

4297

2009-2010 Regular Sessions

I N   S E N A T E

April 21, 2009

---

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and  
when printed to be committed to the Committee on Local Government

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 ASSEM-  
BLY, 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,  
20    board or agency acts shall accept sole responsibility for any payment  
21    due the vendor or contractor. All purchases and all contracts for such  
22    services shall be subject to audit and inspection by the political  
23    subdivision [or], district OR LOCAL AUTHORITY for which made. Prior to  
24    making such purchases or contracts the officer, board or agency shall

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

LBD04351-01-9

1 consider whether such contracts will result in cost savings after all  
2 factors, including charges for service, material, and delivery, have  
3 been considered.

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

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

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

31 4. "LOCAL AUTHORITY" MEANS:

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

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

39 C. A LOCAL INDUSTRIAL DEVELOPMENTAL AGENCY OR AUTHORITY OR OTHER LOCAL  
40 PUBLIC BENEFIT CORPORATION; OR

41 D. AN AFFILIATE OF SUCH LOCAL AUTHORITY.

42 S 3. This act shall take effect immediately.