

[First Reprint]

**ASSEMBLY, No. 3633**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED JANUARY 6, 2011

**Sponsored by:**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Co-Sponsored by:**

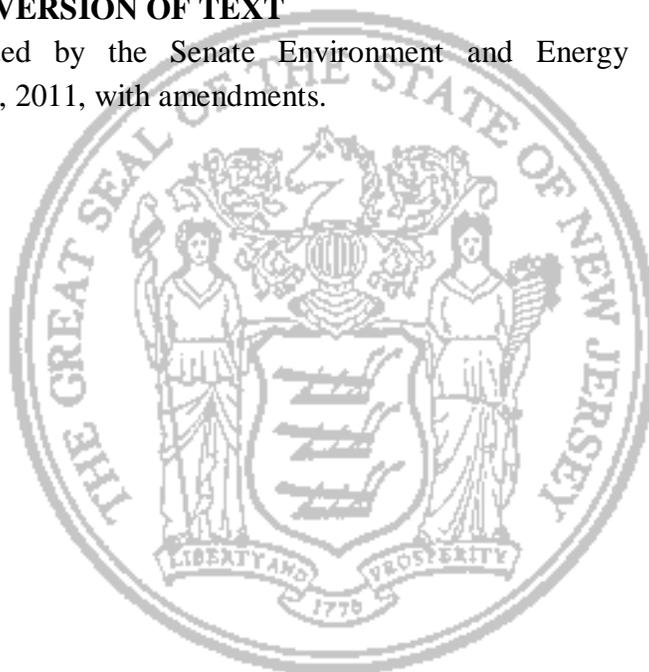
**Assemblywoman Wagner, Assemblyman Benson, Senators Bateman and Gordon**

**SYNOPSIS**

Requires plans, specifications, and bid proposal documents for certain local public contracts to address soil contamination.

**CURRENT VERSION OF TEXT**

As reported by the Senate Environment and Energy Committee on December 12, 2011, with amendments.



**(Sponsorship Updated As Of: 1/10/2012)**

1 AN ACT concerning certain local public contracts for projects  
2 involving the removal of soil <sup>1</sup> and amending and  
3 supplementing<sup>1</sup> P.L.1999, c.39.

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

7  
8 1. Section 1 of P.L.1999, c.39 (C.40A:11-23.1) is amended to  
9 read as follows:

10 1. All plans, specifications and bid proposal documents for the  
11 erection, alteration, or repair of a building, structure, facility or  
12 other improvement to real property, the total price of which exceeds  
13 the amount set forth in, or the amount calculated by the Governor  
14 pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall  
15 include:

16 a. a document for the bidder to acknowledge the bidder's  
17 receipt of any notice or revisions or addenda to the advertisement or  
18 bid documents; and

19 b. a form listing those documentary and informational forms,  
20 certifications, and other documents that the contracting agent  
21 requires each bidder to submit with the bid. The form shall list each  
22 of the items to be submitted with the bid proposal and a place for  
23 the bidder to indicate, by initialing each entry, that the bidder has  
24 included those required items with the completed bid proposal.  
25 Each bidder shall complete this form and submit it with the bid  
26 proposal in addition to those documentary and informational forms,  
27 certifications, and other documents that are listed on the form; and

28 c. a statement indicating whether uniformed law enforcement  
29 officers will be required for the project. The statement shall include  
30 a line item allowance, which shall be a good faith effort on the part  
31 of the contracting unit, to reasonably estimate the total cost of  
32 traffic control personnel, vehicles, equipment, administrative, or  
33 any other costs associated with additional traffic control  
34 requirements required by the contracting unit, or any other public  
35 entity affected by the project, above and beyond the bidder's traffic  
36 control personnel, vehicles, equipment, and administrative costs.  
37 The individuals responsible for the assignment of uniformed law  
38 enforcement officers for any municipalities affected by a project  
39 shall be required to determine where traffic safety control is needed  
40 for a project, and calculate the number and placement of all  
41 necessary personnel, equipment, and the costs associated with these,  
42 including hourly rates, and submit this information to the  
43 contracting unit.

44 The contracting unit shall not be responsible for additional traffic

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEN committee amendments adopted December 12, 2011.

1 control costs beyond the number of working days specified in the  
2 construction contract in accordance with section 17 of P.L.1971,  
3 c.198 (C.40A:11-17), when such a delay is caused by the contractor  
4 and liquidated damages have been assessed.

5 The statement prescribed under this subsection shall not be  
6 required if the contracting unit will provide for the direct payment  
7 of uniformed law enforcement officers and any additional costs  
8 directly associated with the provision of those officers; and

9 d. at the option of the contracting unit, specified alternate  
10 proposals in addition to a base specification. When the contracting  
11 unit specifies alternate proposals, the determination of which  
12 bidder's response to a request for bids offers the lowest price shall  
13 be made on the basis of the price of: (i) the base specification plus  
14 the price of any selected specified alternate proposals; or (ii) a  
15 choice of specified alternative proposals within the limit of funds  
16 that may be made available for a project. If a contracting unit  
17 provides for more than one specified alternate proposal, the  
18 contracting unit shall specify in the bid specification the criteria or  
19 ranked order by which specified alternate proposals shall be  
20 selected and included in the award of the contract by the governing  
21 body, provided that this requirement shall only apply to a project  
22 with a total estimated cost, including specified alternate proposals,  
23 of greater than \$500,000. The aggregate dollar value of accepted  
24 specified alternative proposals shall not exceed 50 percent of the  
25 base bid. If a contracting unit is found in a court of law to have  
26 chosen specific alternative proposals in a manner intended to award  
27 a contract to a specific vendor, the bids shall be voided, the  
28 contracting unit shall rebid the project, and a plaintiff who prevails  
29 in any proceeding shall be entitled to a reasonable attorney's fee.

30 For the purposes of this subsection:

31 "Specified alternate proposal" means a requirement of the bid  
32 specification for bidders to submit prices for reduced, modified or  
33 supplemental work in addition to the base proposal which may  
34 include, but not be limited to, a change in project scope or the use  
35 of alternative materials or methods of construction;

36 "Base specification" means the plans and specifications for the  
37 erection, alteration or repair of the building, structure, facility or  
38 other improvement to real property that are required to be met by all  
39 bidders without exception ; and

40 e. in the case of a project that includes the removal of soil from  
41 the site, a statement provided by a laboratory using testing methods  
42 approved by the Department of Environmental Protection  
43 specifying the level of contamination, if any, of the soil that has  
44 been found at the site of the project, or a line item allowance, which  
45 shall be a good faith effort on the part of the contracting unit to  
46 reasonably estimate the total cost of testing the soil, and if found to  
47 be contaminated, the cost of disposal of the contaminated soil .

48 (cf: P.L.2009, c.292, s.1)

1       <sup>1</sup>2. (New section) The Department of Environmental Protection  
2 may adopt rules and regulations pursuant to the "Administrative  
3 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing  
4 the criteria under which soil testing shall be conducted, and the  
5 testing parameters therefor, for projects subject to the provisions of  
6 subsection e. of section 1 of P.L.1999, c.39 (C.40A:11-23.1), upon  
7 a determination that such rules and regulations are necessary for the  
8 protection of public health and safety.<sup>1</sup>

9

10       <sup>1</sup>[2.] 3.<sup>1</sup> This act shall take effect immediately.