

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

March 3, 2011

SENATE BILL NO. 2065

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2065 with my recommendations for reconsideration.

This legislation directs the Department of Community Affairs to establish an internet website to provide information on employment opportunities, requests for proposals, and other government procurement opportunities of contracting units under the Local Public Contracts Law. While I applaud the sponsors' efforts to increase transparency and provide a single location for contractors to identify business opportunities within the State, I am, however, concerned with several aspects of this legislation.

First, I believe the focus of the website information should be on procurement opportunities. I do not believe significant benefit will be derived from providing information regarding employment opportunities on this internet website, which is otherwise focused on procurement opportunities. As a general matter, individuals looking for government employment will not be interested in contracting opportunities, and businesses seeking to enter into commercial contracts with the government will not be looking for employment opportunities. In this regard, it is important to note that the Department of Labor & Workforce Development and the Civil Service Commission already provide internet resources to provide information regarding employment opportunities in the State.

Additionally, I believe this legislation should also be expanded to encompass public contracting opportunities under the Public School Contracts Law. School districts engage in a large

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amount of public contracting in this state, and in order for the contemplated website to truly serve as a one-stop location for entities looking to identify local contracting opportunities, school districts should also be included.

I am also concerned that this legislation mandates detailed requirements for contracting opportunities that are not identical to the request for proposal specifications under the Local Public Contracts Law. As such, contracting units may be required to create two different sets of proposals, one for publication and one for this internet website. These requirements should be identical to avoid confusion, to eliminate duplication, and to minimize potential litigation which may arise due to any discrepancy between the proposals that are published versus what is posted on the website.

I am also concerned that this legislation would invite litigation over any failure to provide notice of a contracting opportunity on this internet website. This internet website should provide an additional information resource and should not serve as a vehicle to encourage frivolous litigation. Therefore, this bill should be amended to make it clear that the failure to provide a posting on this informational website (whether intentionally, inadvertently, or due to technical issues) should not serve to invalidate an otherwise binding contract entered into pursuant to the Local Public Contracts Law or the Public School Contracts Law.

Finally, I do not believe that this legislation provides the Division of Local Government Services in the Department of Community Affairs with the rulemaking authority necessary to implement its provisions or with sufficient time to design and implement the internet website contemplated herein.

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Accordingly, I herewith return Senate Bill No. 2065 and recommend that it be amended as follows:

Page 2, Title:

Delete "and employment database" and insert "database for procurement opportunities published by contracting units and boards of education"

Page 2, Section 1, Line 8:

After "The" insert "Division of Local Government Services in the"

Page 2, Section 1, Line 12:

Delete "employment opportunities,"

Page 2, Section 1, Line 12:

After "for proposals", delete ",,"

Page 2, Section 1, Line 14:

After "unit", insert "or a board of education, as defined by N.J.S. 18A:18A-2"

Page 2, Section 1, Lines 15-28:

Delete "the following:

- (1) a detailed description of the services required;
- (2) the format and procedure to be followed in submitting proposals;
- (3) the specific information which qualified vendors must provide in the proposal;
- (4) a statement setting forth the relative importance of factors, including cost, which the contracting unit will consider in evaluating a proposal submitted by a qualified vendor;
- (5) the date and time of day by which, and the place at which, the proposals shall be submitted to the contracting unit; and
- (6) any other information which the contracting unit deems appropriate" and insert "information as required pursuant to rules and regulations adopted by the Division of Local Government Services"

Page 2, Section 1, Line 31:

Delete "Department of Community Affairs" and

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insert "Division of Local
Government Services"

Page 2, Section 1, Line 33:

Delete "enumerated" and
insert "required"

Page 2, Section 1, Line 35:

Delete "organized
primarily" and insert
"searchable"

Page 2, Section 1, Line 35:

After "contracting unit"
insert "or board of
education"

Page 2, Section 1, Lines 43-47:

Delete "are directed to
submit information on all
employment opportunities
and requests for proposals
to the Department of
Community Affairs and the
Office of Information
Technology in order to
comply with the
requirements of this
section. Any changes to a
request for proposals or in
the status of"

Page 3, Section 1, Lines 1-2:

Delete "the request shall
be promptly reported to the
Department of Community
Affairs" and insert "and
boards of education, as
defined by N.J.S. 18A:18A-
2, are directed to submit
information as required
pursuant to rules and
regulations adopted by the
Division of Local
Government Services"

Page 3, Section 1, Line 5:

Insert new subsection "f.
Nothing in this section
shall be interpreted to
invalidate or otherwise
impact an otherwise valid
contract entered in to
pursuant to the "Local
Public Contracts Law,"
P.L.1971, c.198 (C.40A:11-1
et seq.) or the "Public
School Contracts Law,"
N.J.S. 18A:18A-1 et seq."

Page 3, Line 6:

Insert new section "2. The
Division of Local
Government Services in the
Department of Community
Affairs shall adopt,
pursuant to the
Administrative Procedure
Act," P.L.1968, c.410
(C.52:14B-1 et seq.), rules
and regulations to

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effectuate the purposes of
this act."

Page 3, Section 2, Line 6:

Delete "2" and insert "3"

Page 3, Section 2, Line 7:

Delete "July 1, 2011" and
insert "March 1, 2012. The
Division of Local
Government Services in the
Department of Community
Affairs may take such
anticipatory administrative
action in advance thereof
as shall be necessary for
the implementation of this
act"

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Jeffrey S. Chiesa

Chief Counsel to the Governor