

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 3895

STATE OF NEW JERSEY

DATED: NOVEMBER 30, 2023

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3895.

This Senate committee substitute adjusts the public bidding threshold amounts for certain public research universities, school districts, municipalities, and counties.

The bill increases the public bidding threshold for contracts through which workers employed in the performance of the contract are not subject to the “New Jersey Prevailing Wage Act” to \$100,000 for Rowan University, Montclair State University, Kean University, and the New Jersey Institute of Technology (NJIT). The bill reflects the changes made to the “State College Contracts Law” by P.L.2021, c.417 and makes the same changes for the public research universities in the State.

Under current law, these public research universities are prohibited from entering into contracts that exceed the threshold unless the university publicly advertises for bids and awards the contract to the entity whose bid would be most advantageous for the university. The public bidding threshold was originally \$17,700 for NJIT, \$30,700 for Rowan University, and \$33,000 for Montclair State University and Kean University. Pursuant to the statutes governing each university, the threshold is adjusted every two years by the Governor, in consultation with the Department of Treasury, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and Philadelphia areas, as reported by the United States Department of Labor. This bill increases the public bidding thresholds for all four public research universities for any contract through which workers employed in the performance of the contract are not subject to the “New Jersey Prevailing Wage Act” to \$100,000. The bidding threshold for contracts through which workers employed in the performance of the contract are subject to the “New Jersey Prevailing Wage Act” are unaffected by the bill for Rowan University, Montclair State University and Kean University, and is amended to \$29,100 for NJIT to match the most recent threshold determined by the Governor in July 2021. Under the bill, the

thresholds will continue to be adjusted by the Governor every two years, in accordance with the Consumer Price Index.

The bill also increases the public bidding threshold for contracts executed under the Public School Contracts Law. Current law permits a board of education to authorize a purchasing agent to award a contract that does not exceed a statutorily authorized amount, currently set at \$32,000, through solicitation of competitive quotations rather than public bidding. The bill stipulates that a contract having an anticipated value in excess of \$17,500, but below the applicable bidding threshold, is not required to be awarded by a board of education and may be awarded by a purchasing agent that holds a qualified purchasing agent certificate.

Additionally, current law stipulates that if the purchasing agent possesses a qualified purchasing agent certificate, the board may establish that the bid threshold be up to a statutorily authorized amount, currently set at \$44,000. The bill increases this bid threshold when a purchasing agent holds a qualified purchasing agent certificate to \$60,000 or the amount determined by the governor pursuant to the bill. The bill also revises current law to permit a board to establish a bid threshold of up to \$90,000 or the amount adjusted by the Governor if the purchasing agent holds a qualified purchasing agent certificate, and the board (a) serves a municipality with a population in excess of 100,000, or (b) governs certain county-based school districts. Under current law, the Governor is required to adjust the thresholds every five years in direct proportion to the rise or fall of the index rate. The bill revises current law to require the Governor to adjust the threshold every year based on the rise of the index rate.

The bill also increases the public bidding threshold for contracts executed under the Local Public Contracts Law. Current law permits a contracting unit, as defined under the Local Public Contracts Law, to authorize a purchasing agent to award a contract that does not exceed \$17,500 through solicitation of competitive quotations rather than public bidding. The bill stipulates that a contract having an anticipated value in excess of \$17,500, but below the applicable bidding threshold, is not required to be awarded by the governing body of the contracting unit and may be awarded by the purchasing agent.

Under current law, a purchasing agent under the Local Public Contracts Law is required to hold a qualified purchasing agent certificate. Additionally, current law stipulates that if a governing body of a contracting unit has designated a purchasing agent, the contracting unit may establish that the bid threshold be up to a statutorily authorized amount, currently set at \$44,000. The bill increases this bid threshold to \$60,000 or an amount determined by the Governor pursuant to the bill. The bill also revises current law to permit a contracting unit to establish a bid threshold of up to \$90,000 or the amount adjusted by the governor if the contracting unit has designated a purchasing agent and is a municipality or county with a population in

excess of 100,000 people or an agency or instrumentality thereof. Under current law, the Governor is required to adjust the threshold every five years in direct proportion to the rise or fall of the index rate. The bill revises current law to require the Governor to adjust the threshold every year based on the rise of the index rate.

It is the committee's understanding that this committee substitute is to address a regulatory interpretation that calls into question the authority of a board of education or contracting unit's purchasing agent to award contracts with a value below the statutory bid threshold, if so authorized by resolution or ordinance, as expressly provided for by the Local Public Contracts Law and the Public School Contracts Law.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.