPETITIVE BIDS.

54 S 5. Section 104 of the general municipal law, as amended by chapter
55 137 of the laws of 2008, is amended to read as follows:

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

29 2. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED THREE OF THIS
30 ARTICLE OR OF ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ANY OFFICER,
31 BOARD OR AGENCY OF A POLITICAL SUBDIVISION, OR OF A DISTRICT THEREIN,
32 MAY MAKE PURCHASES FROM FEDERAL GENERAL SERVICE ADMINISTRATION SUPPLY
33 SCHEDULES PURSUANT TO SECTION 211 OF THE FEDERAL E-GOVERNMENT ACT OF
34 2002, P.L. 107-347, AND PURSUANT TO SECTION 1122 OF THE NATIONAL DEFENSE
35 AUTHORIZATION ACT FOR FISCAL YEAR 1994, P.L. 103-160, IN ACCORDANCE WITH
36 PROCEDURES ESTABLISHED PURSUANT THERETO.

37 S 6. Paragraph b of subdivision 2 of section 104-b of the general
38 municipal law, as added by chapter 413 of the laws of 1991, is amended
39 to read as follows:

40 b. provide that, except for procurements made pursuant to [subdivi-
41 sion] SUBDIVISIONS three AND THIRTEEN of section one hundred three or
42 section one hundred four of this article, section [one hundred seventy-
43 five-b] ONE HUNDRED SIXTY-TWO of the state finance law, section one
44 hundred eighty-six of the correction law, or the policies and procedures
45 adopted pursuant to paragraph f of this subdivision, alternative
46 proposals or quotations for goods and services shall be secured by use
47 of written requests for proposals, written quotations, verbal quotations
48 or any other method of procurement which furthers the purposes of this
49 section;

50 S 7. Subdivision 2 of section 314 of the executive law, as added by
51 chapter 261 of the laws of 1988, is amended to read as follows:

52 2. For the purposes of this article, the office shall be responsible
53 for verifying businesses as being owned, operated, and controlled by
54 minority group members or women and for certifying such verified busi-
55 nesses. The director shall prepare a directory of certified businesses
56 for use by contracting agencies, POLITICAL SUBDIVISIONS AND DISTRICTS

1 THEREIN AND PARTIES DOING BUSINESS, OR PROPOSING TO DO BUSINESS WITH
2 POLITICAL SUBDIVISIONS OR DISTRICTS THEREIN, and contractors in carrying
3 out the provisions of this article. The director shall periodically
4 update the directory.

5 S 8. This act shall take effect immediately and shall apply to any
6 contract let or awarded on or after such date; provided, however, that:

7 1. the amendments to subdivision 1 of section 103 of the general
8 municipal law made by section one of this act shall not affect the expi-
9 ration and reversion of such subdivision as provided in subdivision (a)
10 of section 41 of part X of chapter 62 of the laws of 2003, as amended,
11 when upon such date the provisions of section two of this act shall take
12 effect; and

13 2. the amendment to subdivision 2 of section 314 of the executive law
14 made by section seven of this act shall not affect the expiration of
15 such section and shall expire and be deemed repealed therewith.

16 PART D

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

19 d. beginning with the fiscal year during which the municipality or
20 school district is authorized to incur debt to finance the deficit, to
21 and including the last fiscal year during which such debt or any debt
22 incurred to refund such debt is outstanding, the chief executive officer
23 or other individual or individuals responsible for the preparation of
24 the tentative budget, or in the case of a town, the preliminary budget,
25 shall submit the tentative or preliminary budget for the next succeeding
26 fiscal year to the state comptroller and, in the case of a school
27 district, also to the commissioner of education, no later than thirty
28 days before the date scheduled for the governing board's vote on the
29 adoption of the final budget or the last date on which the budget may be
30 finally adopted, whichever is sooner. The state comptroller and, in the
31 case of a school district, the commissioner of education, shall examine
32 such proposed budget and make such recommendations as deemed appropriate
33 thereon to the municipality or school district prior to the adoption of
34 the budget, but no later than ten days before the date scheduled for the
35 governing board's vote on the adoption of the final budget or the last
36 date on which the budget must be adopted, whichever is sooner. Such
37 recommendations shall be made after examination into the estimates of
38 revenues and expenditures of such municipality or school district. The
39 governing board of the municipality or school district, no later than
40 five days prior to the adoption of the budget, shall review any such
41 recommendations and may make adjustments to its proposed budget consist-
42 ent with any recommendations made by the state comptroller and, in the
43 case of a school district, by the commissioner of education[, within
44 fifteen days after receipt of any such recommendations]. Any recommenda-
45 tions that the board rejects shall be explained in writing to the state
46 comptroller and, in the case of recommendations made by the commissioner
47 of education, to the commissioner. The action or inaction of the state
48 comptroller or the commissioner of education under this section shall
49 not be construed to affect the legal validity of any budget of the muni-
50 cipality or school district nor to affect the powers or duties of the
51 municipality or school district with respect to the local budget proc-
52 ess, provided, however, that the municipality or school district may not
53 issue bonds for any object or purpose unless and until adjustments to
54 its proposed budget consistent with any recommendations made by the

1 state comptroller and, in the case of a school district, by the commis-
2 sioner of education, are made, or any such recommendations that are
3 rejected have been explained in writing to the state comptroller and, in
4 the case of school districts, the commissioner of education.

5 S 2. This act shall take effect immediately.

6 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
7 sion, section or part of this act shall be adjudged by any court of
8 competent jurisdiction to be invalid, such judgment shall not affect,
9 impair, or invalidate the remainder thereof, but shall be confined in
10 its operation to the clause, sentence, paragraph, subdivision, section
11 or part thereof directly involved in the controversy in which such judg-
12 ment shall have been rendered. It is hereby declared to be the intent of
13 the legislature that this act would have been enacted even if such
14 invalid provisions had not been included herein.

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