

S T A T E O F N E W Y O R K

8777--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 8, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the general municipal law, in relation to assignment of contracts by school districts; to amend chapter 738 of the laws of 1988, amending the administrative code of the city of New York and other laws relating to establishing the New York city school construction authority, in relation to extending certain provisions of such chapter relating to certain contracts of the authority; to amend the public authorities law, in relation to extending certain provisions regarding the award of construction contracts by the New York city school construction authority and providing for the repeal of certain provisions upon expiration thereof

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

- 1 Section 1. Section 305 of the education law is amended by adding a new
2 subdivision 42 to read as follows:
3 42. THE COMMISSIONER SHALL COMMISSION A SURVEY ON THE IMPACT OF
4 EXEMPTING SCHOOL DISTRICTS FROM THE SEPARATE BIDDING REQUIREMENTS OF THE
5 GENERAL MUNICIPAL LAW PURSUANT TO THE PROVISIONS OF SUBDIVISION SIX OF
6 SECTION ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW. SUCH STUDY SHALL
7 INCLUDE THE IMPACT ON TIMEFRAMES FOR COMPLETING CONSTRUCTION AND
8 IMPROVEMENT PROJECTS, THE OVERALL COSTS OF SUCH PROJECTS AND THE INTEG-
9 RITY OF THE BIDDING PROCESS. THE COMMISSIONER SHALL ISSUE THE RESULTS OF
10 SUCH SURVEY TO THE GOVERNOR, THE STATE COMPTROLLER, THE TEMPORARY PRESI-
11 DENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY IN THE FOURTH YEAR
12 FOLLOWING THE EFFECTIVE DATE OF THIS SUBDIVISION.
13 S 2. Section 101 of the general municipal law is amended by adding a
14 new subdivision 6 to read as follows:
15 6. A. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION AND ANY OTHER
16 LAW TO THE CONTRARY, ANY CONTRACT, SUBCONTRACT, LEASE, GRANT, BOND,

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

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1 COVENANT, OR OTHER AGREEMENT FOR PROJECTS UNDERTAKEN BY SCHOOL DISTRICTS
2 SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF SEPARATE SPECIFICATIONS
3 (REFERRED TO AS THE WICKS LAW).

4 B. WHERE A SCHOOL DISTRICT ELECTS TO PROVIDE FOR THE ASSIGNMENT OF A
5 CONTRACT TO A SINGLE PERSON, FIRM OR CORPORATION PURSUANT TO PARAGRAPH A
6 OF THIS SUBDIVISION, SUCH SCHOOL DISTRICT MAY REQUIRE THE APPARENT LOW
7 BIDDER AND, AT THE DISCRETION OF THE SCHOOL DISTRICT, THE NEXT APPARENT
8 LOW BIDDER, TO SUBMIT TO THE DISTRICT THE NAMES OF THE BIDDER'S PROPOSED
9 SUBCONTRACTORS FOR THE ELECTRICAL WORK, HEATING, VENTILATING AND AIR
10 CONDITIONING WORK, AND THE PLUMBING WORK. ONLY ONE PROPOSED SUBCONTRACTOR
11 SHALL BE NAMED FOR EACH SUCH TRADE. SUCH PROPOSED SUBCONTRACTOR OR
12 SUBCONTRACTORS MAY BE REJECTED BY THE SCHOOL DISTRICT ON THE BASIS SET
13 FORTH IN PARAGRAPH E OF THIS SUBDIVISION. UPON REJECTION OF A PROPOSED
14 SUBCONTRACTOR OR SUBCONTRACTORS, THE SCHOOL DISTRICT MAY REQUIRE THE
15 APPARENT LOW BIDDER TO SUBMIT AN ALTERNATE PROPOSED SUBCONTRACTOR OR
16 SUBCONTRACTORS WITHIN FORTY-EIGHT HOURS. SHOULD THE APPARENT LOW BIDDER
17 FAIL TO PROPOSE ALTERNATE SUBCONTRACTORS SUBJECT TO APPROVAL BY THE
18 SCHOOL DISTRICT, THE SCHOOL DISTRICT MAY CONSIDER THE NEXT APPARENT LOW
19 BIDDER AND SHALL FOLLOW THE SAME PROCEDURE SET FORTH IN THIS PARAGRAPH.
20 SUCH PROPOSED SUBCONTRACTORS OF THE BIDDER, APPROVED BY THE SCHOOL
21 DISTRICT SHALL BE USED ON THE WORK FOR WHICH THEY WERE PROPOSED AND
22 APPROVED, AND THEY SHALL NOT BE CHANGED EXCEPT WITH THE SPECIFIC WRITTEN
23 APPROVAL OF THE DISTRICT.

24 C. PAYMENT TO THE SUBCONTRACTORS APPROVED PURSUANT TO PARAGRAPH B OF
25 THIS SUBDIVISION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SECTION
26 ONE HUNDRED SIX-B OF THIS ARTICLE. IN THE EVENT ANY SUCH SUBCONTRACTOR
27 IS NOT PAID BY THE CONTRACTOR, THE SUBCONTRACTOR SHALL IMMEDIATELY NOTI-
28 FY THE SCHOOL DISTRICT OF SUCH FACT.

29 D. WITH THE SUBMISSION OF THE NAMES OF THE PROPOSED SUBCONTRACTORS AS
30 PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, THE BIDDER SHALL SPECIFY
31 THE AMOUNT TO BE PAID TO EACH SUBCONTRACTOR FOR THE WORK TO BE PERFORMED
32 BY SUCH SUBCONTRACTOR.

33 E. A SCHOOL DISTRICT MAY REJECT ANY OR ALL BIDS OR WAIVE ANY INFORMAL-
34 ITY IN A BID IF THE SCHOOL DISTRICT REASONABLY BELIEVES THAT THE PUBLIC
35 INTEREST WILL BE PROMOTED THEREBY. A SCHOOL DISTRICT MAY REJECT ANY BID
36 IF, IN THE JUDGMENT OF THE SCHOOL DISTRICT, THE BUSINESS ORGANIZATION,
37 RESOURCES, FINANCIAL STANDING, OR EXPERIENCE OF THE BIDDER JUSTIFIES
38 SUCH REJECTION IN VIEW OF THE WORK TO BE PERFORMED.

39 F. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE NEW YORK
40 CITY SCHOOL CONSTRUCTION AUTHORITY ESTABLISHED PURSUANT TO TITLE SIX OF
41 ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW.

42 S 3. Section 19 of chapter 738 of the laws of 1988, amending the
43 administrative code of the city of New York and other laws relating to
44 establishing the New York city school construction authority, as amended
45 by chapter 134 of the laws of 2004, is amended to read as follows:

46 S 19. This act shall take effect immediately, provided, however, that
47 the provisions of subdivision 6 of section 209 of the civil service law,
48 as added by section four of this act, shall expire and be deemed
49 repealed on and after June 30, 1995, and further provided that the
50 provisions of section 1735 of the public authorities law, as added by
51 section fourteen of this act, shall expire and be deemed repealed on
52 June 30, [2009] 2014.

53 S 4. Subdivision 1 of section 1735 of the public authorities law, as
54 amended by chapter 410 of the laws of 1999, is amended to read as
55 follows:

1 1. Notwithstanding the provisions of paragraph b of subdivision one of
2 section seventeen hundred thirty-four of this title, the award of
3 construction contracts by the authority between July first, nineteen
4 hundred eighty-nine and June thirtieth, two thousand [two] FOURTEEN,
5 shall not be subject to the provisions of section one hundred one of the
6 general municipal law.
7 S 5. This act shall take effect immediately; provided that sections
8 one and two of this act shall take effect on the one hundred eightieth
9 day after they shall have become law, and shall apply to all contracts
10 advertised or solicited for bid on or after such effective date;
11 provided that the provisions of sections one and two of this act shall
12 expire and be deemed repealed 5 years after such effective date;
13 provided further that the amendments to subdivision 1 of section 1735 of
14 the public authorities law made by section four of this act shall not
15 affect the expiration of such section and shall be deemed repealed ther-
16ewith.