

Amend Senate 6293, Assembly 9293, A BUDGET BILL, AN ACT to amend the insurance law, in relation to the property/casualty insurance security fund and to repeal certain provisions of such law relating thereto...

Page 1 Title
After "(C);" strike out "and"

Page 2 Title
After "(D)" insert:
"; and to amend chapter 83 of the laws of 1995 relating to the procurement stewardship act, in relation to the effective date thereof, and to amend the state finance law, the general municipal law, and the economic development law, in relation to the procurement stewardship act (E)"

Page 2 Line 4 Strike "D" insert "E"

Page 28 After line 8, insert:
"§43. Notwithstanding any law to the contrary, the state university chancellor or his designee is authorized and directed to transfer the estimated tuition revenue balances from the state university collection fund (344) to the state university income fund (345), state university income offset account (11) on March 28, 2001."

Page 28 Line 9 Strike out "43", insert "44"

Page 28 After line 14, insert:
"PART E"

Section 1. Subdivision 5 of section 362 of chapter 83 of the laws of 1995 relating to the procurement stewardship act is amended to read as follows:

5. Sections thirty-one through forty-two of this act shall take effect on the thirtieth day after it shall have become a law and shall be deemed to have been in full force and effect on and after April 1, 1995[; provided that sections 162 and 163 of the state finance law, as added by section thirty-three of this act shall remain in full force and effect until June 30, 2000 at which time they shall expire and be deemed repealed. Contracts executed prior to the expiration of such sections 162 and 163 shall remain in full force and effect until the expiration of any such contract notwithstanding the expiration of certain provisions of this act].

§2. Subdivision 2 of section 142 of the economic development law, is amended by adding a new paragraph (b-1) to read as follows:

(b-1) for procurement contracts having a value greater than five thousand dollars but less than fifteen thousand dollars awarded by agencies other than the state university and the city university of New York, and other than centralized commodity and construction contracts awarded by the office of general services: (i) a quarterly listing of projected procurement purchases by the state agency; (ii) an explanation of how to apply for placement on any bidder list maintained by the state agency; and (iii) a description of the procedures for providing advance notification by mail to individuals or business entities on such bidders list for any invitation for bids or request for proposal. Agencies may purchase up to thirty thousand dollars from small business concerns, or those certified pursuant to article fifteen-A of the executive law, or of recycled or remanufactured products without further contract reporter notice provided the commodity or service has been included in the agency's quarterly listing; and

§3. Paragraph (a) of subdivision 2 of section 112 of the state finance law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

(a) Before any contract made for or by any state agency, department, board, officer, commission, or institution, shall be executed or become effective, whenever such contract exceeds [ten] fifteen thousand dollars in amount, it shall first be approved by the comptroller and filed in his or her office, provided, however, that the comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the state agency, department, board, officer, commission, or institution, prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by such state agency, department, board, officer, commission or institution and provided, further, that such written determination or extension shall be made part of the procurement record pursuant to paragraph f of subdivision one of section one hundred sixty-three of this chapter.

§4. Paragraph e of subdivision 4 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

e. [Any officer, body or agency of a political subdivision as defined in section one hundred of the general municipal law or a district therein, may make purchases of services through the office of general services' centralized contracts for services, subject to the provisions of section one hundred four of the general municipal law. The commissioner may permit and prescribe the conditions for the purchase of services through the office of general services' centralized contracts for services by any public authority or public benefit corporation of the state including the

port authority of New York and New Jersey] The commissioner 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 defined in section one hundred of the general municipal law, to make purchases of services through the office of general services' centralized contracts, subject to the provisions of section one hundred four of the general municipal law. The commissioner 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 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 services through the office of general services' centralized contracts; provided, however, that such entity so empowered shall accept sole responsibility for any payment due with respect to such purchase. The commissioner may permit and prescribe the conditions for (i) 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 services pursuant to section twenty-eight hundred three-a of the public health law; (ii) any institution for the instruction of the deaf or of the blind listed in section forty-two hundred one of the education law; (iii) any qualified non-profit-making agency for the blind approved by the commissioner of temporary and disability assistance; (iv) any qualified charitable non-profit-making agency for the severely disabled approved by the commissioner of education; (v) any hospital or residential health care facility as defined in section twenty-eight hundred one of the public health law; (vi) any private not-for-profit mental hygiene facility as defined in section 1.03 of the mental hygiene law; and (vii) 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 services.

§5. Section 109-a of the general municipal law, as amended by chapter 25 of the laws of 1996, is amended to read as follows:
 §109-a. Purchases through the state [division of standards and purchase in 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, [and] 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, any association library, any library system, any 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 materials, 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[s] one hundred sixty-three [and one hundred seventy-four-a] 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 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 any such purchase shall exceed five hundred dollars and that such association, [or] 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.

§6. Subdivision 4 of section 163 of the state finance law is amended by adding a new paragraph g to read as follows:
g. When justified by price, state agencies, and hospitals and facilities managed and controlled by state agencies eligible pursuant to section twenty-eight hundred three-a of the public health law, shall be eligible to make purchases of services pursuant to guidelines issued by the state procurement council from a consortium or comparable entity in accordance with the provisions of this section.

§7. Subdivision 6 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:
 6. Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities in an amount not exceeding thirty thousand dollars without a formal competitive process[;] and state agencies may purchase services and commodities in an amount not exceeding fifteen thousand dollars without a formal competitive process[; and, with respect to purchases of], State agencies may purchase commodities or [technology] services from small business concerns or those certified pursuant to article fifteen-A of the executive law, or that are recycled or remanufactured, in an amount not exceeding thirty thousand dollars without a formal competitive process.

§8. Paragraph c of subdivision 9 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

c. [Where provided in the solicitation, state] State agencies may require clarification from offerers for purposes of assuring a full understanding of responsiveness to the solicitation requirements. [Where provided for in the solicitation, revisions] Revisions may be [permitted] requested by the commissioner or state agencies prior to award from all offerers determined to be susceptible of being selected for contract award [, prior to award] provided that such revisions do not result in a material change to the specifications. Offerers shall be accorded fair and equal treatment with respect to their opportunity for discussion and revision of offers. Disclosure of the content of competing offers other than statistical tabulations of bids received in response to an invitation for bids, or of any clarifications of or any revisions thereto shall be prohibited prior to award.

§9. Paragraph e of subdivision 9 of section 163 of the state finance law, as amended by chapter 430 of the laws of 1997, is amended to read as follows:

e. Every offer shall be firm and not revocable for a period of sixty days from the bid opening, or [a longer] such other period of time specified in the solicitation[. All bids shall remain firm unless withdrawn in writing] to the extent not inconsistent with section 2-205 of uniform commercial code. Any bid which expressly states therein that acceptance must be made within a shorter period of time may be accepted or rejected, at the discretion of the commissioner or state agency in the best interests of the state. If a contract is not approved and executed by the state within such sixty day or otherwise specified period, the offer shall remain firm thereafter until either a contract is approved and executed or the bidder delivers a written notice of bid withdrawal to the commissioner or state agency, whichever occurs first.

§10. Paragraph a of subdivision 10 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

a. Selection and award shall be a written determination in the procurement record made by the commissioner or a state agency in a manner consistent with the provisions of the solicitation. [In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient or, when price and other factors are found to be substantially equivalent, the determination of the commissioner or agency head to award a contract to one or more such bidders shall be final. The basis for determining the award shall be documented in the procurement record] Unless otherwise specified in the solicitation, in the case of an award based on best value where two or more offers are found to be substantially equivalent on the basis of the combined technical

and cost evaluation, the determination of the commissioner or agency head to award a contract to any one or more of such bidders in the best interests of the state shall be final. In the case of an award based on lowest price, in the event two or more offers are found to be equivalent, the determination of the commissioner or agency head to award a contract to any one or more of the bidders in the best interests of the state shall be final.

§11. Subdivision 12 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended as follows:
12. Review by the office of the state comptroller. Review by the office of the state comptroller shall be in accordance with section one hundred twelve of this chapter. Where the commissioner or state agency conducts a procurement in good faith, intending to be wholly in accordance with the requirements of this article, and notwithstanding such good faith efforts fails to comply with one or more requirements of this article, a contract may be approved where the commissioner or state agency and the state comptroller have independently determined that: (i) the procurement substantially complies with the requirements of this article; (ii) the procurement has been fundamentally fair and the failure to comply did not unfairly advantage or disadvantage any offerer or prospective offerer; and (iii) the nature of the defect is such that no substantial benefit to the state would likely be realized as a result of correcting the defect if the procurement were to be re-bid.

§12. This act shall take effect April 1, 2000.”

Page 28

Line 25 Strike “D”
Insert “E”