

**SENATE, No. 3276**

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**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

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INTRODUCED DECEMBER 10, 2015

**Sponsored by:**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**SYNOPSIS**

Authorizes local units of government subject to “Local Public Contracts Law” and “Public School Contracts Law” to use electronic procurement technologies.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/15/2015)**

1 AN ACT authorizing the electronic purchase of certain commodities  
2 and services and sale of surplus personal property by local units  
3 of government and school districts, supplementing P.L.1971,  
4 c.198 (C.40A:11-1 et seq.); and repealing P.L.2001, c.30.

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

8  
9 1. This act shall be known and may be cited as the "Local Unit  
10 Electronic Procurement Act."

11  
12 2. The Legislature finds and declares that advances in  
13 electronic technology offer opportunities to enhance governmental  
14 efficiencies. In order to explore these avenues of improved  
15 government efficiency and commerce, it is in the best interests of  
16 this State to allow local units of government to adopt proven  
17 technologies for the procurement of goods, services, public works  
18 construction, and sale of surplus personal and real property through  
19 means of electronic technology, and to allow the Department of  
20 Community Affairs to promulgate standards for the use of these  
21 technologies that provide for the integrity and procedural  
22 protections of sealed public bidding and competitive contracting  
23 translated to an electronic environment.

24  
25 3. As used in this P.L. c. (c. ) (pending before the  
26 Legislature as this bill):

27 "Director" means the Director of the Division of Local  
28 Government Services in the Department of Community Affairs;

29 "Electronic procurement" means the use of computer technology  
30 and the Internet for the advertising and submission of public bids,  
31 the receipt of proposals and quotations, competitive contracting, the  
32 use of reverse auctions, and related practices to assist in  
33 determining the lowest responsible bidder or proposer who is most  
34 advantageous, price and other factors considered, as appropriate, for  
35 goods and services, the sale of personal property, and other public  
36 procurement-related activities and services as may be determined  
37 appropriate by the director;

38 "Goods and services" means any work, labor, commodities,  
39 equipment, materials, or supplies of any tangible or intangible  
40 nature, except real property or any interest therein, provided or  
41 performed through a contract awarded by a contracting agent,  
42 including goods and property subject to N.J.S.12A:2-101 et seq.;

43 "Local unit" means a school district as defined in the "Public  
44 School Contracts Law," N.J.S.18A:18A-1 et seq., or a contracting  
45 unit as defined in the "Local Public Contracts Law," P.L.1971,  
46 c.198 (C.40A:11-1 et seq.);

1 “Public works construction” means any contract that is subject to  
2 the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-  
3 56.25 et seq.); and

4 “Real property” shall include, in addition to the usual  
5 connotations thereof, development rights or easements, or any right,  
6 interest, or estate in the area extending above any real property, or  
7 capital improvement thereon, to such a height or altitude as any  
8 title, interest, or estate in real property may extend, commonly  
9 known as “air rights,” and subject to, but not limited to, the “Local  
10 Lands and Buildings Law,” P.L.1971, c.199 (C.40A:12-1 et seq.).  
11

12 4. Local units are authorized to use electronic procurement  
13 practices for such purposes as may be authorized by the governing  
14 body of the local unit, and subject to the provisions of P.L. , c.  
15 (C. ) (pending before the Legislature as this bill).  
16

17 5. A local unit or joint purchasing unit or cooperative pricing  
18 system is also authorized to use electronic procurement practices  
19 for the following purposes:

20 a) to purchase electric generation service, electric related  
21 service, gas supply service, or gas related service, either separately  
22 or bundled, for its own facilities so long as the purchase otherwise  
23 complies with the provisions of the "Electric Discount and Energy  
24 Competition Act," P.L.1999, c.23 (C.48:3-49 et al.);

25 b) the sale of surplus personal property that shall otherwise  
26 comply with the provisions of section 36 of P.L.1971, c.198  
27 (C.40A:11-36); and

28 c) the sale of real property that shall otherwise comply with the  
29 sale and lease provisions of the “Local Lands and Buildings Law,”  
30 P.L.1971, c.199 (C.40A:12-1).

31 Contracts awarded for the administration of electronic  
32 procurement practices shall be subject to the requirements of the  
33 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.)  
34 and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.,  
35 except that they shall be considered as purposes for which  
36 competitive contracting may be used.  
37

38 6. a. The director, in consultation with the State Comptroller  
39 and pursuant to the “Administrative Procedure Act,” P.L.1968,  
40 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to  
41 effectuate the provisions of this act.

42 The rules promulgated pursuant to this section shall include, but  
43 shall not be limited to, practices that, notwithstanding any other law  
44 to the contrary:

45 (1) convert the law, principals, safeguards, and procedures  
46 related to sealed bidding to an electronic procurement environment;

47 (2) authorize local units of government to accept commercial  
48 standards for electronic forms of bid security; and

1 (3) establish minimum standards that must be met by systems  
2 and services providing and administering electronic procurement  
3 activities.

4 The director shall also consult with the Attorney General to  
5 develop safeguards to protect against collusion and bid rigging,  
6 with the Division of Purchase and Property in the Department of  
7 Treasury to develop practices used for electronic procurement, and  
8 with the Office of Information Technology in, but not of, the  
9 Department of Treasury, to ensure the privacy and security of  
10 electronic transactions.

11 b. With regard to the otherwise required notices, advertising  
12 bids, or requests for proposals in an official newspaper of the local  
13 unit, such notices shall not be eliminated, but may be limited to a  
14 notice announcing the purpose of the action, sue date, and location  
15 of the full notice that is posted on a website. The local unit may  
16 waive public advertising for electronic procurement of electric  
17 generation service, electric related service, gas supply service, or  
18 gas related service if notification is made directly to eligible Board  
19 of Public Utilities approved providers of such services.

20 c. Notwithstanding any law, rule, or regulation to the contrary,  
21 plans and specifications for public works construction contracts that  
22 require the seal and signature of a professional engineer, architect,  
23 or land surveyor may be included in an electronic file used for  
24 electronic procurement as long as the original document from which  
25 the electronic file is derived contains a physical or electronic seal  
26 and signature as otherwise required by law; however, if and when  
27 the State Board of Engineers and Land Surveyors and the New  
28 Jersey State Board of Architects adopt rules to permit digital seals  
29 and signatures, those rules shall supersede this provision.

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31 7. P.L.2001, c.30 is repealed.

32  
33 8. This act shall take effect on the first day of the 10th month  
34 next following enactment.

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37 STATEMENT

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39 This bill would authorize local units of government that are  
40 subject to the “Local Public Contracts Law” and “Public School  
41 Contracts Law” to use electronic procurement technologies. The  
42 bill authorizes local units to use electronic procurement practices  
43 for such purposes as may be authorized by the governing body of  
44 the local unit, and subject to the provisions of the substitute bill.

45 Under the bill, a local unit, joint purchasing unit, or cooperative  
46 pricing system is also authorized to use electronic procurement  
47 practices for the following purposes:

1       a) to purchase electric generation service, electric related  
2 service, gas supply service, or gas related service, either separately  
3 or bundled, for its own facilities so long as the purchase otherwise  
4 complies with the provisions of the "Electric Discount and Energy  
5 Competition Act," P.L.1999, c.23 (C.48:3-49 et al.);  
6       b) the sale of surplus personal property shall comply with the  
7 provisions of section 36 of P.L.1971, c.198 (C.40A:11-36); and  
8       c) the sale of real property that shall otherwise comply with the  
9 sale and lease provisions of the "Local Lands and Buildings Law,"  
10 P.L.1971, c.199 (C.40A:12-1).  
11       Contracts awarded for the administration of electronic  
12 procurement practices pursuant to the substitute bill shall be subject  
13 to the requirements of the "Local Public Contracts Law," P.L.1971,  
14 c.198 (C.40A:11-1 et seq.), and the "Public School Contracts Law,"  
15 N.J.S.18A:18A-1 et seq., except that they shall be considered as  
16 purposes for which competitive contracting may be used.  
17       The bill also requires the Director of the Division of Local  
18 Government Services in the Department of Community Affairs, in  
19 consultation with other State government entities, to promulgate  
20 rules and regulations to effectuate the provisions of the bill.