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

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I N S E N A T E

April 8, 2010

Introduced by Sen. KRUGER -- (at request of the Office of General Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the New York state printing and public documents law, the state finance law, the not-for-profit corporation law, the education law, the general municipal law and chapter 741 of the laws of 1985, relating to authorizing certain charitable organizations to purchase commodities under contracts let by the state office of general services, in relation to the procurement of departmental printing; and to repeal certain provisions of the New York state printing and public documents law relating thereto

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

Section 1. Section 3 of the New York state printing and public documents law, as added by chapter 160 of the laws of 1976, subdivision 1 as amended by chapter 849 of the laws of 1987 and subdivision 5 as amended by chapter 346 of the laws of 1991, is amended to read as follows:

S 3. Powers and duties of commissioner OF GENERAL SERVICES AND STATE AGENCIES IN PURCHASING PRINTING. 1. The commissioner of general services shall have general supervision over the letting of all contracts for public printing provided to be made herein. In addition, the commissioner shall exercise such further supervision and control over all contracts for department printing [as herein defined that he has heretofore exercised or may hereafter deem] PURSUANT TO SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, AS IF THE PURCHASE OF SUCH DEPARTMENT PRINTING FROM SUCH CONTRACTS WERE THE PURCHASE OF A COMMODITY. THE COMMISSIONER OF GENERAL SERVICES MAY, AS DEEMED appropriate [including, but not limited to, the establishment of], ESTABLISH standard sizes and grades of paper and OTHER NECESSARY specifications for paper; provided, however, that such specifications shall be in accordance with those established pursuant to section one hundred [sixty-four] SIXTY-THREE AND SUBDIVISION THREE OF SECTION ONE HUNDRED SIXTY-FIVE of the state finance law.

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

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(A) THE COMMISSIONER OF GENERAL SERVICES SHALL BE RESPONSIBLE FOR THE STANDARDIZATION AND CENTRALIZED CONTRACTING OF PRINTING REQUIRED BY STATE AGENCIES IN A MANNER WHICH MAXIMIZES THE PURCHASING VALUE OF PUBLIC FUNDS. PURSUANT TO SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, CONTRACTS FOR PRINTING MAY BE ESTABLISHED BY THE OFFICE OF GENERAL SERVICES OR STATE AGENCIES, AND STATE AGENCIES MAY, WHEN SUCH CENTRALIZED CONTRACTS ESTABLISHED BY THE OFFICE OF GENERAL SERVICES ARE IN THE FORM, FUNCTION OR UTILITY REQUIRED BY SAID AGENCY, PURCHASE FROM SUCH CENTRALIZED CONTRACTS. WHEN PRINTING IS NOT AVAILABLE CONSISTENT WITH THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW IN THE FORM, FUNCTION OR UTILITY REQUIRED BY STATE AGENCIES, STATE AGENCIES MAY PROCURE PRINTING INDEPENDENTLY OR IN CONJUNCTION WITH OTHER STATE AGENCIES.

(B) PRINTING CONTRACTS SHALL BE AWARDED ON THE BASIS OF LOWEST PRICE TO A RESPONSIVE AND RESPONSIBLE OFFEROR; OR IN THE CASE OF MULTIPLE AWARDS, IN ACCORDANCE WITH PARAGRAPH C OF SUBDIVISION TEN OF SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW.

2. [The commissioner may appoint an expert printer and such assistants and employees as shall be authorized by appropriations made by the legislature therefor, and such employees shall receive such salaries as shall be fixed by the legislature in such appropriation.

3. It shall be the duty of said commissioner, in accordance with rules and regulations to be prescribed by him, to let to the lowest responsible bidder, as hereinafter provided, and as will best promote the public interest, all contracts for the work embraced in the legislative printing and department printing as those terms are in this chapter defined, except printing done pursuant to law in the correctional facilities of the state, in the state charitable and benevolent institutions for the benefit of such institutions, or by the board or commission having fiscal control of such institutions, the printing of examination question papers or printing done for the education department or the schools under its jurisdiction in the rooms of the university of the state of New York by its employees, the stationery used by the legislature, briefs and cases on appeal and the bulletins issued by the Geneva and Ithaca experimental stations.] No contract for department printing shall be let to a bidder who, in the opinion of the commissioner OF GENERAL SERVICES, does not have satisfactory facilities and equipment which are ample and sufficient to insure proper performance of the contract or who has failed to give adequate security in an amount which may be required by [the] SUCH commissioner. Provided further, however, that no contract shall be let to a bidder other than the lowest responsible bidder without the written approval of the comptroller.

[4. The said commissioner shall adopt and promulgate appropriate rules and regulations touching the manner of the performance of his work and prescribing the form and manner of advertisement for bids and all requisitions made upon him for printing, except that said commissioner shall make no rule or regulation inconsistent with or in violation of the provisions of this chapter.

5.] 3. Notwithstanding any of the foregoing provisions of this section, or of any general or special act, the commissioner OF GENERAL SERVICES may contract for printing to an amount not exceeding [ten] EIGHTY-FIVE thousand dollars without FORMAL competitive bidding, and [may by rule prescribing the amount, not exceeding five thousand dollars, authorize] other state departments and agencies [to let contracts,] MAY CONTRACT TO AN AMOUNT NOT EXCEEDING FIFTY THOUSAND DOLLARS without FORMAL competitive bidding, for printing required by

them. [Such rule shall prescribe the form, manner and content of the notice to be given to prospective vendors, the form of specifications and proposals for such printing, and the method used in making an award, except that as such specifications relate to the paper required for printing they shall be in accordance with those established pursuant to section one hundred sixty-four of the state finance law.

Multiple purchases of identical items of printing and printing supplies, made by such other department or agency without competitive bidding within a period of sixty days, shall not exceed the sum of five thousand dollars.]

4. THE COMMISSIONER OF GENERAL SERVICES IS AUTHORIZED TO PERMIT ANY OFFICER, BODY OR AGENCY OF THE STATE OR OF A POLITICAL SUBDIVISION OR A DISTRICT THEREIN, OR FIRE COMPANY OR VOLUNTEER AMBULANCE SERVICE AS SUCH ARE DEFINED IN SECTION ONE HUNDRED OF THE GENERAL MUNICIPAL LAW, TO MAKE PURCHASES OF PRINTING THROUGH THE OFFICE OF GENERAL SERVICES' CENTRALIZED CONTRACTS, PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED FOUR OF THE GENERAL MUNICIPAL LAW. THE COMMISSIONER OF GENERAL SERVICES IS AUTHORIZED TO PERMIT ANY COUNTY EXTENSION SERVICE ASSOCIATION AS AUTHORIZED UNDER SUBDIVISION EIGHT OF SECTION TWO HUNDRED TWENTY-FOUR OF THE COUNTY LAW, OR ANY ASSOCIATION OR OTHER ENTITY AS SPECIFIED IN AND IN ACCORDANCE WITH SECTION ONE HUNDRED NINE-A OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER ASSOCIATION OR ENTITY AS SPECIFIED IN STATE LAW, TO MAKE PURCHASES OF PRINTING THROUGH THE OFFICE OF GENERAL SERVICES' CENTRALIZED CONTRACTS. THE COMMISSIONER OF GENERAL SERVICES MAY PERMIT AND PRESCRIBE THE CONDITIONS FOR, (A) ANY ASSOCIATION, CONSORTIUM OR GROUP OF PRIVATELY OWNED OR MUNICIPAL, FEDERAL OR STATE OWNED OR OPERATED HOSPITALS, MEDICAL SCHOOLS, OTHER HEALTH RELATED FACILITIES OR VOLUNTARY AMBULANCE SERVICES, WHICH HAVE ENTERED INTO A CONTRACT AND MADE MUTUAL ARRANGEMENTS FOR THE JOINT PURCHASE OF PRINTING PURSUANT TO SECTION TWENTY-EIGHT HUNDRED THREE-A OF THE PUBLIC HEALTH LAW; (B) ANY INSTITUTION FOR THE INSTRUCTION OF THE DEAF OR OF THE BLIND LISTED IN SECTION FORTY-TWO HUNDRED ONE OF THE EDUCATION LAW; (C) ANY QUALIFIED NON-PROFIT-MAKING AGENCY FOR THE BLIND APPROVED BY THE COMMISSIONER OF CHILDREN AND FAMILY SERVICES; (D) ANY QUALIFIED CHARITABLE NON-PROFIT-MAKING AGENCY FOR THE SEVERELY DISABLED APPROVED BY THE COMMISSIONER OF EDUCATION; (E) ANY HOSPITAL OR RESIDENTIAL HEALTH CARE FACILITY AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED ONE OF THE PUBLIC HEALTH LAW; (F) ANY PRIVATE NOT-FOR-PROFIT MENTAL HYGIENE FACILITY AS DEFINED IN SECTION 1.03 OF THE MENTAL HYGIENE LAW; AND (G) ANY PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION OF THE STATE, INCLUDING THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND THE INTERSTATE ENVIRONMENTAL COMMISSION, TO MAKE PURCHASES USING CENTRALIZED CONTRACTS FOR COMMODITIES. THE COMMISSIONER OF GENERAL SERVICES IS AUTHORIZED TO PERMIT ANY PUBLIC LIBRARY, ASSOCIATION LIBRARY, LIBRARY SYSTEM, COOPERATIVE LIBRARY SYSTEM, THE NEW YORK LIBRARY ASSOCIATION, AND THE NEW YORK STATE ASSOCIATION OF LIBRARY BOARDS OR ANY OTHER LIBRARY EXCEPT THOSE WHICH ARE OPERATED BY FOR PROFIT ENTITIES, TO MAKE PURCHASES OF PRINTING THROUGH THE OFFICE OF GENERAL SERVICES' CENTRALIZED CONTRACTS. HOWEVER, ALL SUCH ENTITIES SO EMPOWERED SHALL ACCEPT SOLE RESPONSIBILITY FOR ANY PAYMENT DUE WITH RESPECT TO SUCH PURCHASE.

S 2. Section 6 of the New York state printing and public documents law is REPEALED.

S 3. Section 7 of the New York state printing and public documents law is REPEALED.

S 4. Section 8 of the New York state printing and public documents law, as amended by chapter 704 of the laws of 1964 and as renumbered by chapter 160 of the laws of 1976, is amended to read as follows:

S 8. Right to annul contracts. Upon the failure or non-performance of the terms of any of the contracts [set forth in] AWARDED PURSUANT TO this chapter OR PURSUANT TO SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, AS APPLICABLE, on the part of the contractors with the state, the commissioner OF GENERAL SERVICES OR THE STATE AGENCY, AS APPLICABLE, may annul the contract in which default is made and the comptroller shall withhold payment from the contractor for all work [done by him] PERFORMED THEREUNDER until the damage to the state shall be ascertained by proper adjudication, and the [said] commissioner OF GENERAL SERVICES OR THE STATE AGENCY, AS APPLICABLE may [readvertise and enter into a] RELET THE contract for the balance of the uncompleted term of any contract so annulled or abrogated in the manner prescribed in the provisions of this chapter OR SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, AS APPLICABLE.

S 5. Subdivision 3 of section 160 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

3. "Commodity" or "commodities" means[, except with respect to contracts for state printing,] material goods, supplies, products, construction items or other standard articles of commerce other than technology which are the subject of any purchase or other exchange.

S 6. Subdivision 7 of section 160 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

7. "Service" or "services" means[, except with respect to contracts for state printing,] the performance of a task or tasks and may include a material good or a quantity of material goods, and which is the subject of any purchase or other exchange. For the purposes of this article, technology shall be deemed a service. Services, as defined in this article, shall not apply to those contracts for architectural, engineering or surveying services, or those contracts approved in accordance with article eleven-B of this chapter.

S 7. Paragraph (g) of section 1509 of the not-for-profit corporation law, as added by chapter 151 of the laws of 1992, is amended to read as follows:

(g) Purchases through office of general services. Notwithstanding the provisions of any general, special or local law, any officer or agent of a cemetery corporation subject to the provisions of this article authorized to make purchases of [materials, equipment or supplies] COMMODITIES, SERVICES AND TECHNOLOGY may make such purchases[, except of printed material,] through the office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law; provided that any such purchase shall exceed five hundred dollars and that the cemetery corporation for which such officer or agent acts shall accept sole responsibility for any payment due the vendor. All purchases shall be subject to audit and inspection by the cemetery corporation for which made. Two or more cemetery corporations may join in making purchases pursuant to this section and, for the purposes of this section, such groups shall be deemed a cemetery corporation.

S 8. Paragraph i of subdivision 3 of section 236 of the education law, as added by chapter 9 of the laws of 1979, is amended to read as follows:

i. Any corporation created under the provisions of this section may make purchases[, except of printed material, through the state divisions

of standards and quality control; and of purchasing in the] OF COMMODITIES, SERVICES AND TECHNOLOGY THROUGH THE office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law; provided that each such purchase shall have a cost of five hundred dollars or more and that said corporation shall accept sole responsibility for any payment of such cost due the vendor.

S 9. Section 258-a of the education law, as added by chapter 106 of the laws of 1980, is amended to read as follows:

S 258-a. Purchases by museums, historical societies, zoological gardens, aquariums, botanical gardens and arboreta through office of general services. Museums, historical societies, zoological gardens, aquariums, botanical gardens and arboreta which are chartered or incorporated by the regents or otherwise formed pursuant to section two hundred sixteen of this chapter or otherwise pursuant to the laws of this state and are also non-profit may make purchases[, except of printed material,] OF COMMODITIES, SERVICES AND TECHNOLOGY through the [state division of standards and purchase in the] office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law; provided that each such purchase shall have a cost of five hundred dollars or more and that said museum, historical society, zoological garden, aquarium, botanical garden or arboreta shall accept sole responsibility for any payment of such cost due the vendor.

S 10. Section 6404 of the education law, as added by chapter 734 of the laws of 1976, is amended to read as follows:

S 6404. Purchases by certain independent institutions. Any postsecondary institution chartered under the powers of the regents pursuant to section two hundred sixteen OF THIS CHAPTER or incorporated under a special act of the legislature may make purchases[, except of printed material,] OF COMMODITIES, SERVICES AND TECHNOLOGY pursuant to the terms of contracts let by the [state division of standards and purchase in the] office of general services subject to such rules as may be established from time to time pursuant to section one hundred sixty-three of the state finance law which may establish limitations with respect to commodities, SERVICES AND TECHNOLOGY and impose such other appropriate conditions upon purchasing as deemed necessary by the commissioner of general services in order to protect the state's own purchasing interests; provided that each such purchase shall have a cost of five hundred dollars or more and that said corporation shall accept sole responsibility for any payment of such cost due the vendor.

S 11. Section 104 of the general municipal law, as amended by chapter 137 of the laws of 2008, is amended to read as follows:

S 104. Purchase through office of general services. Notwithstanding the provisions of section one hundred three of this article or of any other general, special or local law, any officer, board or agency of a political subdivision, of a district therein, of a fire company or of a voluntary ambulance service authorized to make purchases of [materials, equipment, food products, or supplies, or services] COMMODITIES, SERVICES AND TECHNOLOGY available pursuant to [sections one hundred sixty-one and one hundred sixty-seven] SECTION ONE HUNDRED SIXTY-THREE of the state finance law, may make such purchases[, except of printed material,] through the office of general services subject to such rules as may be established from time to time pursuant to [sections one hundred sixty-three and one hundred sixty-seven] SECTION ONE HUNDRED SIXTY-THREE of the state finance law or through the general services

administration pursuant to section 1555 of the federal acquisition streamlining act of 1994, P.L. 103-355; provided that any such purchase shall exceed five hundred dollars and that the political subdivision, district, fire company or voluntary ambulance service for which such officer, board or agency acts shall accept sole responsibility for any payment due the vendor. All purchases shall be subject to audit and inspection by the political subdivision, district, fire company or voluntary ambulance service for which made. No officer, board or agency of a political subdivision, or a district therein, of a fire company or of a voluntary ambulance service shall make any purchase through such office when bids have been received for such purchase by such officer, board or agency, unless such purchase may be made upon the same terms, conditions and specifications at a lower price through such office. Two or more fire companies or voluntary ambulance services may join in making purchases pursuant to this section, and for the purposes of this section such groups shall be deemed "fire companies or voluntary ambulance services."

S 12. Section 109-a of the general municipal law, as amended by chapter 502 of the laws of 2002, is amended to read as follows:

S 109-a. Purchases through the office of general services by certain public associations. The New York State Association of Counties, the Association of Towns of the State of New York, the New York State Town Clerk's Association, Inc., the New York State Conference of Mayors and Other Municipal Officials, the New York State School Boards Association, Inc., the New York Planning Federation and the Association of Fire Districts of the State of New York, the New York State Association of School Business Officials, the New York state council of school superintendents, any nonpublic elementary and/or secondary school of the state of New York, which provides the instruction required by section thirty-two hundred four and article seventeen of the education law, and which is chartered by, registered with or subject to examination and inspection by the department of education and which is a not for profit institution and any public library, association library, library system, cooperative library system, the New York Library Association, and the New York State Association of Library Boards or any other library except those which are operated by for profit entities, may make purchases[, except of printed material,] through the office of general services subject to such rules as may be established from time to time pursuant to [sections] SECTION one hundred sixty-three [and one hundred sixty-five] of the state finance law and subdivision eight-a of section one hundred three of this article which may establish limitations with respect to commodities, SERVICES AND TECHNOLOGY and impose such other appropriate conditions upon purchasing as deemed necessary by the commissioner of general services in order to protect the state's own purchasing interests; and that such association, school, library, library system or cooperative library system shall accept sole responsibility for any payment due the vendor. Boards of education may permit such nonpublic schools to make purchases pursuant to this section through the school district in which the nonpublic school is located, provided that any administrative costs incurred by the school district will be paid by the nonpublic school.

S 13. Subdivision (a) of section 2 of chapter 741 of the laws of 1985, relating to authorizing certain charitable organizations to purchase commodities under contracts let by the state office of general services, as amended by chapter 134 of the laws of 1994, is amended to read as follows:

(a) Any charitable organization or federation of charitable organizations, as defined in subdivision (b) of this section, maintaining its office in a county of the state and performing all or the predominant part of its charitable, benevolent or philanthropic services or conducting all or the predominant part of its solicitation of charitable contributions in such county and any county, town or other agricultural society, the American institute of the city of New York, performing their activities in any such county on or after January 1, 1993 is authorized to make purchases[, except of printed material,] pursuant to the terms of contracts let by the [state divisions of purchasing and of standards and quality control in the] office of general services, subject to such rules as may be established from time to time under the provisions of section 163 of the state finance law, which may establish limitations with respect to commodities, SERVICES AND TECHNOLOGY and impose such other appropriate conditions upon purchasing as deemed necessary by the commissioner of general services in order to protect the state's own purchasing interests; provided that each such purchase shall exceed five hundred dollars and that such charitable organization or federation of charitable organizations shall accept sole responsibility for any payment due the vendor.

S 14. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that procurement contracts for which bid solicitations have been issued prior to the effective date of this act shall be subject to the provisions of law in effect at the time of issuance.