

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

8209

2011-2012 Regular Sessions

I N A S S E M B L Y

June 6, 2011

Introduced by M. of A. THIELE -- read once and referred to the Committee
on Local Governments

AN ACT to amend the county law, the education law, the environmental
conservation law, the general municipal law and the public authorities
law, in relation to separate specifications for public work and to
repeal certain provisions of the general municipal law and the educa-
tion law relating thereto

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

1 Section 1. Section 101 of the general municipal law is REPEALED.
2 S 2. Subdivision 4 of section 279-c of the county law, as added by
3 chapter 504 of the laws of 1997, is amended to read as follows:
4 4. Every agreement entered into between the district and a private
5 entity, pursuant to subdivision one of this section, for the
6 construction of a wastewater treatment facility, shall require the
7 payment of all applicable prevailing wages pursuant to section two
8 hundred twenty of the labor law, shall require the furnishing to the
9 district of a performance bond in the full amount of the cost of such
10 construction, shall require that each contractor and subcontractor
11 performing work on such construction furnish a payment bond in the full
12 amount of its contract guaranteeing prompt payment of monies that are
13 due to all persons furnishing labor and materials to such contractor or
14 subcontractor[, and shall contain provisions that such construction, if
15 in excess of twenty thousand dollars, shall be conducted pursuant to
16 section one hundred one of the general municipal law]. A copy of the
17 above mentioned payment and performance bonds shall be kept by the
18 district and shall be open to public inspection.
19 S 3. Paragraph d of subdivision 1 of section 372-a of the education
20 law, as added by chapter 624 of the laws of 1999, is amended to read as
21 follows:

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

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1 d. Any contracts or leases entered into by the trustees of the state
2 university of New York pursuant to this section shall require the lessee
3 or contracting not-for-profit corporation to comply with the require-
4 ments of article fifteen-A of the executive law. Any contract or lease
5 for construction, rehabilitation, or other improvement authorized by
6 this section entered into by the trustees shall require the lessee or
7 contractor and/or subcontractor to comply with the requirements of
8 section two hundred twenty, two hundred thirty, two hundred thirty-one,
9 two hundred forty and two hundred forty-one of the labor law, where
10 applicable, as well as [sections one hundred one and] SECTION one
11 hundred three of the general municipal law, where applicable;

12 S 4. Subdivision 11 of section 407-a of the education law, as added by
13 chapter 737 of the laws of 1988, is amended to read as follows:

14 11. Any contract undertaken or financed by the dormitory authority for
15 any construction, reconstruction, rehabilitation or improvement for any
16 special act school district shall comply with the provisions of
17 [sections one hundred one and] SECTION one hundred three of the general
18 municipal law.

19 S 5. Subdivision 1 of section 458 of the education law is REPEALED and
20 subdivisions 2 and 2-a are renumbered subdivisions 1 and 2.

21 S 6. Subdivision 1 of section 482 of the education law is REPEALED and
22 subdivisions 2 and 2-a are renumbered subdivisions 1 and 2.

23 S 7. Subdivision 3 of section 1726 of the education law, as added by
24 chapter 198 of the laws of 1973, is amended to read as follows:

25 3. Such agreements shall be subject to the bidding requirements of the
26 general municipal law[, except that the provisions of section one
27 hundred one of the general municipal law shall not apply to lease or
28 lease-purchase of pre-manufactured items delivered to the site, but
29 shall apply to installation and other work to be performed on the site].

30 S 8. Subdivision (b) of section 6281 of the education law is REPEALED.

31 S 9. Subparagraph 4 of paragraph c of subdivision 2 of section 27-0707
32 of the environmental conservation law, as amended by chapter 70 of the
33 laws of 1988, is amended to read as follows:

34 (4) the applicant has received or will receive the written opinion of
35 counsel to each [municipality] MUNICIPALITY or public authority which has
36 entered into a contract, lease or rental agreement with the proposed
37 facility that such contract, lease or rental agreement is in compliance
38 with the applicable requirements of sections [one hundred one,] one
39 hundred three and one hundred twenty-w of the general municipal law.

40 S 10. The closing paragraph of section 99-q of the general municipal
41 law, as added by chapter 825 of the laws of 1987, is amended to read as
42 follows:

43 All contracts entered into pursuant to the provisions of this section
44 shall be subject to the provisions of [sections one hundred one and]
45 SECTION one hundred three of this chapter.

46 S 11. The opening paragraph of paragraph (e) of subdivision 4 of
47 section 120-w of the general municipal law, as amended by chapter 552 of
48 the laws of 1980, is amended to read as follows:

49 It is the intent of the legislature that overall cost should in all
50 cases be a major criterion in the selection of contractors for award of
51 contracts pursuant to this section and that, wherever practical, such
52 contracts which include construction work should be procured through
53 competitive bidding procedures as prescribed by [sections one hundred
54 one and] SECTION one hundred three of this chapter. It is further the
55 intent of the legislature to acknowledge the highly complex and innova-
56 tive nature of resource recovery technology for processing mixed solid

1 waste, the relative newness of the variety of resource recovery systems
2 now available, the desirability of a single point of responsibility for
3 the development of facilities and the economic and technical utility of
4 contracts for resource recovery projects which include in their scope
5 various combinations of design, construction, operation, management
6 and/or maintenance responsibilities over prolonged periods of time and
7 that in some instances it may be beneficial to the municipality to award
8 a contract on the basis of factors other than cost alone, including but
9 not limited to facility design, system reliability, energy efficiency,
10 compatibility with source separation and other recycling systems and
11 environmental protection. Accordingly, and notwithstanding the
12 provisions of any general, special or local law or charter, a contract
13 entered into between a municipality and any person pursuant to this
14 section may be awarded pursuant to public bidding in compliance with
15 [sections one hundred one and] SECTION one hundred three of this chapter
16 or pursuant to the following provisions for the award of a contract
17 based on evaluation of proposals submitted in response to a request for
18 proposals prepared by or for the municipality:

19 S 12. Section 1136 of the public authorities law, as added by chapter
20 592 of the laws of 1991, is amended to read as follows:

21 S 1136. Construction and purchase contracts. The authority shall let
22 contracts for construction or purchase of supplies, materials or equip-
23 ment pursuant to [sections one hundred one and] SECTION one hundred
24 three of the general municipal law. Nothing in this section shall be
25 construed to limit the powers of the authority to do any construction
26 directly by the officers, agents and employees of the authority.

27 S 13. Section 1137 of the public authorities law, as added by chapter
28 595 of the laws of 1991, is amended to read as follows:

29 S 1137. Construction and purchase contracts. The authority shall let
30 contracts for construction or purchase of supplies, materials, or equip-
31 ment pursuant to [sections one hundred one and] SECTION one hundred
32 three of the general municipal law. Nothing in this section shall be
33 construed to limit the power of the authority to do any construction
34 directly by the officers, agents and employees of the authority.

35 S 14. Section 1147-u of the public authorities law, as added by chap-
36 ter 691 of the laws of 1995, is amended to read as follows:

37 S 1147-u. Construction and purchase contracts. The authority shall let
38 contracts for construction or purchase of supplies, materials, or equip-
39 ment pursuant to [sections one hundred one and] SECTION one hundred
40 three of the general municipal law and shall be let in accordance with
41 the provisions of state law pertaining to prevailing wages, labor stand-
42 ards, and working hours. Nothing in this section shall be construed to
43 limit the power of the authority to do any construction directly by the
44 officers, agents and employees of the authority.

45 S 15. Section 1174-q of the public authorities law, as added by chap-
46 ter 491 of the laws of 1991, is amended to read as follows:

47 S 1174-q. Construction and purchase contracts. The authority shall let
48 contracts for construction or purchase of supplies, materials, or equip-
49 ment pursuant to [sections one hundred one and] SECTION one hundred
50 three of the general municipal law. Nothing in this section shall be
51 construed to limit the power of the authority to do any construction
52 directly by the officers, agents and employees of the authority or to
53 contract with a public utility, for a term not to exceed five years, for
54 the operation and maintenance of a water supply system acquired from
55 said public utility.

1 S 16. Section 1198-q of the public authorities law, as added by chap-
2 ter 868 of the laws of 1990, is amended to read as follows:

3 S 1198-q. Construction and purchase contracts. The authority shall let
4 contracts for construction or purchase of supplies, materials, or equip-
5 ment pursuant to [sections one hundred one and] SECTION one hundred
6 three of the general municipal law. Nothing in this section shall be
7 construed to limit the power of the authority to do any construction
8 directly by the officers, agents and employees of the authority or to
9 contract with a public utility, for a term not to exceed five years, for
10 the operation and maintenance of a water supply system acquired from
11 said public utility.

12 S 17. Section 1199-qqq of the public authorities law, as added by
13 chapter 678 of the laws of 1990, is amended to read as follows:

14 S 1199-qqq. Construction and purchase contracts. The authority shall
15 let contracts for construction or purchase of supplies, materials, or
16 equipment pursuant to [sections one hundred one and] SECTION one hundred
17 three of the general municipal law. Nothing in this section shall be
18 construed to limit the power of the authority to do any construction
19 directly by the officers, agents and employees of the authority.

20 S 18. Section 1199-qqqq of the public authorities law, as added by
21 chapter 195 of the laws of 1995, is amended to read as follows:

22 S 1199-qqqq. Construction and purchase contracts. The authority shall
23 let contracts for construction or purchase of supplies, materials, or
24 equipment pursuant to [sections one hundred one and] SECTION one hundred
25 three of the general municipal law and shall be let in accordance with
26 the provisions of state law pertaining to prevailing wages, labor stand-
27 ards, and working hours. Nothing in this section shall be construed to
28 limit the power of the authority to do any construction directly by the
29 officers, agents and employees of the authority.

30 S 19. The closing paragraph of subdivision 13 of section 1678 of the
31 public authorities law, as added by chapter 825 of the laws of 1987, is
32 amended to read as follows:

33 Any contract undertaken or financed by the dormitory authority for any
34 construction, reconstruction, rehabilitation or improvement of any court
35 facilities or combined occupancy structures shall comply with the
36 provisions of [sections one hundred one and] SECTION one hundred three
37 of the general municipal law.

38 S 20. The opening paragraph of paragraph a of subdivision 2 of section
39 1680 of the public authorities law, as amended by section 25 of part II
40 of chapter 59 of the laws of 2004, is amended to read as follows:

41 The dormitory authority is hereby authorized and empowered upon appli-
42 cation of the educational institution concerned to acquire, design,
43 construct, reconstruct, rehabilitate and improve, or otherwise provide
44 and furnish and equip dormitories and attendant facilities for any
45 educational institution, provided that THE SPECIFICATIONS FOR any
46 contract undertaken or financed by the dormitory authority for any
47 construction, reconstruction, rehabilitation or improvement of any
48 building or structure commenced after September first, nineteen hundred
49 seventy-four for the Gananda school district or the Gananda educational
50 facilities corporation, or any agency, board or commission therein, or
51 any official thereof, [shall comply with the provisions of section one
52 hundred one of the general municipal law and the specifications for such
53 contract] may provide for assignment of responsibility for coordination
54 of any of the contracts for such work to a single responsible and quali-
55 fied person, firm or corporation; [provided, however, that all contracts
56 for construction of buildings on behalf of Queens Hospital Center shall

1 be in conformity with the provisions of section one hundred one of the
2 general municipal law;] provided that any contracts for the
3 construction, reconstruction, rehabilitation or improvement of any
4 public work project undertaken by the dormitory authority of any facili-
5 ty for the aged for any political subdivision of the state or any
6 district therein or agency, department, board or commission thereof, or
7 any official thereof, shall comply with the provisions of section one
8 hundred thirty-five of the state finance law; and provided further that
9 any contract undertaken or financed by the dormitory authority for any
10 construction, reconstruction, rehabilitation or improvement of any
11 building commenced after January first, nineteen hundred eighty-nine for
12 the department of health shall comply with the provisions of section one
13 hundred thirty-five of the state finance law.

14 S 21. Subdivision 1 of section 1734 of the public authorities law, as
15 added by chapter 738 of the laws of 1988, is amended to read as follows:

16 1. [a.] All contracts for the construction, reconstruction, improve-
17 ment, rehabilitation, maintenance, repair, furnishing, equipping of or
18 otherwise providing for educational facilities for the city board may be
19 awarded in accordance with the provisions of this section, notwithstand-
20 ing the provisions of section eight of the public buildings law, section
21 one hundred three of the general municipal law, section one hundred
22 thirty-five of the state finance law, section seven of the New York
23 state financial emergency act for the city of New York or of any other
24 provision of general, special or local law, charter or administrative
25 code.

26 [b. The authority shall be subject to the provisions of section one
27 hundred one of the general municipal law.]

28 S 22. Section 1735 of the public authorities law, as added by chapter
29 738 of the laws of 1988, subdivision 1 as amended by chapter 345 of the
30 laws of 2009, subdivision 4 as amended by chapter 491 of the laws of
31 2000 and subdivision 6 as amended by chapter 523 of the laws of 2010, is
32 amended to read as follows:

33 S 1735. Certain contracts of the authority. 1. [Notwithstanding the
34 provisions of paragraph b of subdivision one of section seventeen
35 hundred thirty-four of this title, the award of construction contracts
36 by the authority between July first, nineteen hundred eighty-nine and
37 June thirtieth, two thousand fourteen, shall not be subject to the
38 provisions of section one hundred one of the general municipal law.

39 2.] Notice of the invitation for bids for contracts to be awarded
40 pursuant to this section shall state the time and place of the receipt
41 and opening of bids.

42 [3] 2. All bidders shall submit to the authority, prior to the open-
43 ing of a bid for the award of a contract under this section, a sealed
44 list identifying the names of each subcontractor each contractor
45 proposes to utilize under the contract for the performance of the
46 following subdivisions of work:

47 a. Plumbing and gas fitting;

48 b. Steam heating, hot water heating, ventilating and air conditioning
49 apparatus; and

50 c. Electric wiring and standard illuminating fixtures.

51 The low bidder shall specify in such list the estimated value to be
52 paid each such subcontractor for the work to be performed by such
53 subcontractor. After the authority has announced the low bidder at the
54 bid opening, the authority shall open only such low bidder's separate
55 sealed list and shall read aloud such subcontractors listed therein. All
56 such sealed lists except those of the low bidder shall be returned

1 unopened to their respective contractors following the awarding of a
2 contract.

3 [4] 3. The authority shall establish a committee to review and report
4 on contracts issued pursuant to this section and on the procedures and
5 methodology of the authority in awarding such contracts. The review
6 shall include, but not be limited to, the degree to which contractors
7 awarded contracts pursuant to [such paragraph] THIS SECTION, and the
8 subcontractors utilized by them, utilize employees who are represented
9 by labor organizations, comply with existing labor standards, maintain
10 harmonious labor relations and recognize state approved apprentice
11 programs. The committee shall, from time to time, issue economic and
12 statistical reports dealing with the costs of construction under this
13 article. Such reports shall deal with the costs of labor, material,
14 equipment and profit. The committee shall have no authority to approve
15 or disapprove contracts. The committee shall be composed of two repre-
16 sentatives from the authority, one representative from the board, two
17 representatives from construction-related labor organizations and two
18 representatives from the construction industry, at least one of whom
19 shall be involved in the subdivisions of work described in subdivision
20 [three] TWO of this section. The president of the authority shall desig-
21 nate the members of the committee, provided, however, that the president
22 shall designate the representatives of labor organizations from a list
23 of names submitted by the New York state AFL-CIO.

24 [5] 4. In awarding contracts pursuant to this section the authority
25 shall, in addition to the factors set forth in subdivision three of
26 section seventeen hundred thirty-four of this title, consider the
27 following factors when establishing a list of pre-qualified bidders for
28 construction work: (a) the degree to which a contractor or subcontractor
29 utilizes employees who are represented by a labor organization; (b) the
30 absence of any intentional misrepresentation with regard to lists of
31 subcontractors previously submitted pursuant to the provisions of subdivi-
32 sion [two] ONE of this section; and (c) the record of the bidder in
33 complying with existing labor standards, maintaining harmonious labor
34 relations and recognizing state approved apprentice programs.

35 [6] 5. The authority shall provide in its construction, erection or
36 alteration contracts which implement a five year educational facilities
37 capital plan a provision that shall require each contractor to make
38 prompt payment to its subcontractors performing each subdivision of work
39 listed in subdivision [three] TWO of this section. Within seven calendar
40 days of the receipt of any payment from the authority, the contractor
41 shall pay to each such subcontractor that portion of the proceeds of
42 such payment representing the value of the work performed by such
43 subcontractor, based upon the actual value of the subcontract, which has
44 been approved and paid for by the authority, less an amount necessary to
45 satisfy any claims, liens or judgments against the subcontractor which
46 have not been suitably discharged and less any amount retained by the
47 contractor as provided herein. For such purpose, the subcontract may
48 provide that the contractor may retain not more than five per centum of
49 each payment to the subcontractor or not more than ten per centum of
50 each such payment if prior to entering into the subcontract the subcon-
51 tractor is unable or unwilling to provide, at the request of the
52 contractor, a performance bond and a labor and material bond both in the
53 amount of the subcontract.

54 At the time of making a payment to the contractor for work performed
55 by the subcontractors set forth in subdivision [three] TWO of this
56 section, the authority shall file in its office for review a record of

1 such payment. If any such subcontractor shall notify the authority and
2 the contractor in writing that the contractor has failed to make a
3 payment to it as provided herein and the contractor shall fail, within
4 five calendar days after receipt of such notice, to furnish either proof
5 of such payment or notice that the amount claimed by the subcontractor
6 is in dispute, the authority shall withhold from amounts then or there-
7 after becoming due and payable to the contractor, other than from
8 amounts becoming due and payable to the contractor representing the
9 value of work approved by the authority and performed by other subcon-
10 tractors and which the contractor is required to pay to such subcontrac-
11 tors within seven calendar days as herein provided, an amount equal to
12 one hundred fifty percent of that portion of the authority's prior
13 payment to the contractor which the subcontractor claims to be due it,
14 shall remit the amount when and so withheld to the subcontractor and
15 deduct such payment from the amounts then otherwise due and payable to
16 the contractor, which payment shall, as between the contractor and the
17 authority, be deemed a payment by the authority to the contractor. In
18 the event the contractor shall notify the authority as above provided
19 that the claim of the subcontractor is in dispute, the authority shall
20 withhold from amounts then or thereafter becoming due and payable to the
21 contractor, other than from amounts becoming due and payable to the
22 contractor representing the value of work approved by the authority and
23 performed by other subcontractors and which the contractor is required
24 to pay to such subcontractors within seven calendar days as herein
25 provided, an amount equal to one hundred fifty percent of that portion
26 of the authority's prior payment to the contractor which the subcontrac-
27 tor claims to be due it and deposit such amount when and so withheld in
28 a separate interest-bearing account pending resolution of the dispute,
29 and the amount so deposited together with the interest thereon shall be
30 paid to the party or parties ultimately determined to be entitled there-
31 to, or until the contractor and subcontractor shall otherwise agree as
32 to the disposition thereof. In the event the authority shall be
33 required to withhold amounts from a contractor for the benefit of more
34 than one subcontractor, the amounts so withheld shall be applied to or
35 for such subcontractors in the order in which the written notices of
36 nonpayment have been received by the authority, and if more than one
37 such notice was received on the same day, proportionately based upon the
38 amount of the subcontractor claims received on such day. Notwithstanding
39 the foregoing, in lieu of withholding such amount or amounts in dispute,
40 the contractor may post a bond or other form of undertaking guaranteeing
41 payment of such disputed amounts. Nothing herein contained shall prevent
42 the authority from commencing an interpleader action to determine enti-
43 tlement to a disputed payment in accordance with section one thousand
44 six of the civil practice law and rules, or any successor provision
45 thereto. In the event the authority does not withhold the required
46 amounts within sixty days after the written notification from the
47 subcontractor regarding failure of the contractor to make payment, the
48 subcontractor may file a lien under article two of the lien law as the
49 sole remedy in lieu of the remedy provided under this subdivision.

50 Payment to a subcontractor shall not relieve the contractor from
51 responsibility for the work covered by the payment. Except as otherwise
52 provided, nothing contained herein shall create any obligation on the
53 part of the authority to pay any subcontractor, nor shall anything
54 provided herein serve to create any relationship in contract or other-
55 wise, implied or expressed, between the subcontractor and the authority.

1 The provisions of this subdivision shall not be applicable to the
2 subcontractors of a contractor whose contract is limited to the perform-
3 ance of a single subdivision of work listed in subdivision [three] TWO
4 of this section.

5 [7] 6. The provisions of this section shall cease to be in effect in
6 the event any of the provisions of this section shall be adjudged to be
7 invalid by the final judgment of a court of competent jurisdiction from
8 which judgment all appeals or applications for relief have been
9 exhausted or the time therefor has expired, provided, however, that such
10 appeals or applications are pursued promptly.

11 S 23. Section 2052-k of the public authorities law, as added by chap-
12 ter 683 of the laws of 1992, is amended to read as follows:

13 S 2052-k. Construction and purchase contracts. The authority shall let
14 contracts for construction or purchase of supplies, materials, or equip-
15 ment pursuant to [sections one hundred one and] SECTION one hundred
16 three of the general municipal law. Nothing in this section shall be
17 construed to limit the powers of the authority to do any construction
18 directly by the officers, agents and employees of the authority.

19 S 24. Subdivision 1 of section 2680-q of the public authorities law,
20 as added by chapter 632 of the laws of 1999, is amended to read as
21 follows:

22 1. The authority shall let contracts for construction or purchase of
23 supplies, materials, or equipment pursuant to [sections one hundred one
24 and] SECTION one hundred three of the general municipal law. Nothing in
25 this section shall be construed to limit the powers of the authority to
26 do any construction directly by the officers, agents and employees of
27 the authority.

28 S 25. The opening paragraph of subdivision 9 of section 3303 of the
29 public authorities law, as added by chapter 11 of the laws of 1997, is
30 amended to read as follows:

31 It is the intent of the legislature that overall cost should in all
32 cases be a major criterion in the selection of project developers for
33 award of contracts pursuant to this section and that, wherever practi-
34 cal, such contracts should be entered into through competitive bidding
35 procedures as prescribed by [sections one hundred one and] SECTION one
36 hundred three of the general municipal law. It is further the intent of
37 the legislature to acknowledge the highly complex and innovative nature
38 of medical technology, diagnostic and treatment devices, the relative
39 newness of a variety of devices, processes and procedures now available,
40 the desirability of a single point of responsibility for the development
41 of medical treatment and diagnostic facilities and the economic and
42 technical utility of contracts for medical projects which include in
43 their scope various combinations of design, construction, operation,
44 management and/or maintenance responsibility over prolonged periods of
45 time and that in some instances it may be beneficial to the corporation
46 to award a contract for a medical project on the basis of factors other
47 than cost alone, including but not limited to facility design, system
48 reliability, efficiency, safety, and compatibility with other elements
49 of patient care. Accordingly, and notwithstanding the provisions of any
50 general, special or local law or chapter, a contract for a medical
51 project entered into between the corporation and any project developer
52 pursuant to this section may be awarded pursuant to public bidding in
53 compliance with [sections one hundred one and] SECTION one hundred three
54 of the general municipal law or pursuant to the following provisions for
55 the award of a contract based on evaluation of proposals submitted in
56 response to a request for proposals prepared by or for the corporation:

1 S 26. The opening paragraph of subdivision 8 of section 3402 of the
2 public authorities law, as added by chapter 9 of the laws of 1997, is
3 amended to read as follows:

4 It is the intent of the legislature that overall cost should in all
5 cases be a major criterion in the selection of project developers for
6 award of contracts pursuant to this section and that, wherever practical,
7 such contracts should be entered into pursuant to the provisions of
8 [sections one hundred one and] SECTION one hundred three of the general
9 municipal law. It is further the intent of the legislature to acknowledge
10 the highly complex and innovative nature of medical technology,
11 diagnostic and treatment devices, the relative newness of a variety of
12 devices, processes and procedures now available, the desirability of a
13 single point of responsibility for the development of medical treatment
14 and diagnostic facilities and the economic and technical utility of
15 contracts for medical projects which include in their scope various
16 combinations of design, construction, operation, management and/or maintenance
17 responsibility over prolonged periods of time and that in some
18 instances it may be beneficial to the corporation to award a contract
19 for a medical project on the basis of factors other than capital cost
20 alone, including but not limited to facility design, system reliability,
21 efficiency, safety, long-term operating costs and compatibility with
22 other elements of patient care. Accordingly, and notwithstanding the
23 provisions of any general, special or local law or chapter, a contract
24 for a medical project entered into between the corporation and any
25 project developer pursuant to this section may be awarded pursuant to
26 public bidding in compliance with [sections one hundred one and] SECTION
27 one hundred three of the general municipal law or pursuant to the
28 following provisions for the award of a contract based on evaluation of
29 proposals submitted in response to a request for proposals prepared by
30 or for the corporation:

31 S 27. The opening paragraph of subdivision 8 of section 3603 of the
32 public authorities law, as added by chapter 507 of the laws of 1999, is
33 amended to read as follows:

34 It is the intent of the legislature that overall costs should in all
35 cases [by] BE a major criterion in the selection of project developers
36 for the award of contracts pursuant to this section and that, wherever
37 practical, such contracts should be entered into through competitive
38 bidding procedures as prescribed by [sections one hundred one and]
39 SECTION one hundred three of the general municipal law. It is further
40 the intent of the legislature to acknowledge the highly complex and
41 innovative nature of medical technology, diagnostic and treatment
42 devices, the relative newness of a variety of devices, processes and
43 procedures now available, the desirability of a single point of responsibility
44 for the development of medical treatment and diagnostic facilities
45 and the economic and technical utility of contracts for medical
46 projects which include in their scope various combinations of design,
47 construction, operation, management and/or maintenance responsibility
48 over prolonged periods of time. In some instances it may be beneficial
49 to the corporation to award a contract for a medical project on the
50 basis of factors other than cost alone, including but not limited to
51 facility design, system reliability, efficiency, safety, and compatibility
52 with other elements of patient care. Accordingly, and notwithstanding
53 the provisions of any general, special or local law, a contract for
54 a medical project entered into between the corporation and any project
55 developer pursuant to this article may be awarded pursuant to public
56 bidding in compliance with [sections one hundred one and] SECTION one

1 hundred three of the general municipal law or pursuant to the following
2 provisions for the award of a contract based on evaluation of proposals
3 submitted in response to a request for proposals prepared by or for the
4 corporation:

5 S 28. The opening paragraph of subdivision 10 of section 3628 of the
6 public authorities law, as added by chapter 143 of the laws of 2003, is
7 amended to read as follows:

8 It is the intent of the legislature that overall cost shall in all
9 cases be a major criterion in the selection of project developers for
10 award of contracts pursuant to this section and that, whenever practical,
11 such contracts shall be entered into through competitive bidding
12 procedures, as prescribed by [sections one hundred one and] SECTION one
13 hundred three of the general municipal law. It is further the intent of
14 the legislature to acknowledge the highly complex and innovative nature
15 of medical technology and diagnostic and treatment devices, the relative
16 newness of a variety of devices, processes, and procedures now available,
17 the desirability of a single point of responsibility for the
18 development of medical treatment and diagnostic facilities, and the
19 economic and technical utility of contracts for medical projects which
20 include in their scope various combinations of design, construction,
21 operation, management, or maintenance responsibility, or any combination
22 thereof, over prolonged periods of time, and to acknowledge that, in
23 some instances, it may be beneficial to the corporation to award a
24 contract for a medical project on the basis of factors other than cost
25 alone, including, but not limited to, facility design, system reliability,
26 efficiency, safety, and compatibility with other elements of
27 patient care. Accordingly, and notwithstanding the provisions of any
28 general, special, or local law or charter, a contract for a medical
29 project entered into between the corporation and any project developer
30 pursuant to this section may be awarded pursuant to public bidding in
31 compliance with [sections one hundred one and] SECTION one hundred three
32 of the general municipal law or pursuant to the following provisions for
33 the award of a contract based on an evaluation of proposals submitted in
34 response to a request for proposals prepared by or for the corporation:

35 S 29. This act shall take effect on the one hundred eightieth day
36 after it shall have become a law; provided, however, that the amendments
37 to section 1735 of the public authorities law made by section twenty-two
38 of this act shall not affect the repeal of such section and shall be
39 deemed repealed therewith.