

3748

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. GALEF, PAULIN, KOON, JAFFEE, CALHOUN, SPANO, BALL, GIGLIO, KOLB, TOWNSEND, TOBACCO, WALKER -- Multi-Sponsored by -- M. of A. BACALLES, BOYLAND, BURLING, CROUCH, ERRIGO, P. LOPEZ, MAGEE, McDONOUGH, McKEVITT, MOLINARO, SALADINO, THIELE, TOWNS -- read once and referred to the Committee on Education

AN ACT to amend the education law and the general municipal law, in relation to exempting school districts from requirements for separate specifications for public work; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The opening paragraph of section 308 of the education law
2 is designated subdivision 1 and a new subdivision 2 is added to read as
3 follows:
4 2. THE COMMISSIONER SHALL COMMISSION A STUDY ON THE IMPACT OF EXEMPT-
5 ING SCHOOL DISTRICTS FROM THE SEPARATE BIDDING REQUIREMENTS OF THE
6 GENERAL MUNICIPAL LAW PURSUANT TO THE PROVISIONS OF SUBDIVISION SIX OF
7 SECTION ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW. SUCH STUDY SHALL
8 INCLUDE THE IMPACT ON TIME FRAMES FOR COMPLETING CONSTRUCTION AND
9 IMPROVEMENT PROJECTS, THE OVERALL COSTS OF SUCH PROJECTS, THE QUALITY OF
10 WORK PERFORMED AND THE INTEGRITY OF THE BIDDING PROCESS. THE COMMISSION-
11 ER SHALL ISSUE SUCH STUDY TO THE GOVERNOR, THE STATE COMPTROLLER, THE
12 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY IN THE
13 FOURTH YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SUBDIVISION.
14 S 2. Section 101 of the general municipal law is amended by adding a
15 new subdivision 6 to read as follows:
16 6. A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, SPECIFICA-
17 TIONS FOR WORK PERTAINING TO THE CONSTRUCTION, ADDITION OR IMPROVEMENT
18 OF ANY SCHOOL DISTRICT BUILDINGS OR APPURTENANT FACILITIES MAY PROVIDE
19 FOR ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY

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

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1 OR ALL OF THE CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELI-
2 ABLE PERSON, FIRM OR CORPORATION.

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

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

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

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

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

41 S 3. This act shall take effect on the first of September next
42 succeeding the date on which it shall have become a law, and shall apply
43 to all contracts advertised or solicited for bid on or after such effec-
44 tive date; provided that the provisions of this act shall expire and be
45 deemed repealed five years after such effective date.