

Office of the Governor
NEWS RELEASE

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Gov. Christie Whitman today conditionally vetoed the following piece of legislation:

SCS for S-808/A-2313, sponsored by Senators James S. Cafiero (R- Cape May/Atlantic/Cumberland) and Raymond J. Zane (D-Salem/Cumberland/Gloucester) and Assembly Members John C. Gibson (R-Cape May/Atlantic/Cumberland) and Gary W. Stuhltrager (Salem/Cumberland/Gloucester), which would have prevented the Commissioner of the Department of Education (DOE) from withholding or requiring the remittance of state funds as a penalty for a school district's violation of the extraordinary unspecifiable services exception to the public advertisement and bidding requirements of the Public Contracts Law.

The Governor said in her conditional veto that while it may be appropriate to protect school districts from the imposition of penalties in certain limited circumstances, this bill goes too far in restricting the commissioner's authority in enforcing the Contracts Law. The Governor said in order to strike a proper balance between the interests of the school districts and the public, she recommends that the bill be amended to require that school district officials meet the current standards set for violations of the extraordinary unspecifiable services exception after one violation is committed. Accordingly, the Governor said, school districts officials will be put on notice as to the standards by which their future actions will be judged by the Commissioner, but will be offered greater protections for a first violation. Additionally, Gov. Whitman said, she recommends that school district officials be judged by a simple negligence standard. She said that negligence "beyond an error in judgment" is an undefined legal standard and places too great a burden in proving violations of the law. Finally, the Governor recommended that a school district from which the Commissioner withheld funds or ordered that funds be withheld prior to the effective date of the act be required to apply to the Commissioner for restoration of funds or forgiveness of any amounts pending collection. She said that the application will provide the Commissioner with the proper information on which to base a decision to restore funds withheld or to forgive any amounts pending collection.