

# ASSEMBLY, No. 1677

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblywoman ROSAURA "ROSY" BAGOLIE**

**District 27 (Essex and Passaic)**

**SYNOPSIS**

Authorizes use of competitive contracting and extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain electric school buses.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 6/3/2024)**

1 AN ACT concerning public school contracting and electric school  
2 buses and amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended  
8 to read as follows:

9 45. Notwithstanding the provisions of any law, rule or regulation  
10 to the contrary, competitive contracting may be used by boards of  
11 education in lieu of public bidding for procurement of specialized  
12 goods and services the price of which exceeds the bid threshold, for  
13 the following purposes:

14 a. The purchase or licensing of proprietary computer software  
15 designed for board of education purposes, which may include  
16 hardware intended for use with the proprietary software. This  
17 subsection shall not be utilized for the purpose of acquiring general  
18 purpose computer hardware or software;

19 b. The hiring of a for-profit entity or a not-for-profit entity  
20 incorporated under Title 15A of the New Jersey Statutes for the  
21 purpose of:

22 (1) the operation, management or administration of recreation or  
23 social service facilities or programs; or

24 (2) the operation, management or administration of data  
25 processing services;

26 c. Services performed by an organization engaged in providing  
27 energy conservation education and training services to train  
28 employees of a board of education to reduce consumption of  
29 energy;

30 d. Telecommunications transmission or switching services that  
31 are not part of a tariff or schedule of charges filed with the Board of  
32 Public Utilities;

33 e. The purchase of specialized machinery or equipment of a  
34 technical nature, or servicing thereof, which will not reasonably  
35 permit the drawing of specifications;

36 f. Food services provided by food service management  
37 companies when not part of programs administered by the New  
38 Jersey Department of Agriculture, Bureau of Child Nutrition  
39 Programs;

40 g. Driver education courses provided by licensed driver  
41 education schools;

42 h. At the option of the board of education, any good or service  
43 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

44 i. Laboratory testing services;

45 j. Concessions;

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 k. The operation, management or administration of other  
2 services, with the approval of the Division of Local Government  
3 Services in the Department of Community Affairs;

4 1. The purchase of electric school buses, on-site charging  
5 infrastructure for electric school buses, and on-site or off-site  
6 related electric school bus and charging infrastructure operation and  
7 maintenance services, or any combination thereof.

8 Any purpose included herein shall not be considered by a board  
9 of education as an extraordinary unspecifiable service pursuant to  
10 paragraph (2) of subsection a. of N.J.S.18A:18A-5.

11 (cf: P.L.2009, c.4, s.2)

12  
13 2. N.J.S.18A:18A-42 is amended to read as follows:

14 18A:18A-42. All contracts for the provision or performance of  
15 goods or services shall be awarded for a period not to exceed 24  
16 consecutive months, except that contracts for professional services  
17 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall  
18 be awarded for a period not to exceed 12 consecutive months. Any  
19 board of education may award a contract for longer periods of time  
20 as follows:

21 a. Supplying of:

22 (1) Fuel for heating purposes, for any term not exceeding in the  
23 aggregate, three years;

24 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles  
25 or equipment, for any term not exceeding in the aggregate, three  
26 years;

27 (3) Thermal energy produced by a cogeneration facility, for use  
28 for heating or air conditioning or both, for any term not exceeding  
29 40 years, when the contract is approved by the Board of Public  
30 Utilities. For the purposes of this paragraph, "cogeneration" means  
31 the simultaneous production in one facility of electric power and  
32 other forms of useful energy such as heating or process steam; or

33 b. Plowing and removal of snow and ice, for any term not  
34 exceeding in the aggregate, three years; or

35 c. Collection and disposal of garbage and refuse, for any term  
36 not exceeding in the aggregate, three years; or

37 d. Data processing service, for any term of not more than seven  
38 years; or

39 e. Insurance, including the purchase of insurance coverages,  
40 insurance consultant or administrative services, and including  
41 participation in a joint self-insurance fund, risk management  
42 program or related services provided by a school board insurance  
43 group, or participation in an insurance fund established by a county  
44 pursuant to N.J.S.40A:10-6, or a joint insurance fund established  
45 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of  
46 not more than three years; or

47 f. Leasing or servicing of automobiles, motor vehicles,  
48 electronic communications equipment, machinery and equipment of

1 every nature and kind and textbooks and non-consumable  
2 instructional materials, for any term not exceeding in the aggregate,  
3 five years; except that contracts for the leasing of fossil fuel school  
4 buses may be awarded for any term not exceeding in the aggregate  
5 **【ten】** 10 years and contracts for the leasing of electric school buses  
6 and related charging equipment and services may be awarded for  
7 any term not exceeding the service life of the electric school buses.  
8 Contracts awarded pursuant to this subsection shall be awarded only  
9 subject to and in accordance with rules and regulations promulgated  
10 by the State Board of Education; or

11 g. Supplying of any product or the rendering of any service by  
12 a company providing voice, data, transmission or switching  
13 services, for a term not exceeding five years; or

14 h. (Deleted by amendment, P.L.1999, c.440.)

15 i. Driver education instruction conducted by private, licensed  
16 driver education schools, for any term not exceeding in the  
17 aggregate, three years; or

18 j. (Deleted by amendment, P.L.2009, c.4).

19 k. Any single project for the construction, reconstruction or  
20 rehabilitation of any public building, structure or facility, or any  
21 public works project, including the retention of the services of any  
22 architect or engineer in connection therewith, for the length of time  
23 authorized and necessary for the completion of the actual  
24 construction; or

25 l. Laundry service and the rental, supply and cleaning of  
26 uniforms for any term of not more than three years; or

27 m. Food supplies and food services for any term of not more  
28 than three years; or

29 n. Purchases made under a contract awarded by the Director of  
30 the Division of Purchase and Property in the Department of the  
31 Treasury for use by counties, municipalities or other contracting  
32 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a  
33 term not to exceed the term of that contract; **【or】**

34 o. The provision or performance of goods or services for the  
35 purpose of producing class I renewable energy, as that term is  
36 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent  
37 to, buildings owned by any local board of education, the entire price  
38 of which is to be established as a percentage of the resultant savings  
39 in energy costs, for a term not to exceed 15 years; provided,  
40 however, that these contracts shall be entered into only subject to  
41 and in accordance with guidelines promulgated by the Board of  
42 Public Utilities establishing a methodology for computing energy  
43 cost savings and energy generation costs; or

44 p. The provision or performance of goods or services for the  
45 purpose of providing electric school buses, on-site or off-site  
46 electric school bus charging infrastructure, and related maintenance  
47 and other related services, or any combination thereof for a

1 specified price for a term up to the service life of the vehicle being  
2 contracted.

3 Any contract for services other than professional services, the  
4 statutory length of which contract is for three years or less, may  
5 include provisions for no more than one two-year, or two one-year,  
6 extensions, subject to the following limitations: a. the contract shall  
7 be awarded by resolution of the board of education upon a finding  
8 by the board of education that the services are being performed in  
9 an effective and efficient manner; b. no such contract shall be  
10 extended so that it runs for more than a total of five consecutive  
11 years; c. any price change included as part of an extension shall be  
12 based upon the price of the original contract as cumulatively  
13 adjusted pursuant to any previous adjustment or extension and shall  
14 not exceed the change in the index rate for the 12 months preceding  
15 the most recent quarterly calculation available at the time the  
16 contract is renewed; and d. the terms and conditions of the contract  
17 remain substantially the same.

18 All multiyear leases and contracts entered into pursuant to this  
19 section, including any two-year or one-year extensions, except  
20 contracts for insurance coverages, insurance consultant or  
21 administrative services, participation or membership in a joint self-  
22 insurance fund, risk management programs or related services of a  
23 school board insurance group, participation in an insurance fund  
24 established by a county pursuant to N.J.S.40A:10-6 or contracts for  
25 thermal energy authorized pursuant to subsection a. above, and  
26 contracts for the provision or performance of goods or services to  
27 promote energy conservation through the production of class I  
28 renewable energy, authorized pursuant to subsection o. of this  
29 section, shall contain a clause making them subject to the  
30 availability and appropriation annually of sufficient funds as may  
31 be required to meet the extended obligation, or contain an annual  
32 cancellation clause. All contracts shall cease to have effect at the  
33 end of the contracted period and shall not be extended by any  
34 mechanism or provision, unless in conformance with the "Public  
35 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a  
36 contract may be extended by mutual agreement of the parties to the  
37 contract when a board of education has commenced rebidding prior  
38 to the time the contract expires or when the awarding of a contract  
39 is pending at the time the contract expires.

40 (cf: P.L.2009, c.4, s.3)

41

42 3. N.J.S.18A:20-4.2 is amended to read as follows:

43 18A:20-4.2. The board of education of any school district may,  
44 for school purposes:

45 (a) Purchase, take and condemn lands within the district and  
46 lands not exceeding 50 acres in extent without the district but  
47 situate in a municipality or municipalities adjoining the district, but  
48 no more than 25 acres may be so acquired in any one such

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- 1 municipality, without the district, except with the consent, by  
2 ordinance, of such municipality;
- 3 (b) Grade, drain and landscape lands owned or to be acquired by  
4 it and improve the same in like manner;
- 5 (c) Erect, lease for a term not exceeding 50 years, enlarge,  
6 improve, repair or furnish buildings;
- 7 (d) Borrow money therefor, with or without mortgage; in the  
8 case of a type II district without a board of school estimate, when  
9 authorized so to do at any annual or special school election; and in  
10 the case of a type II district having a board of school estimate, when  
11 the amount necessary to be provided therefor shall have been fixed,  
12 determined and certified by the board of school estimate; and in the  
13 case of a type I district, when an ordinance authorizing expenditures  
14 for such purpose is finally adopted by the governing body of a  
15 municipality comprised within the district; provided, however, that  
16 no such election shall be held nor shall any such resolution of a  
17 school estimate board or ordinance of a municipal governing body  
18 be introduced to authorize any lease of any building for a term  
19 exceeding one year, until the proposed terms of such lease have  
20 been reviewed and approved by the Commissioner of Education and  
21 the Local Finance Board in the Department of Community Affairs;
- 22 (e) Construct, purchase, lease or otherwise acquire a building  
23 with the federal government, the State, a political subdivision  
24 thereof or any other individual or entity properly authorized to do  
25 business in the State; provided that: (1) the noneducational uses of  
26 the building are compatible with the establishment and operation of  
27 a school, as determined by the Commissioner of Education; (2) the  
28 portion of the building to be used as a school meets regulations of  
29 the Department of Education; (3) the board of education has  
30 complied with the provisions of law and regulations relating to the  
31 selection and approval of sites; and (4) in the case of a lease, that  
32 any lease in excess of five years shall be approved by the  
33 Commissioner of Education and the Local Finance Board in the  
34 Department of Community Affairs;
- 35 (f) Acquire, with the approval of either the commissioner, or  
36 voters or board of school estimate, as applicable, improvements or  
37 additions to school buildings through lease purchase agreements not  
38 in excess of five years. The agreement shall be recorded as an  
39 expenditure of the General Fund of the district. The commissioner  
40 shall approve the agreement only upon a demonstration by the  
41 district that the lease purchase payments and any operating  
42 expenses related to the agreement can be included within the  
43 district's tax levy growth limitation and will not result in the need  
44 for approval by the voters or board of school estimate, as  
45 appropriate, of additional spending proposals to maintain existing  
46 instructional programs and extracurricular activities. If the  
47 commissioner cannot approve the agreement, the board of education  
48 may frame a separate question to authorize the lease purchase

1 agreement and obtain voter or board of school estimate approval to  
2 enter into the agreement. A district may, without separate prior  
3 approval of the commissioner, also acquire equipment through a  
4 lease purchase agreement not in excess of five years or in the case  
5 of a lease purchase agreement entered into for the acquisition of  
6 fossil fuel school buses not in excess of 10 years and in the case of  
7 a lease purchase agreement entered into for the acquisition of  
8 electric school buses and related charging equipment and services  
9 not in excess of the service life of the electric school buses,  
10 provided that the amount of the first installment and each  
11 subsequent installment for the lease purchase payments is included  
12 in the budget that is advertised and submitted for approval to the  
13 voters of the district or the board of school estimate, as appropriate.  
14 As used herein, a "lease purchase agreement" refers to any  
15 agreement which gives the board of education as lessee the option  
16 of purchasing the leased equipment or improvements or additions to  
17 existing school buildings during or upon termination of the lease,  
18 with credit toward the purchase price of all or part of rental  
19 payments which have been made by the board of education in  
20 accordance with the lease. As part of such a transaction, the board  
21 of education may transfer or lease land or rights in land, including  
22 any building thereon, after publicly advertising for proposals for the  
23 transfer for nominal or fair market value, to the party selected by  
24 the board of education, by negotiation or otherwise, after  
25 determining that the proposal is in the best interest of the taxpayers  
26 of the district, to construct or to improve and to lease or to own or  
27 to have ownership interests in the site and the school building to be  
28 leased pursuant to such lease purchase agreement, notwithstanding  
29 the provisions of any other law to the contrary. The land and any  
30 building thereon which is described in a lease purchase agreement  
31 entered into pursuant to this amendatory act, shall be deemed to be  
32 and treated as property of the school district, used for school  
33 purposes pursuant to R.S.54:4-3.3, and shall not be considered or  
34 treated as property leased to another whose property is not exempt,  
35 and shall not be assessed as real estate pursuant to section 1 of  
36 P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement  
37 authorized by this section shall contain a provision making  
38 payments thereunder subject to the annual appropriation of funds  
39 sufficient to meet the required payments or shall contain an annual  
40 cancellation clause and shall require all construction contracts let by  
41 public school districts or let by developers or owners of property  
42 used for school purposes to be competitively bid, pursuant to  
43 N.J.S.18A:18A-1 et seq.;

44 (g) Establish with an individual or entity authorized to do  
45 business in the State a tenancy in common, condominium,  
46 horizontal property regime or other joint ownership arrangement on  
47 a site contributed by the school district; provided the following  
48 conditions are met:

1 (1) The individual or entity agrees to construct on the site, or  
2 provide for the construction thereon, a building or buildings for use  
3 of the board of education separately or jointly with the individual or  
4 entity, which shall be subject to the joint ownership arrangement;

5 (2) The provision of the building shall be at no cost or at a  
6 reduced cost to the board of education;

7 (3) The school district shall not make any payment for use of the  
8 building other than its pro rata share of costs of maintenance and  
9 improvements;

10 (4) The noneducational uses of the building are compatible with  
11 the establishment and operation of a school, as determined by the  
12 Commissioner of Education;

13 (5) The portion of the building to be used as a school, and the  
14 site, meet regulations of the Department of Education; and

15 (6) Any such agreement shall be approved by the Commissioner  
16 of Education and the Local Finance Board in the Department of  
17 Community Affairs;

18 (h) Acquire through sale and lease-back textbooks and non-  
19 consumable instructional materials provided that the sale price and  
20 principal amount of the lease-back do not exceed the fair market  
21 value of the textbooks and instructional materials and that the  
22 interest rate applied in the lease-back is consistent with prevailing  
23 market rates or is less.

24 (cf: P.L.2010, c.44, s.7)

25  
26 4. Section 42 of P.L.1999, c.23 (C.48:3-91) is amended to read  
27 as follows:

28 42. a. Pursuant to the provisions of sections 42 through 45 of  
29 this act, a government aggregator may obtain: electric generation  
30 service, electric related service, gas supply service or gas related  
31 service, either separately or bundled, for its own facilities or with  
32 other government aggregators; and a government aggregator that is  
33 a county or municipality may contract for the provision of electric  
34 generation service or gas supply service, either separately or  
35 bundled, for the business and residential customers within the  
36 territorial jurisdiction of the government aggregator. Such a  
37 government aggregator may combine the need for its own facilities  
38 for electric generation service or gas supply service with that of  
39 business and residential customers.

40 b. A government aggregator shall purchase electric generation  
41 service and gas supply service only from licensed electric power  
42 suppliers and licensed gas suppliers.

43 c. The government aggregator shall enter into the contract for  
44 electric generation service, electric related service, gas supply  
45 service or gas related service for its own facilities or with other  
46 government aggregators under the provisions of the "Local Public  
47 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public  
48 School Contracts Law," N.J.S.18A:18A-1 et seq., the "County



1 College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.),  
2 or the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et  
3 seq.), as applicable.

4 d. Nothing in this act shall preclude the State government or  
5 any State independent authority or State college from exercising  
6 authority to obtain electric generation service, electric related  
7 service, gas supply service or gas related service, either separately  
8 or bundled, for its own facilities on an aggregated basis.

9 e. Nothing in this section shall preclude a government  
10 aggregator from aggregating its own accounts for regulated utility  
11 services, including basic generation or gas service.

12 f. Nothing in this act shall preclude any interstate authority or  
13 agency from exercising authority to obtain electric generation  
14 service or gas supply service, either separately or bundled, for its  
15 own facilities in this State, including tenants in this State and other  
16 utility customers in this State at such facilities, on an aggregated  
17 basis. By exercising such authority, no interstate authority or  
18 agency shall be deemed to be a public utility pursuant to R.S. 48:1-  
19 1 et seq.; provided, however, that nothing in this act shall be  
20 construed to exempt such authority or agency from the payment of  
21 the market transition charge or its equivalent, imposed pursuant to  
22 section 13 of this act, the transition bond charge or its equivalent,  
23 imposed pursuant to section 18 of this act and any societal benefits  
24 charge or its equivalent, which may be imposed pursuant to section  
25 12 of this act, to the same extent that other customers of an electric  
26 public utility pay such charges in conjunction with any transmission  
27 and distribution service provided by an electric public utility to the  
28 authority or agency.

29 g. Notwithstanding any other provision of this act to the  
30 contrary, a private aggregator that is a private institution of higher  
31 education may enter into a contract with a licensed electric power  
32 supplier other than a municipal system or rural electric cooperative  
33 for the provision of electric generation service or electric related  
34 service, either separately or bundled, including any private  
35 aggregator that is a four-year private institution of higher education  
36 which is located within the jurisdiction of a municipal system, or  
37 within the franchise area of a rural electric cooperative, as the case  
38 may be. The right hereunder of a four-year private institution of  
39 higher education to enter into a contract with a licensed electric  
40 power supplier other than the municipal system or rural electric  
41 cooperative shall be subject to the condition that the municipal  
42 system or rural electric cooperative shall have the right of first  
43 refusal to offer a competitive, market-based price for electric  
44 power. For the purposes of this subsection, "municipal system"  
45 means a municipality that provides light, heat or power pursuant to  
46 the provisions of R.S.40:62-12 et seq.

47 h. The "New Jersey School Boards Association," established  
48 pursuant to N.J.S.18A:6-45, is authorized to serve as a government

1 aggregator to obtain electric generation service, electric related  
2 service, gas supply service or gas related service, either separately  
3 or bundled, in accordance with the "Public School Contracts Law,"  
4 N.J.S.18A:18A-1 et seq., for members of the association who wish  
5 to voluntarily participate. For purposes of this subsection, "electric  
6 related service" includes electric school buses and related goods and  
7 services, including construction projects directly related to those  
8 goods and services either individually or in combination.

9 i. Notwithstanding any provisions of the "Administrative  
10 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
11 contrary, the board shall initiate a proceeding and shall adopt, after  
12 notice, provision of the opportunity for comment, and public  
13 hearing, interim standards governing government energy  
14 aggregation programs. Such standards shall be effective as  
15 regulations immediately upon filing with the Office of  
16 Administrative Law and shall be effective for a period not to exceed  
17 18 months, and may, thereafter, be amended, adopted or readopted  
18 by the board in accordance with the provisions of the  
19 "Administrative Procedure Act."

20 j. No government aggregator shall implement the provisions of  
21 section 42, 43, 44, or 45 of this act, as appropriate, prior to the  
22 starting date of retail competition pursuant to section 5 of this act,  
23 or the date on which the board adopts interim standards pursuant to  
24 subsection i. of this section, whichever is earlier.

25 (cf: P.L.2003, c.248, s.2)

26

27 5. This act shall take effect immediately.

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29

30

#### STATEMENT

31

32 This bill authorizes a board of education to use competitive  
33 contracting and enter into extended contracts and lease terms for  
34 electric school buses. The bill also permits the New Jersey School  
35 Boards Association to serve as a government aggregator to obtain  
36 electric school buses and related goods and services.

37 Under current law a school district may utilize competitive  
38 contracting in lieu of public bidding for the procurement of certain  
39 listed specialized goods and services that exceed the bid threshold.  
40 This bill authorizes a board of education to utilize competitive  
41 contracting for the purchase of electric school buses, on-site  
42 charging infrastructure for electric school buses, and on-site or off-  
43 site related electric school bus and charging infrastructure operation  
44 and maintenance services, or any combination thereof.

45 Current law permits a school district to enter into a contract for  
46 the leasing of school buses for a term not exceeding in the  
47 aggregate 10 years. The bill provides that a school district may  
48 enter into a contract for the leasing of electric school buses and

1 related charging equipment and services for a term not in excess of  
2 the service life of the electric school bus. The bill also clarifies that  
3 the 10-year contract term limit continues to apply to fossil fuel  
4 school buses.

5 Also under existing law, a school district may enter into a lease  
6 purchase agreement for the acquisition of a school bus for a term  
7 not in excess of 10 years. This bill extends the term of a lease  
8 purchase agreement in the case of electric school buses and related  
9 charging equipment and services to the service life of the electric  
10 school bus. The bill also clarifies that the 10-year lease purchase  
11 agreement term limit continues to apply to fossil fuel school buses.

12 Finally, the bill amends the “Electric Discount and Energy  
13 Competition Act,” P.L.1999, c.23 (C.48:3-49 et al), to provide that  
14 the New Jersey School Boards Association may serve as a  
15 government aggregator to obtain electric school buses and related  
16 goods and services, including construction projects directly related  
17 to those goods and services either individually or in combination.