

[First Reprint]

ASSEMBLY, No. 4535

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

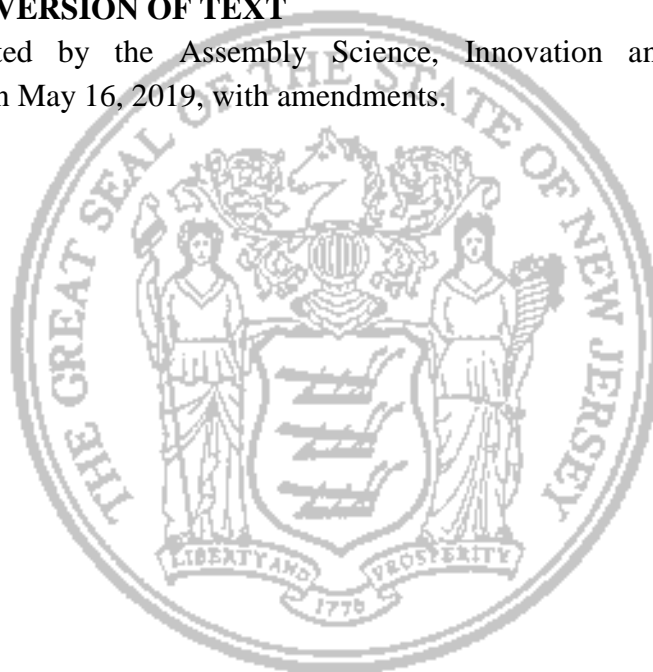
Assemblymen McGuckin, A.M.Bucco and Assemblywoman Timberlake

SYNOPSIS

Establishes the “Energy Infrastructure Public-Private Partnership Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Science, Innovation and Technology Committee on May 16, 2019, with amendments.



(Sponsorship Updated As Of: 5/21/2019)

1 AN ACT concerning energy infrastructure public-private
2 partnerships and supplementing Title 52 of the Revised Statutes
3 and amending P.L.1971, c.198 and N.J.S.18A:18A-42.
4

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

8 1. (New section) This act shall be known and may be cited as
9 the “Energy Infrastructure Public-Private Partnerships Act.”
10

11 2. (New section) a. The Legislature finds and declares that:

12 (1) It is the public policy of this State to assure that the State’s
13 energy infrastructure is developed and maintained in a manner that
14 assures, to the greatest extent possible, the availability of reliable
15 and resilient state-of-the-art energy resources to the State and, in
16 particular, to the critical governmental facilities that provide
17 necessary lifeline services to the State’s citizens and businesses;

18 (2) The increasing magnitude and frequency of weather events,
19 such as Winter Storm Quinn, Hurricane Irene, and Superstorm
20 Sandy, and the devastation they inflicted on the State, has revealed
21 the vulnerability, inadequacies, and obsolescence of the State’s
22 energy infrastructure, which has failed, sometimes for prolonged
23 periods of time, to provide adequate, reliable, and resilient service
24 to the State;

25 (3) These weather events, and the current condition of the
26 State’s aging energy infrastructure, underscore the substantial and
27 immediate need for the State to improve the energy resources
28 available to State, county, and municipal facilities that provide
29 critical lifeline services, including medical facilities, police and fire
30 departments, water and wastewater treatment facilities, shelters,
31 colleges, universities, schools, and prisons;

32 (4) The reliability, resiliency, and efficiency of the State’s
33 energy infrastructure will be improved if the State encourages the
34 development of the energy-related projects contemplated by P.L. ,
35 c. (C.) (pending before the Legislature as this bill), which will
36 reduce the vulnerability of critical governmental facilities to threats
37 posed by weather and other exogenous factors, minimize equipment
38 failures caused by deterioration, disrepair and obsolescence,
39 enhance the production and delivery of energy, improve the energy
40 efficiency of governmental facilities, reduce the demand for energy,
41 energy costs and greenhouse gas emissions, create jobs, and
42 promote economic development; and

43 (5) The need to upgrade the State’s energy infrastructure comes
44 at a time of fiscal austerity and budgetary constraints.
45 Governmental entities have witnessed dramatic reductions in

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:

¹Assembly AST committee amendments adopted May 16, 2019.

1 available revenues as a consequence of the recent recession and
2 major storm events, among other reasons, which have adversely
3 affected the ability of State, county, and municipal governments to
4 make needed investments in energy infrastructure.

5 b. The Legislature therefore determines that:

6 (1) It shall be the public policy of this State to foster energy-
7 related public-private partnerships that will enable governmental
8 entities to partner with private entities to develop needed state-of-
9 the-art energy projects and obviate or minimize the need for capital
10 investments in energy projects by governmental entities, taxpayers,
11 and energy public utility ratepayers;

12 (2) In order to foster the energy projects contemplated by
13 P.L. , c. (C.) (pending before the Legislature as this bill), it
14 is necessary and appropriate for the Legislature to authorize the use
15 of public-private partnerships to leverage private sector financial
16 resources and expertise and permit governmental and private
17 entities to share the responsibilities and benefits of these projects;

18 (3) Current economic conditions, together with the critical and
19 immediate need to improve the State's energy infrastructure,
20 compel the State to pursue the energy-related public-private
21 partnerships contemplated by P.L. , c. (C.) (pending before
22 the Legislature as this bill), which will enhance the reliability,
23 resilience and efficiency of the State's energy infrastructure by
24 introducing state-of-the-art energy technologies that will mitigate
25 current vulnerabilities to major storm events, harden critical
26 infrastructure, energy generation and delivery systems, enhance
27 redundancy in energy supply, promote greater emergency
28 preparedness, enhance fuel supply diversity, increase energy
29 efficiency, expand the use of renewable energy resources, reduce
30 energy demand, energy costs and greenhouse gas emissions, and
31 promote economic development and local job creation, thereby
32 ensuring a better and more prosperous future for the State and its
33 citizens; and

34 (4) The energy-related public-private partnerships contemplated
35 by P.L. , c. (C.) (pending before the Legislature as this bill)
36 will encourage private capital investment and leverage the
37 technical, financial, and managerial expertise of the private sector
38 to enable governmental entities that otherwise lack the necessary
39 resources or expertise, to design, develop, own, manage, operate,
40 and maintain needed energy infrastructure projects.

41

42 3. (New section) As used in P.L. , c. (C.) (pending
43 before the Legislature as this bill):

44 "Board" means the Board of Public Utilities or any successor
45 agency.

46 "Authority" means the New Jersey Economic Development
47 Authority or any successor agency.

1 “District energy system” means an on-site generation facility, as
2 defined in section 3 of P.L.1999, c.23 (C.48:3-51), that provides
3 thermal or electric energy services to end-use customers for use for
4 heating or cooling, or both, regardless of whether the customer is
5 located on property that is separated from the property on which the
6 on-site generation facility is located by more than one easement,
7 public thoroughfare, or transportation or utility-owned right-of-way.

8 “Energy P3 Unit” means the “Energy Public-Private Partnership
9 Unit” established pursuant to section 7 of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 “Energy-related project” or “project” means a project developed
12 1, in whole or in part,¹ for a new or existing facility or facilities,
13 owned by a governmental entity, involving the application of
14 energy efficiency, energy conservation, 1energy generation,¹ energy
15 optimization, renewable and non-carbon-emitting energy
16 technologies, or demand side management measures including, but
17 not limited to:

18 energy efficient appliances, lighting, motors, and other energy or
19 water conservation measures;

20 smart metering and smart grid technologies and demand
21 response; ¹**and**¹

22 distributed electric generation resources including, but not
23 limited to, cogeneration, combined heat and power and on-site
24 generation facilities, district energy systems, and microgrids;

25 1biogas, waste-to-energy and wastewater-to-energy technologies,
26 and energy storage technologies; and¹

27 Class I 1renewable energy¹ and Class II renewable energy
28 ¹**resources**¹, as those terms are defined in section 3 of P.L.1999,
29 c.23 (C.48:3-51) ¹**],** including solar photovoltaic technologies, wind
30 energy, geothermal energy, biomass, biogas, waste-to-energy and
31 wastewater-to-energy technologies, energy storage technologies,
32 resource recovery, and hydroelectric power facilities ¹**].**

33 “Energy-related project” shall not include a self-funded energy
34 efficiency project that is an energy savings improvement program
35 undertaken pursuant to the provisions of P.L.2009, c.4 (C.18A:18A-
36 4.6 et al.) and P.L.2012, c.55 (C.52:34-25.1 et al.).

37 “Governmental entity” means the State, its subdivisions, and
38 ¹**the departments, agencies, commissions, authorities, boards, and**
39 **instrumentalities** any department, agency, commission, authority,
40 board, or instrumentality¹ thereof, a county, a municipality, a board
41 of education, a State college or university, a county ¹**community**¹
42 college, a regional or municipal ¹**utility or utility** utilities¹
43 authority, 1a quasi-State agency, a State-created corporation,¹ and a
44 municipal corporation. “Governmental entity” may include a
45 combination of governmental entities as defined herein, but shall

1 not mean a municipal electric utility established pursuant to
2 R.S.40:62-12.

3 “Microgrid” means ¹**[a group]** an independent system¹ of
4 interconnected customer loads and distributed ¹**[energy]** electric
5 generation¹ resources including, but not limited to, combined heat
6 and power, cogeneration ¹**[,]** and¹ on-site generation ¹facilities¹,
7 district energy ¹**[system]** systems¹, ¹Class I renewable energy and
8 Class II¹ renewable energy ¹**[generation]**¹, dispatchable generation,
9 and energy storage facilities, located within a clearly defined
10 electrical or geographic boundary, that acts as a single controllable
11 entity and ¹**[is]** may be¹ capable of disconnection from the utility
12 grid to enable the microgrid to operate in both utility grid-connected
13 and ¹**[islanded]** non-grid connected¹ modes. ¹**[Notwithstanding the**
14 **provisions of any other law, rule, regulation, decision, or order to**
15 **the contrary, a distributed energy resource that is included as part of**
16 **a microgrid shall not be required to be located on the property, or**
17 **on a property contiguous to the property on which a customer that is**
18 **interconnected with the microgrid is located, or be otherwise**
19 **subject to any form of contiguity or proximity-related requirement,**
20 **other than the requirement that all interconnected distributed energy**
21 **resources and customer loads that comprise the microgrid be**
22 **located within the electrical or geographic boundary of the**
23 **microgrid. Nor shall a microgrid be limited with regard to the**
24 **number or type of customers that may be served by the microgrid,**
25 **subject to the limitation that all customers served by the microgrid**
26 **must be located within the electrical or geographic boundary of the**
27 **microgrid. A microgrid may utilize privately-owned distribution**
28 **wires to interconnect the distributed energy resources with**
29 **customers served by the microgrid and that are located within the**
30 **electric or geographic boundary of the microgrid.]**¹ A microgrid
31 shall be considered an “on-site generation facility” for the purposes
32 of sections 3 and 28 of P.L.1999, c.23, (C.48:3-51 and C.48:3-77.)
33 A microgrid shall not be considered a public utility as defined in
34 R.S.48:2-13.

35 “Private entity” means a person, a combination of persons, a
36 business entity, a combination of business entities, or a combination
37 of persons and business entities. “Private entity” shall include a
38 ¹**[“commercial]** commercial¹, institutional, and industrial ¹**[entity”**
39 **as the term is mentioned in]** entity eligible for financial assistance
40 pursuant to paragraph (1) of subsection b. of¹ section 7 of P.L.2007,
41 c.340 (C.26:2C-51). ¹**[“Private entity” shall not include a public**
42 **utility as defined in R.S.48:2-13, but shall include an affiliate of a**
43 **public utility that is not subject to regulation pursuant to Title 48 of**
44 **the Revised Statutes or subject to the board’s jurisdiction.]**¹

45 “Public-private partnership agreement” or “agreement” means an
46 agreement entered into by a governmental entity and a private entity
47 pursuant to section 4 of P.L. , c. (C.) (pending before the

1 Legislature as this bill) for the purposes of undertaking an energy-
2 related project.

3
4 4. (New section) A governmental entity may enter into a
5 public-private partnership agreement with a private entity, pursuant
6 to the provisions of P.L. , c. (C.) (pending before the
7 Legislature as this bill) and subject to the approval of the Energy P3
8 Unit. A public-private partnership agreement shall permit a private
9 entity to develop, design, build, operate, or maintain, one or more
10 energy-related projects, and to assume financial, developmental,
11 operational, managerial and administrative responsibility for one or
12 more energy-related projects, in partnership with a governmental
13 entity. Energy-related projects may involve the design,
14 construction, reconstruction, alteration, or improvement of one or
15 more buildings, structures, or facilities owned, or to be owned, by
16 the governmental entity, provided that the private entity is
17 responsible for the performance of each energy-related project, as
18 the case may be, and the governmental entity retains an ownership
19 or leasehold interest in the land upon which the energy-related
20 project is developed. No particular method or structure of project
21 financing shall be required of a private entity, unless the method or
22 structure of project financing or, if applicable, provision for
23 ownership and title transfer to the governmental entity at the end of
24 the term of the agreement, is clearly described by the governmental
25 entity in any formal authorized solicitation process for an energy-
26 related project. A governmental entity may solicit a proposal for an
27 energy-related project, or receive an unsolicited proposal for an
28 energy-related project, only from a private entity that has been duly
29 qualified by the Energy P3 Unit pursuant to sections 7 and 8 of
30 P.L. , c. (C.) (pending before the Legislature as this bill) and
31 any other applicable law.

32
33 5. (New section) a. An energy-related project may be
34 proposed either by a governmental entity or by a private entity. A
35 public-private partnership agreement may provide that, as part of
36 the agreement, an energy-related project may be proposed and
37 selected individually or as part of the design, construction,
38 reconstruction, alteration, improvement, development or
39 redevelopment of one or more buildings, structures, or facilities
40 owned, or to be owned, by a governmental entity. The public-
41 private partnership agreement may provide for the inclusion of
42 buildings, structures or facilities owned, or to be owned, by one or
43 more non-governmental entities. An energy-related project shall be
44 designed to enable a governmental entity to more reliably,
45 efficiently, and cost-effectively generate, distribute, conserve, store,
46 consume, and acquire energy; improve the reliability and resiliency
47 of its energy infrastructure; reduce greenhouse gas emissions;

1 diversify its sources of energy supply; create jobs; and foster
2 economic development.

3 b. If an unsolicited energy-related project is proposed by a
4 private entity to a governmental entity, the governmental entity to
5 which the energy-related project proposal is made shall determine
6 whether to accept, reject, or modify the proposal. If the energy-
7 related project proposal is accepted in its entirety, or with
8 modifications, by the governmental entity, and the governmental
9 entity elects to implement the energy-related project, the
10 governmental entity shall initiate and adhere to the competitive
11 solicitation procedure established pursuant to sections 8 and 9 of
12 P.L. , c. (C.) (pending before the Legislature as this bill). If
13 the unsolicited proposal is rejected by the governmental entity, the
14 governmental entity shall promptly return the unsolicited proposal,
15 and all copies thereof, to the private entity and shall treat the
16 unsolicited proposal, and all records of communications and
17 negotiations related to the proposal, as confidential and exempt
18 from public disclosure in accordance with the provisions of section
19 17 of P.L. , c. (C.) (pending before the Legislature as this
20 bill).

21
22 6. (New section) a. Notwithstanding the provisions of any
23 law, rule, regulation, decision, or order to the contrary, a
24 governmental entity for which a private entity assumes financial,
25 operational, developmental, managerial, or administrative
26 responsibility for an energy-related project pursuant to
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 under a public-private partnership agreement, shall not be required
29 to advertise for public bid the energy-related project prior to the
30 private entity assuming responsibility for that project.

31 b. A governmental entity shall be authorized to enter into one
32 or more public-private partnership agreements with a private entity,
33 its affiliates, and approved subcontractors without being subject to
34 the requirement of advertisement for public bid otherwise
35 applicable to the governmental entity, provided that the private
36 entity has been selected by the governmental entity pursuant to a
37 solicitation process conducted pursuant to section 8 of
38 P.L. , c. (C.) (pending before the Legislature as this bill).

39 c. Except as otherwise specifically set forth in
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 including the provision related to the advertisement for public bid,
42 all solicitations for proposals conducted pursuant to section 8 of
43 P.L. , c. (C.) (pending before the Legislature as this bill)
44 shall be subject to the procurement laws and procedures otherwise
45 applicable to the governmental entity.

46 d. For the purposes of this section, a governmental entity shall
47 include the authority, and any energy-related project undertaken
48 pursuant to P.L. , c. (C.) (pending before the Legislature as

1 this bill) of which the authority becomes an owner or lessee, or
2 which is situated on land of which the authority becomes the lessee,
3 shall be deemed a project as that term is defined in section 3 of
4 P.L.1974, c.80 (C.34:1B-3).

5
6 7. (New section) a. (1) There is hereby established in the
7 authority an Energy Public-Private Partnership Unit or “Energy P3
8 Unit.” The Energy P3 Unit shall be responsible for the formulation
9 and execution of a comprehensive Statewide policy for public-
10 private partnership agreements that facilitate the development of
11 energy-related projects and shall be responsible for the
12 development, promotion, coordination, oversight, and approval of
13 public-private partnership agreements pursuant to P.L. ,
14 c. (C.) (pending before the Legislature as this bill). In doing
15 so, the Energy P3 Unit shall consult and coordinate with
16 representatives of other State departments, agencies, boards, and
17 authorities, including the board, as the Energy P3 Unit and authority
18 shall deem necessary and appropriate, to accomplish the goals of
19 P.L. , c. (C.) (pending before the Legislature as this bill) to
20 facilitate public-private partnership agreements. The costs
21 associated with the establishment and operation of the Energy P3
22 Unit ¹~~shall~~ may¹ be funded from revenues received by the
23 authority from the “Global Warming Solutions Fund” created
24 pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), and may be
25 repaid from fees collected from private entities pursuant to
26 subsection c. of this section.

27 (2) Within 12 months of the effective date of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), the Energy
29 P3 Unit shall:

30 (a) establish policies and procedures that encourage private
31 entity participation and investment in governmental energy-related
32 projects as necessary and appropriate to implement the provisions
33 of P.L. , c. (C.) (pending before the Legislature as this bill);

34 (b) provide technical advice, guidance, and assistance to
35 governmental entities to ensure the availability of the necessary
36 expertise and capacity to develop and evaluate the merits of
37 proposed energy-related projects;

38 (c) review and approve proposed energy-related projects;

39 (d) promote informed and timely decision-making with regard to
40 the procurement of energy-related projects;

41 (e) establish appropriate qualification criteria for private
42 entities, including the qualification and ranking of private entities to
43 develop particular energy-related projects; and

44 (f) monitor and enforce the procurement policies and
45 procedures established pursuant to P.L. , c. (C.) (pending
46 before the Legislature as this bill). The policies may also include
47 provision for potential revenue sharing opportunities between a
48 governmental entity and a private entity in certain defined or agreed

1 circumstances, including energy-related projects that achieve profits
2 that exceed a negotiated rate of return established for a private
3 entity in a public-private partnership agreement.

4 b. The authority shall identify the resources and personnel of
5 the authority and other participating agencies, departments, boards,
6 and authorities, including the board, that are deemed necessary and
7 appropriate to staff and support the Energy P3 Unit. The authority
8 may retain one or more qualified private consultants with relevant
9 expertise to provide the technical assistance and resources deemed
10 necessary and appropriate to assist the Energy P3 Unit.

11 c. The authority shall provide sufficient funding to the Energy
12 P3 Unit to enable the Energy P3 Unit to adequately and properly
13 perform the duties and responsibilities established by P.L. ,

14 c. (C.) (pending before the Legislature as this bill), including
15 the retention of one or more private consultants to assure
16 compliance with the duties and responsibilities established for the
17 Energy P3 Unit by this section. The Energy P3 Unit shall charge a
18 private entity a fee as compensation for the services rendered by the
19 Energy P3 Unit and, if applicable, by one or more retained private
20 consultants, in connection with a completed energy-related project.
21 The fee shall be assessed on a flat fee or percentage basis, based
22 upon the total costs of a completed energy-related project. If a
23 percentage fee is utilized, the percentage fee shall not exceed three
24 percent of the total costs of a completed energy-related project. The
25 Energy P3 Unit may establish standard project development or
26 project review fees for energy-related projects that are not
27 completed for any reason.

28 d. ¹Notwithstanding the provisions of any law, rule, regulation,
29 decision, or order to the contrary, the authority may, without the
30 requirement of advertisement for public bid and bidding therefor,
31 negotiate and award professional service contracts, containing fee
32 and contract duration terms deemed necessary and appropriate by
33 the authority, to one or more private consultants deemed by the
34 authority to be qualified, by training and experience, to provide the
35 technical assistance required by the Energy P3 Unit to fulfill its
36 responsibilities pursuant to P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38 e.¹ The authority may promulgate rules and regulations,
39 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
40 (C.52:14B-1 et seq.), as are necessary to implement the provisions
41 of P.L. , c. (C.) (pending before the Legislature as this bill).
42 The authority may be assisted as appropriate by other participating
43 agencies, departments, boards, and authorities, including the board
44 and the Division of Purchase and Property in the Department of the
45 Treasury, in the promulgation of necessary rules and regulations.

46 ¹**[e.] f.**¹ The authority shall, within 90 days of the effective
47 date of P.L. , c. (C.) (pending before the Legislature as this
48 bill), undertake a study of the staffing and other resources,

1 including one or more private consultants, deemed necessary to
2 enable the Energy P3 Unit to perform the duties and responsibilities
3 established for the Energy P3 Unit by P.L. , c. (C.) (pending
4 before the Legislature as this bill). The authority shall prepare a
5 report of its study, and shall provide a copy thereof to the Governor
6 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
7 Legislature, recommending any further action and implementation.

8
9 8. (New section) a. The Energy P3 Unit shall require each
10 private entity that seeks to submit a solicited or unsolicited energy-
11 related project proposal to a governmental entity pursuant to
12 P.L. , c. (C.) (pending before the Legislature as this bill) to
13 provide a certified statement in response to a questionnaire that is
14 standardized for like classes of energy-related projects and private
15 entities. The questionnaire shall be designed to fully develop the
16 prior experience and qualifications, financial strength, adequacy of
17 equipment, plant, organization and personnel of the private entity,
18 and other pertinent and material facts deemed necessary by the
19 Energy P3 Unit, in order to enable the Energy P3 Unit to qualify a
20 private entity for the type, cost, or other applicable metric, of
21 energy-related project that the private entity shall be deemed
22 qualified to develop, design, build, finance, own, operate, or
23 maintain, or a combination ¹[of]¹ thereof, as the case may be. The
24 qualification criteria established by the Energy P3 Unit shall be
25 competitively neutral, designed to maximize participation by
26 qualified private entities, and shall not include classifications or
27 requirements that would create preferences or advantages of any
28 nature to particular classes of private entities including, but not
29 limited to, private entities that are located within the State,
30 equipment manufacturers, or incumbent providers of energy-related
31 products or services, including operational and maintenance
32 services, to governmental entities.

33 b. The Energy P3 Unit shall determine the qualification of each
34 private entity that seeks to be qualified to develop an energy-related
35 project. The private entity classifications established pursuant to
36 this section shall be tiered to coincide with the level of experience
37 and qualifications, financial strength, adequacy of personnel,
38 equipment and other necessary resources sufficient for the energy-
39 related projects or classifications that are included within each tier.
40 A finding by the Energy P3 Unit that a private entity is qualified to
41 develop energy-related projects included within a particular tier
42 shall be predicated upon the demonstrated ability of the private
43 entity to develop, design, build, finance, own, operate, and
44 maintain, as the case may be, energy-related projects having the
45 same or similar experience, sophistication, complexity, and capital
46 investment established for projects within the tier. The Energy P3
47 Unit shall classify each private entity within 60 business days after
48 receipt of certified statements from the private entity that are

1 deemed to be administratively complete and fully responsive to the
2 questionnaire described in this section. Notice of the classification
3 shall be forwarded to the private entity by registered mail within
4 five business days after the classification is made. Each
5 classification shall be subject to expiration and renewal upon terms
6 as shall be established by the Energy P3 Unit in accordance with
7 this section.

8 c. A private entity that is dissatisfied with its classification may
9 request, in writing, a hearing before the authority or its designee,
10 and may present the evidence with respect to the financial
11 responsibility, organization, plant and equipment, personnel, or
12 experience of the private entity as might justify a different
13 classification. After presentation of the evidence, the authority or its
14 designee may retain or modify the classification of the private
15 entity.

16 d. A current list of each qualified private entity, arranged by
17 tier of energy-related project or projects for which the private entity
18 has been qualified, shall be maintained by the Energy P3 Unit. Each
19 governmental entity that seeks to develop an energy-related project
20 pursuant to P.L. c. (C.) (pending before the Legislature as
21 this bill) shall be provided with the complete list of approved
22 private entities that have been qualified by the Energy P3 Unit for
23 the type of energy-related project proposed by the governmental
24 entity. The Energy P3 Unit shall post the list on an Internet website
25 maintained by or for the Energy P3 Unit and shall update the list
26 monthly.

27
28 9. (New section) a. For each proposed energy-related project,
29 a governmental entity shall solicit proposals from the private
30 entities set forth on the list of private entities, maintained by the
31 Energy P3 Unit, as required pursuant to section 8 of
32 P.L. , c. (C.) (pending before the Legislature as this bill) that
33 have been qualified for inclusion in the tier established for the
34 energy-related project contemplated by the governmental entity.
35 The solicitation by the governmental entity shall invite each private
36 entity qualified within the applicable tier to submit a proposal to the
37 governmental entity for the proposed energy-related project. Each
38 private entity proposal shall detail how the private entity would
39 design, develop, finance, build, operate, or maintain, as the case
40 may be, the energy-related project, and summarize the experience
41 of the private entity with comparable energy-related projects and all
42 proposed team members and subcontractors. A separate
43 procurement shall not be required for a subcontractor that is part of
44 the private entity's proposal to the governmental entity. The
45 governmental entity or its designee shall review the proposal
46 received from each private entity in response to the solicitation and
47 shall select, pursuant to the criteria set forth in section 8 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill), no more

1 than five private entities deemed to be the most qualified for the
2 energy-related project. The governmental entity may select fewer
3 than three private entities if fewer than three private entities
4 respond to the solicitation.

5 b. Once the private entities have been selected, each private
6 entity shall be requested to make a formal proposal to the
7 governmental entity regarding the energy-related project. The
8 proposal shall include, but not be limited to, a project scope of
9 work, identification of proposed equipment and measures,
10 subcontractors, projected project costs, and, if applicable, long term
11 maintenance and operations costs and anticipated energy or other
12 cost savings. If the governmental entity so elects, it may request
13 supplemental information or revised proposals from the private
14 entities and may require each private entity to make an oral
15 presentation, and to respond to questions regarding the private
16 entity's proposal. The governmental entity shall afford each private
17 entity a reasonable opportunity to present supplemental information
18 with regard to the private entity's proposal and to respond to
19 questions regarding the private entity's proposal or qualification to
20 develop the energy-related project. Each private entity shall be
21 afforded an opportunity to supplement its proposal to respond to
22 any proposed changes to the scope or specifications of the energy-
23 related project by the governmental entity after review of the
24 private entities' written proposals.

25 c. The governmental entity shall specify the manner in which
26 the price term shall be bid by a private entity as part of a proposal
27 for an energy-related project including, but not limited to, fixed
28 price, guaranteed maximum price, cost-plus open book, cost-plus
29 open book with guaranteed maximum price, or power purchase
30 agreement. If the fixed price option is selected by the governmental
31 entity, the private entity must fully and accurately disclose, in a
32 single line item entry, the total installed cost of the proposed
33 energy-related project. The fixed cost quoted shall include, but not
34 be limited to, all costs for all products, measures and equipment,
35 fees for all subcontractors, installation labor, and professional,
36 administrative and management services necessary to fully develop
37 and implement the proposed energy-related project, including
38 procurement of all required licenses, permits, and approvals from
39 governmental entities with jurisdiction over the energy-related
40 project. Any proposal by a private entity which includes a fixed
41 price bid that does not comply with the requirements of this section
42 shall be rejected by the governmental entity and the Energy P3
43 Unit.

44 d. The governmental entity shall award the energy-related
45 project to the private entity whose proposal is determined to be the
46 most advantageous to the governmental entity, with price and other
47 factors considered. The criteria upon which the determination shall
48 be based shall include, but not be limited to:

- 1 (1) the general reputation, industry experience, technical
 - 2 capability, and expertise of the private entity;
 - 3 (2) the cost of the proposed energy-related project;
 - 4 (3) the responsiveness, creativity, innovativeness, and
 - 5 comprehensiveness of the private entity's proposal;
 - 6 (4) if applicable, the ability of the private entity to arrange
 - 7 financing on terms favorable to the governmental entity;
 - 8 (5) the proposed allocation of risks and performance guarantees;
 - 9 (6) the incorporation of innovative terms and conditions that
 - 10 would not otherwise be available to, or would not be available upon
 - 11 a comparable basis to the governmental entity;
 - 12 (7) if applicable, any cost savings associated with the energy-
 - 13 related project;
 - 14 (8) the public benefits of the energy-related project, including
 - 15 economic development, job creation, and reduced electric demand
 - 16 and greenhouse gas emissions; and
 - 17 (9) the experience and capability of the private entity in the
 - 18 implementation of comparable energy-related projects.
- 19 e. The governmental entity shall negotiate a public-private
- 20 partnership agreement for the energy-related project with the
- 21 private entity selected as having submitted the most advantageous
- 22 proposal in accordance with the selection standards set forth in the
- 23 section. If the governmental entity elected the fixed price option
- 24 described in this section, the price term included in any public
- 25 private partnership agreement shall not exceed, by more than ten
- 26 percent, the quoted price for the same scope of work presented
- 27 during the procurement phase of the energy-related project. In the
- 28 event that the price term presented by a private entity for inclusion
- 29 in a public-private partnership agreement shall exceed, by more
- 30 than ten percent, the private entity's original fixed price quoted for
- 31 the same scope of work, the governmental entity may, at its sole
- 32 election, terminate negotiations with the private entity, without cost
- 33 or penalty to the governmental entity.
- 34 f. If the governmental entity is unable to negotiate a public-
- 35 private partnership agreement with the selected private entity on
- 36 terms that the governmental entity determines to be fair and
- 37 reasonable, negotiations with the selected private entity shall be
- 38 terminated. The governmental entity shall then commence
- 39 negotiations with the private entity deemed to have submitted the
- 40 next best proposal in accordance with the selection standards set
- 41 forth in this section. If the governmental entity is unable to
- 42 negotiate a public-private partnership agreement with the second
- 43 selected private entity, the governmental entity shall terminate
- 44 negotiations and commence negotiations with the third selected
- 45 private entity. If the governmental entity is unable to negotiate a
- 46 public-private partnership agreement with the third selected private
- 47 entity, the governmental entity shall continue to negotiate with the
- 48 remaining private entities that submitted proposals, in order of

1 selection, as are necessary in order to enable the governmental
2 entity to conclude a satisfactory public-private partnership
3 agreement with a qualified private entity. If the governmental entity
4 is unable to conclude a satisfactory public-private partnership
5 agreement with a qualified private entity, the governmental entity
6 may cease further negotiations and terminate the energy-related
7 project or commence a new proposal procedure in accordance with
8 the provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill).

10
11 10. (New section) Prior to, or in connection with, the
12 negotiation and execution of a public-private partnership
13 agreement, a governmental entity may negotiate and execute a
14 preliminary agreement with the private entity selected for the
15 energy-related project. The preliminary agreement may:

16 a. authorize the private entity to commence certain preliminary
17 activities for which it may be compensated including, but not
18 limited to, project planning, design and engineering, performance of
19 initial and supplemental energy audits and environmental studies,
20 securing project financing, and acquisition of equipment;

21 b. establish the terms and conditions and procedures for the
22 negotiation of the public-private partnership agreement;

23 c. define the nature and extent of the expenditures that may be
24 made pursuant to the preliminary agreement; and

25 d. establish other terms and conditions that the governmental
26 entity and private entity deem necessary and appropriate to foster
27 the development of the energy-related project.

28
29 11. (New section) a. A governmental entity and a private entity
30 shall cooperate to leverage, to the greatest extent possible, available
31 private sector financial resources and expertise and to enhance the
32 ability of the energy-related project to obtain and maximize federal,
33 State, local or other funds, including the “Global Warming
34 Solutions Fund,” grants or incentives, tax advantages, or financial
35 and other benefits to finance, secure, guarantee, service or reduce
36 project debt, or to minimize, repay, or accelerate the repayment of
37 project costs, or provide other financial or other advantages.
38 Notwithstanding the provisions of any law, rule, regulation,
39 decision, or order to the contrary, funding available to an energy-
40 related project from the “Global Warming Solutions Fund” shall be
41 incremental to funding available to an energy-related project from
42 all other sources including, but not limited to, the New Jersey Clean
43 Energy Program administered by the board.

44 b. In order to facilitate the financing, development, and
45 delivery of, or to minimize the costs associated with, an energy-
46 related project, a governmental entity may:

47 (1) become the owner or lessee of the energy-related project, or
48 lessee of the land, or both;

1 (2) issue indebtedness in accordance with the governmental
2 entity's enabling legislation provided that, at a minimum, the
3 private entity guarantees the performance of the energy-related
4 project to the governmental entity;

5 (3) dedicate any property interest, including land,
6 improvements, fixtures, and tangible personal property that the
7 governmental entity has for public use; and

8 (4) exercise all powers conferred on the governmental entity by
9 law including, but not limited to, the power to lease or grant rights
10 of way, easements, and access, exercise the power of eminent
11 domain, grant development rights, issue and accelerate permits and
12 other authorizations, and grant licenses, franchises, contractual, and
13 real property rights.

14 c. A public-private partnership agreement may also provide for
15 the sale, long-term lease, or lease-purchase of, or grant of
16 concessions for, the existing and new assets and facilities of a
17 governmental entity to a private entity, and to enter into revenue
18 sharing opportunities between the governmental entity and private
19 entity in agreed circumstances. If the public-private partnership
20 agreement provides for ownership of the energy-related project, or a
21 portion thereof, by the private entity during the term of the
22 agreement, the agreement may provide for the transfer of the project
23 by the private entity to the governmental entity at no charge upon
24 the expiration of the term of the agreement or any extension thereof.
25

26 12. (New section) The development of an energy-related project
27 pursuant to P.L. , c. (C.) (pending before the Legislature as
28 this bill) shall be deemed to constitute the performance of an
29 essential public function. All energy-related projects predominantly
30 used by, or developed in furtherance of the purposes of a
31 governmental entity pursuant to P.L. , c. (C.) (pending
32 before the Legislature as this bill) that are owned by or leased to a
33 governmental entity, nonprofit business entity, foreign or domestic,
34 or business entity wholly owned by a nonprofit business entity,
35 shall be exempt from property taxation and special assessments of
36 the State, or any municipality, or other political subdivision of the
37 State and, notwithstanding the provisions of section 15 of P.L.1974,
38 c.80 (C.34:1B-15) or section 2 of P.L.1977, c.272 (C.54:4-2.2b) or
39 any other law to the contrary, shall not be required to make
40 payments in lieu of taxes. The land upon which the energy-related
41 project is located shall be exempt from property taxation. The
42 energy-related project and the land upon which the energy-related
43 project is located shall not be subject to the provisions of section 1
44 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax liability of
45 private parties conducting for-profit activities on tax exempt land,
46 or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding the taxation
47 of leasehold interests in exempt property that are held by
48 nonexempt parties. This section shall apply only when the energy-

1 related project is owned by or leased to the governmental entity, a
2 nonprofit business entity, foreign or domestic, or a business entity
3 wholly owned by a nonprofit business entity, and the energy-related
4 project furthers the purposes of the governmental entity.

5
6 13. (New section) If no public fund has been established for the
7 financing of an energy-related project developed pursuant to
8 P.L. , c. (C.) (pending before the Legislature as this bill), the
9 chief financial officer of the governmental entity may require the
10 private entity responsible for the development of the energy-related
11 project to post, or to cause to be posted, a bond guaranteeing
12 prompt payment of funds due to the contractor, its subcontractors,
13 and to all persons furnishing labor or materials to the contractor or
14 its subcontractors in the conduct of the work on the energy-related
15 project.

16
17 14. (New section) a. All workers employed in the performance
18 of any construction undertaken in connection with an energy-related
19 project for which a public-private partnership agreement has been
20 negotiated pursuant to P.L. , c. (C.) (pending before the
21 Legislature as this bill), including all workers for subcontractors
22 employed in the performance of any construction undertaken in
23 connection with an energy-related project, shall be paid not less
24 than the prevailing wage rate for the worker's craft or trade as
25 determined by the Commissioner of Labor and Workforce
26 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
27 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

28 b. All energy-related projects developed pursuant to a public-
29 private partnership agreement negotiated pursuant to
30 P.L. , c. (C.) (pending before the Legislature as this bill)
31 may contain a project labor agreement. A project labor agreement
32 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
33 seq.) and shall be structured in a manner that to the greatest extent
34 possible enhances employment opportunities for individuals
35 residing in the county in which the energy-related project will be
36 located.

37 c. A private entity selected by a governmental entity to develop
38 an energy-related project pursuant to P.L. , c. (C.) (pending
39 before the Legislature as this bill), and all affiliates and
40 subcontractors of the private entity, shall comply with the
41 provisions of "The Public Works Contractor Registration Act,"
42 P.L.1999, c. 238 (C.34:11-56.48 et seq.).

43
44 15. (New section) Each general contractor, construction
45 manager, design-build team, and subcontractor that performs work
46 in connection with an energy-related project pursuant to
47 P.L. , c. (C.) (pending before the Legislature as this bill)
48 shall be classified by the Energy P3 Unit in accordance with the

1 provisions of P.L. , c. (C.) (pending before the Legislature
2 as this bill), in consultation with the Division of Property
3 Management and Construction in the Department of the Treasury.

4
5 16. (New section) a. All energy-related projects proposed by a
6 governmental entity, upon receiving a solicited or unsolicited
7 energy-related project proposal pursuant to section 8 of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 shall be submitted to the Energy P3 Unit for project review and
10 approval. Only an application deemed to be complete by the Energy
11 P3 Unit shall be considered. In order for an application to be
12 deemed complete, the application shall include, but not be limited
13 to:

14 (1) a public-private partnership agreement between a
15 governmental entity and a private entity and, if applicable, a
16 preliminary agreement;

17 (2) a copy of any land lease or land agreement between the
18 governmental entity and the private entity;

19 (3) a project narrative that includes a full description of the
20 background and experience of the private entity, and the nature and
21 scope of the energy-related project and its anticipated benefits;

22 (4) financial information, including the estimated cost of the
23 energy-related project, a sources and uses statement, an operating
24 pro forma, evidence of legally binding financial commitments,
25 evidence of the private entity's bonding capacity for the
26 development and operation of the energy-related project and, if
27 applicable, a long term service agreement;

28 (5) a detailed project schedule, including a timetable for
29 completion of all predevelopment, development, and placed-in-
30 service tasks and milestones, which shall demonstrate that the
31 energy-related project will be constructed within five years of the
32 date of approval by the Energy P3 Unit;

33 (6) proof of receipt or anticipated date of receipt of required
34 approvals;

35 (7) if applicable, a demonstration of projected energy cost
36 savings; and

37 (8) any other requirements that the Energy P3 Unit may
38 reasonably deem necessary or appropriate for the energy-related
39 project.

40 b. As part of the estimated costs and financial documentation
41 for an energy-related project, the application of the private entity
42 shall contain a long-range operation and maintenance plan and shall
43 separately state and clearly set forth the expenditures associated
44 with the plan. The long-range operation and maintenance plan shall
45 be approved by the Energy P3 Unit pursuant to regulations
46 promulgated by the Energy P3 Unit that reflect national building
47 maintenance standards and other appropriate building maintenance
48 benchmarks.

1 c. The Energy P3 Unit shall review all applications for
2 completeness in accordance with this section, and may request
3 additional information as may be required to make a complete
4 assessment of the energy-related project. The Energy P3 Unit shall
5 perform a substantive review of the application, which shall include
6 an assessment of the feasibility and design of the project, the
7 experience and qualification of the private entity, the soundness of
8 the financial plan, the adequacy of the public-private partnership
9 agreement, preliminary agreement, land lease, and other
10 agreements, and the adequacy of the long range operation and
11 maintenance plan. The Energy P3 Unit shall have the right to obtain
12 additional information from a private entity if required to complete
13 the review, including the right to issue notices of deficiency to the
14 private entity and require that the record be supplemented until it is
15 deemed complete.

16 d. An energy-related project shall not proceed until the
17 application has met the conditions established pursuant to the
18 provisions of this section and has received the approval of the
19 Energy P3 Unit. The Energy P3 Unit shall be permitted to revoke an
20 approval if it determines that an energy-related project materially
21 deviates from the application submitted pursuant to this section or
22 has not received all required approvals, including a certificate of
23 occupancy. An energy-related project that has been approved by the
24 Energy P3 Unit shall be completed within five years after the date
25 of approval by the Energy P3 Unit.

26

27 17. (New section) a. Notwithstanding the provisions of any
28 law, rule, regulation, decision, or order to the contrary, a private
29 entity that submits a proposal in response to a solicitation for an
30 energy-related project may identify those portions of the proposal
31 that the private entity deems to be confidential, competitively
32 sensitive bid-related information, including, but not limited to,
33 pricing and financing terms, and proprietary or trade secret
34 information. The private entity shall provide justification as to why
35 the materials identified as confidential should not, upon request, be
36 produced to others by the governmental entity. Information
37 determined by the governmental entity to be confidential,
38 competitively sensitive bid-related information shall not be subject
39 to disclosure or considered a public or government record under
40 P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et
41 al.), or otherwise, prior to the selection of the winning proposal.
42 Disclosure of confidential, competitively sensitive bid-related
43 information shall occur, upon request, after the selection of the
44 winning proposal, but prior to the execution of the final public-
45 private partnership agreement by the governmental entity and the
46 private entity. Information determined to be proprietary or trade
47 secret information shall not be subject to production at any time by

1 the governmental entity pursuant to P.L.1963, c.73 (C.47:1A-1 et
2 seq.) or P.L.2001, c.404 (C.47:1A-5 et al.), or otherwise.

3 b. Notwithstanding the provisions of any law, rule, regulation,
4 decision, or order to the contrary, a private entity that submits an
5 unsolicited proposal for an energy-related project that is accepted
6 by a governmental entity and made the basis for a solicitation for an
7 energy-related project pursuant to P.L. , c. (C.) (pending
8 before the Legislature as this bill), may identify those portions of
9 the unsolicited proposal that the private entity deems to be
10 confidential, competitively sensitive bid-related information,
11 including, but not limited to, pricing, financing terms, and
12 proprietary or trade secret information. The private entity shall
13 provide justification as to why the materials identified as
14 confidential should not, upon request, be produced to others by the
15 governmental entity. Information determined by the governmental
16 entity to be confidential, competitively sensitive bid-related
17 information shall not be subject to disclosure or considered a public
18 or government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or
19 P.L.2001, c.404 (C.47:1A-5 et al.) or otherwise, prior to the
20 selection of the winning proposal. Disclosure of confidential,
21 competitively sensitive bid-related information shall occur, upon
22 request, after the selection of the winning proposal, but prior to the
23 execution of the final public-private partnership agreement by the
24 governmental entity and the private entity. Information determined
25 to be proprietary or trade secret information shall not be subject to
26 production at any time by the governmental entity pursuant to
27 P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et
28 al.), or otherwise.

29 c. Notwithstanding the provisions of any law, rule, regulation,
30 decision, or order to the contrary, a private entity that submits an
31 unsolicited proposal for an energy-related project that is rejected by
32 a governmental entity and not made the basis of a solicitation for an
33 energy-related project pursuant to P.L. , c. (C.) (pending
34 before the Legislature as this bill), may request the governmental
35 entity to return the entire unsolicited proposal to the private entity,
36 and the governmental entity shall promptly comply with any
37 request. An unsolicited proposal for a governmental entity energy-
38 related project that is rejected by a governmental entity and not
39 made the basis of a solicitation for an energy-related project shall
40 not be subject to disclosure or considered a public or government
41 record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404
42 (C.47:1A-5 et al.), or otherwise, and no disclosure of the unsolicited
43 proposal, or any portion thereof, or records of any communications
44 relating to the unsolicited proposal, shall be made to the public
45 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404
46 (C.47:1A-5 et al.), or otherwise.

1 18. (New section) Notwithstanding the provisions of section 2
2 of P.L.1999, c.440 (C.40A:11-4.2), section 46 of P.L.1999, c.440
3 (C.18A:18A-4.2), and P.L.1954, c.48 (C.52:34-6 et seq.), and any
4 other law, regulation, decision, or order to the contrary, a public-
5 private partnership agreement between a governmental entity and a
6 private entity to design, develop, finance, build, own, operate or
7 maintain, or a combination thereof, an energy-related project in
8 accordance with the provisions of P.L. , c. (C.) (pending
9 before the Legislature as this bill), may have a term not to exceed
10 20 years. A public-private partnership agreement between a
11 governmental entity and a private entity to design, develop, finance,
12 build, own, operate or maintain an energy-related project that
13 includes a combined heat and power facility, cogeneration facility,
14 or on-site generation facility, as those terms are defined pursuant to
15 section 3 of P.L.1999, c.23 (C.48:3-51), a district energy system, a
16 microgrid, or a distributed energy resource in accordance with the
17 provisions of P.L. , c. (C.) (pending before the Legislature
18 as this bill) may have a term not to exceed 25 years, which term
19 shall commence after construction of the combined heat and power
20 facility, cogeneration facility, on-site generation facility, district
21 energy system, microgrid, or distributed energy resource has been
22 completed and commercial operation of the facility has commenced.
23 A public-private partnership agreement between a governmental
24 entity and a private entity may authorize the entry of a long term
25 service agreement that may include routine and preventive
26 maintenance and overhaul and rebuild coverage, for coverage
27 periods of not less than 10 years, up to the period coinciding with
28 the useful life of the equipment included within the scope of the
29 service agreement.

30
31 ¹19. (New section) Notwithstanding the provisions of any law,
32 rule, regulation, decision, or order to the contrary, a distributed
33 electric generation resource that is included as part of a microgrid
34 shall not be required to be located on the property, or on a property
35 contiguous to the property, on which a customer that is
36 interconnected with the microgrid is located, or be otherwise
37 subject to any form of contiguity or proximity-related requirement,
38 provided that all interconnected distributed electric generation
39 resources and customer loads that comprise the microgrid shall be
40 located within the electrical or geographic boundary of the
41 microgrid, and the microgrid shall satisfy the engineering and safety
42 requirements and procedures of the electric public utility to which
43 the microgrid is interconnected. A microgrid shall not be limited
44 with regard to the number or type of customers that may be served
45 by the microgrid, provided that all customers served by the
46 microgrid shall be located within the electrical or geographic
47 boundary of the microgrid and shall include a governmental entity.
48 A net metered solar facility shall be permitted to operate on the

1 same circuit as a combined heat and power, cogeneration, or on-site
2 generation facility and obtain authorized credits for solar energy
3 produced by the net metered solar facility if the output of the net
4 metered solar facility is separately metered, and the total power
5 exported to the power grid by the solar facility does not exceed the
6 total power imported from the power grid to the customer or
7 customers served by the solar facility, as measured on an annualized
8 basis. A private entity or a government entity that seeks to operate a
9 net metered solar facility on the same circuit as a combined heat
10 and power, cogeneration, or on-site generation facility shall satisfy
11 all other regulatory and utility requirements applicable to the
12 facility and necessary applications, including, but not limited to, all
13 PJM Interconnection and electric public utility interconnection
14 policies, practices, and procedures, and electric public utility
15 engineering analyses concerning the capacity of a circuit to
16 accommodate both facilities. A microgrid may utilize privately-
17 owned distribution wires to interconnect a distributed electric
18 generation resource with customers served by the microgrid and
19 that are located within the electric or geographic boundary of the
20 microgrid. A microgrid that attaches to or collocates on electric
21 public utility poles and distribution wires that are part of an electric
22 public utility distribution system shall be developed utilizing only
23 skilled labor that is knowledgeable regarding the electric public
24 utility's distribution system and safety practices, and shall
25 compensate the electric public utility for the use of its facilities.¹

26

27 ¹**[19.] 20.**¹ (New section) The provisions of P.L.2009, c.136
28 (C.52:18-42 et seq.) shall not apply to any energy-related project
29 developed pursuant to P.L. , c. (C.) (pending before the
30 Legislature as this bill).

31

32 ¹**[20.] 21.**¹ (New section) Nothing in P.L. , c. (C.)
33 (pending before the Legislature as this bill) shall ¹be construed to¹
34 limit the powers of the Office of the State Comptroller pursuant to
35 P.L.2007, c.52 (C.52:15C-1 et al.)¹, or be construed to limit the
36 authority of the board¹.

37

38 ¹**[21.]** Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended
39 to read as follows:

40 15. All contracts for the provision or performance of goods or
41 services shall be awarded for a period not to exceed 24 consecutive
42 months, except that contracts for professional services pursuant to
43 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
44 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
45 exceed 12 consecutive months. Contracts may be awarded for
46 longer periods of time as follows:

47 (1) Supplying of:

- 1 (a) (Deleted by amendment, P.L.1996, c.113.)
- 2 (b) (Deleted by amendment, P.L.1996, c.113.)
- 3 (c) Thermal energy produced by a cogeneration facility, for use
4 for heating or air conditioning or both, for any term not exceeding
5 40 years, when the contract is approved by the Board of Public
6 Utilities. For the purposes of this paragraph, "cogeneration" means
7 the simultaneous production in one facility of electric power and
8 other forms of useful energy such as heating or process steam;
- 9 (2) (Deleted by amendment, P.L.1977, c.53.)
- 10 (3) The collection and disposal of municipal solid waste, the
11 collection and disposition of recyclable material, or the disposal of
12 sewage sludge, for any term not exceeding in the aggregate, five
13 years;
- 14 (4) The collection and recycling of methane gas from a sanitary
15 landfill facility, for any term not exceeding 25 years, when the
16 contract is in conformance with a district solid waste management
17 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
18 with the approval of the Division of Local Government Services in
19 the Department of Community Affairs and the Department of
20 Environmental Protection. The contracting unit shall award the
21 contract to the highest responsible bidder, notwithstanding that the
22 contract price may be in excess of the amount of any necessarily
23 related administrative expenses; except that if the contract requires
24 the contracting unit to expend funds only, the contracting unit shall
25 award the contract to the lowest responsible bidder. The approval
26 by the Division of Local Government Services of public bidding
27 requirements shall not be required for those contracts exempted
28 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);
- 29 (5) Data processing service, for any term of not more than seven
30 years;
- 31 (6) Insurance, including the purchase of insurance coverages,
32 insurance consulting or administrative services, claims
33 administration services and including participation in a joint self-
34 insurance fund, risk management program or related services
35 provided by a contracting unit insurance group, or participation in
36 an insurance fund established by a local unit pursuant to
37 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
38 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
39 than three years;
- 40 (7) Leasing or servicing of (a) automobiles, motor vehicles,
41 machinery, and equipment of every nature and kind, for a period not
42 to exceed five years, or (b) machinery and equipment used in the
43 generation of electricity by a municipal shared services energy
44 authority established pursuant to section 4 of P.L.2015, c.129
45 (C.40A:66-4), or a contracting unit engaged in the generation of
46 electricity, for a period not to exceed 20 years; provided, however, a
47 contract shall be awarded only subject to and in accordance with the
48 rules and regulations promulgated by the Director of the Division of

1 Local Government Services in the Department of Community
2 Affairs;

3 (8) The supplying of any product or the rendering of any service
4 by a company providing voice, data, transmission, or switching
5 services for a term not exceeding five years;

6 (9) Any single project for the construction, reconstruction, or
7 rehabilitation of any public building, structure, or facility, or any
8 public works project, including the retention of the services of any
9 architect or engineer in connection therewith, for the length of time
10 authorized and necessary for the completion of the actual
11 construction;

12 (10) The providing of food services for any term not exceeding
13 three years;

14 (11) On-site inspections and plan review services undertaken by
15 private agencies pursuant to the "State Uniform Construction Code
16 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
17 more than three years;

18 (12) (Deleted by amendment, P.L.2009, c.4.)**【.】**

19 (13) (Deleted by amendment, P.L.1999, c.440.)

20 (14) (Deleted by amendment, P.L.1999, c.440.)

21 (15) Leasing of motor vehicles, machinery, and other equipment
22 primarily used to fight fires, for a term not to exceed ten years,
23 when the contract includes an option to purchase, subject to and in
24 accordance with rules and regulations promulgated by the Director
25 of the Division of Local Government Services in the Department of
26 Community Affairs;

27 (16) The provision of water supply services or the designing,
28 financing, construction, operation, or maintenance, or any
29 combination thereof, of a water supply facility, or any component
30 part or parts thereof, including a water filtration system, for a period
31 not to exceed 40 years, when the contract for these services is
32 approved by the Division of Local Government Services in the
33 Department of Community Affairs, the Board of Public Utilities,
34 and the Department of Environmental Protection pursuant to
35 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
36 required for those contracts otherwise exempted pursuant to
37 subsection (30), (31), (34), (35), or (43) of this section. For the
38 purposes of this subsection, "water supply services" means any
39 service provided by a water supply facility; "water filtration
40 system" means any equipment, plants, structures, machinery,
41 apparatus, or land, or any combination thereof, acquired, used,
42 constructed, rehabilitated, or operated for the collection,
43 impoundment, storage, improvement, filtration, or other treatment
44 of drinking water for the purposes of purifying and enhancing water
45 quality and insuring its potability prior to the distribution of the
46 drinking water to the general public for human consumption,
47 including plants and works, and other personal property and
48 appurtenances necessary for their use or operation; and "water

1 supply facility" means and refers to the real property and the plants,
2 structures, or interconnections between existing water supply
3 facilities, machinery and equipment and other property, real,
4 personal, and mixed, acquired, constructed, or operated, or to be
5 acquired, constructed, or operated, in whole or in part by or on
6 behalf of a political subdivision of the State or any agency thereof,
7 for the purpose of augmenting the natural water resources of the
8 State and making available an increased supply of water for all
9 uses, or of conserving existing water resources, and any and all
10 appurtenances necessary, useful, or convenient for the collecting,
11 impounding, storing, improving, treating, filtering, conserving, or
12 transmitting of water and for the preservation and protection of
13 these resources and facilities and providing for the conservation and
14 development of future water supply resources;

15 (17) The provision of resource recovery services by a qualified
16 vendor, the disposal of the solid waste delivered for disposal which
17 cannot be processed by a resource recovery facility or the residual
18 ash generated at a resource recovery facility, including hazardous
19 waste and recovered metals and other materials for reuse, or the
20 design, financing, construction, operation, or maintenance of a
21 resource recovery facility for a period not to exceed 40 years when
22 the contract is approved by the Division of Local Government
23 Services in the Department of Community Affairs, and the
24 Department of Environmental Protection pursuant to P.L.1985, c.38
25 (C.13:1E-136 et al.); and when the resource recovery facility is in
26 conformance with a district solid waste management plan approved
27 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
28 this subsection, "resource recovery facility" means a solid waste
29 facility constructed and operated for the incineration of solid waste
30 for energy production and the recovery of metals and other
31 materials for reuse; or a mechanized composting facility, or any
32 other facility constructed or operated for the collection, separation,
33 recycling, and recovery of metals, glass, paper, and other materials
34 for reuse or for energy production; and "residual ash" means the
35 bottom ash, fly ash, or any combination thereof, resulting from the
36 combustion of solid waste at a resource recovery facility;

37 (18) The sale of electricity or thermal energy, or both, produced
38 by a resource recovery facility for a period not to exceed 40 years
39 when the contract is approved by the Board of Public Utilities, and
40 when the resource recovery facility is in conformance with a district
41 solid waste management plan approved pursuant to P.L.1970, c.39
42 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
43 recovery facility" means a solid waste facility constructed and
44 operated for the incineration of solid waste for energy production
45 and the recovery of metals and other materials for reuse; or a
46 mechanized composting facility, or any other facility constructed or
47 operated for the collection, separation, recycling, and recovery of

1 metals, glass, paper, and other materials for reuse or for energy
2 production;

3 (19) The provision of wastewater treatment services or the
4 designing, financing, construction, operation, or maintenance, or
5 any combination thereof, of a wastewater treatment system, or any
6 component part or parts thereof, for a period not to exceed 40 years,
7 when the contract for these services is approved by the Division of
8 Local Government Services in the Department of Community
9 Affairs and the Department of Environmental Protection pursuant to
10 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
11 required for those contracts otherwise exempted pursuant to
12 subsection (36) or (43) of this section. For the purposes of this
13 subsection, "wastewater treatment services" means any services
14 provided by a wastewater treatment system, and "wastewater
15 treatment system" means equipment, plants, structures, machinery,
16 apparatus, or land, or any combination thereof, acquired, used,
17 constructed, or operated for the storage, collection, reduction,
18 recycling, reclamation, disposal, separation, or other treatment of
19 wastewater or sewage sludge, or for the final disposal of residues
20 resulting from the treatment of wastewater, including, but not
21 limited to, pumping and ventilating stations, facilities, plants and
22 works, connections, outfall sewers, interceptors, trunk lines, and
23 other personal property and appurtenances necessary for their
24 operation;

25 (20) The supplying of goods or services for the purpose of
26 lighting public streets, for a term not to exceed five years;

27 (21) The provision of emergency medical services for a term not
28 to exceed five years;

29 (22) Towing and storage contracts, awarded pursuant to
30 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
31 (C.40A:11-5) for any term not exceeding three years;

32 (23) Fuel for the purpose of generating electricity for a term not
33 to exceed eight years;

34 (24) The purchase of electricity or administrative or dispatching
35 services related to the transmission of electricity, from a supplier of
36 electricity subject to the jurisdiction of a federal regulatory agency,
37 from a qualifying small power producing facility or qualifying
38 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
39 supplier of electricity within any regional transmission organization
40 or independent system operator or from an organization or operator
41 or their successors, by a contracting unit engaged in the generation
42 of electricity for retail sale, as of May 24, 1991, for a term not to
43 exceed 40 years, or by a contracting unit engaged solely in the
44 distribution of electricity for retail sale for a term not to exceed ten
45 years, except that a contract with a contracting unit, engaged solely
46 in the distribution of electricity for retail sale, in excess of ten
47 years, shall require the written approval of the Director of the
48 Division of Local Government Services. If the director fails to

1 respond in writing to the contracting unit within 10 business days,
2 the contract shall be deemed approved;

3 (25) Basic life support services, for a period not to exceed five
4 years. For the purposes of this subsection, "basic life support"
5 means a basic level of prehospital care, which includes but need not
6 be limited to patient stabilization, airway clearance,
7 cardiopulmonary resuscitation, hemorrhage control, initial wound
8 care, and fracture stabilization;

9 (26) (Deleted by amendment, P.L.1999, c.440.)

10 (27) The provision of transportation services to an elderly
11 person, an individual with a disability, or an indigent person for any
12 term of not more than three years. For the purposes of this
13 subsection, "elderly person" means a person who is 60 years of age
14 or older. "Individual with a disability" means a person of any age
15 who, by reason of illness, injury, age, congenital malfunction, or
16 other permanent or temporary incapacity or disability, are unable,
17 without special facilities or special planning or design to utilize
18 mass transportation facilities and services as effectively as persons
19 who are not so affected. "Indigent person " means a person of any
20 age whose income does not exceed 100 percent of the poverty level,
21 adjusted for family size, established and adjusted under section
22 673(2) of subtitle B, the "Community Services Block Grant Act,"
23 Pub.L.97-35 (42 U.S.C. s.9902 (2));

24 (28) The supplying of liquid oxygen or other chemicals, for a
25 term not to exceed five years, when the contract includes the
26 installation of tanks or other storage facilities by the supplier, on or
27 near the premises of the contracting unit;

28 (29) The performance of patient care services by contracted
29 medical staff at county hospitals, correction facilities, and long term
30 care facilities, for any term of not more than three years;

31 (30) The acquisition of an equitable interest in a water supply
32 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
33 contract entered into pursuant to the "County and Municipal Water
34 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
35 no later than January 7, 1995, for any term of not more than forty
36 years;

37 (31) The provision of water supply services or the financing,
38 construction, operation, or maintenance or any combination thereof,
39 of a water supply facility or any component part or parts thereof, by
40 a partnership or copartnership established pursuant to a contract
41 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
42 period not to exceed 40 years;

43 (32) Laundry service and the rental, supply, and cleaning of
44 uniforms for any term of not more than three years;

45 (33) The supplying of any product or the rendering of any
46 service, including consulting services, by a cemetery management
47 company for the maintenance and preservation of a municipal

- 1 cemetery operating pursuant to the "New Jersey Cemetery Act,"
2 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;
- 3 (34) A contract between a public entity and a private firm
4 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
5 water supply services may be entered into for any term which, when
6 all optional extension periods are added, may not exceed 40 years;
- 7 (35) A contract for the purchase of a supply of water from a
8 public utility company subject to the jurisdiction of the Board of
9 Public Utilities in accordance with tariffs and schedules of charges
10 made, charged or exacted or contracts filed with the Board of Public
11 Utilities, for any term of not more than 40 years;
- 12 (36) A contract between a public entity and a private firm or
13 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
14 the provision of wastewater treatment services may be entered into
15 for any term of not more than 40 years, including all optional
16 extension periods;
- 17 (37) The operation and management of a facility under a license
18 issued or permit approved by the Department of Environmental
19 Protection, including a wastewater treatment system or a water
20 supply or distribution facility, as the case may be, for any term of
21 not more than ten years. For the purposes of this subsection,
22 "wastewater treatment system" refers to facilities operated or
23 maintained for the storage, collection, reduction, disposal, or other
24 treatment of wastewater or sewage sludge, remediation of
25 groundwater contamination, stormwater runoff, or the final disposal
26 of residues resulting from the treatment of wastewater; and "water
27 supply or distribution facility" refers to facilities operated or
28 maintained for augmenting the natural water resources of the State,
29 increasing the supply of water, conserving existing water resources,
30 or distributing water to users;
- 31 (38) Municipal solid waste collection from facilities owned by a
32 contracting unit, for any term of not more than three years;
- 33 (39) Fuel for heating purposes, for any term of not more than
34 three years;
- 35 (40) Fuel or oil for use in motor vehicles for any term of not
36 more than three years;
- 37 (41) Plowing and removal of snow and ice for any term of not
38 more than three years;
- 39 (42) Purchases made under a contract awarded by the Director of
40 the Division of Purchase and Property in the Department of the
41 Treasury for use by counties, municipalities, or other contracting
42 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
43 term not to exceed the term of that contract;
- 44 (43) A contract between the governing body of a city of the first
45 class and a duly incorporated nonprofit association for the provision
46 of water supply services as defined in subsection (16) of this
47 section, or wastewater treatment services as defined in subsection

1 (19) of this section, may be entered into for a period not to exceed
2 40 years;

3 (44) The purchase of electricity generated through class I
4 renewable energy or from a power production facility that is fueled
5 by methane gas extracted from a landfill in the county of the
6 contacting unit for any term not exceeding 25 years;

7 (45) The provision or performance of goods or services for the
8 purpose of producing class I renewable energy or class II renewable
9 energy, as those terms are defined in section 3 of P.L.1999, c.23
10 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
11 conducted by, the contracting unit, the entire price of which is to be
12 established as a percentage of the resultant savings in energy costs,
13 for a term not to exceed 15 years; provided, however, that a contract
14 shall be entered into only subject to and in accordance with
15 guidelines promulgated by the Board of Public Utilities establishing
16 a methodology for computing energy cost savings and energy
17 generation costs;

18 (46) A power supply contract, as defined pursuant to section 3 of
19 P.L.2015, c.129 (C.40A:66-3), between a member municipality as
20 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and
21 the municipal shared services energy authority established pursuant
22 to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the
23 electric power needs of its members, for the lease, operation, or
24 management of electric generation within a member municipality's
25 corporate limits and franchise area or the purchase of electricity, or
26 the purchase of fuel for generating units for a term not to exceed 40
27 years; **[and]**

28 (47) A contract entered into pursuant to paragraph (2) of
29 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
30 a county hospital authority and a manager for the management,
31 operation, and maintenance of a hospital owned by the authority or
32 the county for a term not to exceed 20 years, provided, however,
33 that a contract entered into pursuant to paragraph (2) of subsection
34 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
35 two additional periods, not to exceed five years each **[.] ; and**

36 (48) The sale of electricity or thermal energy, or both, produced
37 by a combined heat and power facility, cogeneration facility, or on-
38 site generation facility, as those terms are defined pursuant to
39 section 3 of P.L.1999, c.23 (C.48:3-51), a microgrid, as that term is
40 defined in section 3 of P.L. , c. (C.) (pending before the
41 Legislature as this bill), a district energy system, or a distributed
42 energy resource, for a period not to exceed 25 years, which period
43 shall commence after construction of the facility has been
44 completed and commercial operation of the facility has commenced.

45 Any contract for services other than professional services, the
46 statutory length of which contract is for three years or less, may
47 include provisions for no more than one two-year, or two one-year,
48 extensions, subject to the following limitations: a. The contract

1 shall be awarded by resolution of the governing body upon a
2 finding by the governing body that the services are being performed
3 in an effective and efficient manner; b. No contract shall be
4 extended so that it runs for more than a total of five consecutive
5 years; c. Any price change included as part of an extension shall be
6 based upon the price of the original contract as cumulatively
7 adjusted pursuant to any previous adjustment or extension and shall
8 not exceed the change in the index rate for the 12 months preceding
9 the most recent quarterly calculation available at the time the
10 contract is renewed; and d. The terms and conditions of the contract
11 remain substantially the same.

12 All multiyear leases and contracts entered into pursuant to this
13 section, including any two-year or one-year extensions, except
14 contracts involving the supplying of electricity for the purpose of
15 lighting public streets and contracts for thermal energy authorized
16 pursuant to subsection (1) above, construction contracts authorized
17 pursuant to subsection (9) above, contracts for the provision or
18 performance of goods or services or the supplying of equipment to
19 promote energy conservation through the production of class I
20 renewable energy or class II renewable energy authorized pursuant
21 to subsection (45) above, contracts for water supply services or for
22 a water supply facility, or any component part or parts thereof
23 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
24 or (43) above, contracts for resource recovery services or a resource
25 recovery facility authorized pursuant to subsection (17) above,
26 contracts for the sale of energy produced by a resource recovery
27 facility authorized pursuant to subsection (18) above, contracts for
28 wastewater treatment services or for a wastewater treatment system
29 or any component part or parts thereof authorized pursuant to
30 subsection (19), (36), (37), or (43) above, and contracts for the
31 purchase of electricity or administrative or dispatching services
32 related to the transmission of electricity authorized pursuant to
33 subsection (24) above, contracts for the purchase of electricity
34 generated from a power production facility that is fueled by
35 methane gas authorized pursuant to subsection (44) above, and
36 power supply contracts authorized pursuant to subsection (46)
37 respectively, shall contain a clause making them subject to the
38 availability and appropriation annually of sufficient funds as may
39 be required to meet the extended obligation, or contain an annual
40 cancellation clause.

41 The Division of Local Government Services in the Department
42 of Community Affairs shall adopt and promulgate rules and
43 regulations concerning the methods of accounting for all contracts
44 that do not coincide with the fiscal year.

45 All contracts shall cease to have effect at the end of the
46 contracted period and shall not be extended by any mechanism or
47 provision, unless in conformance with the "Local Public Contracts
48 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract

1 may be extended by mutual agreement of the parties to the contract
2 when a contracting unit has commenced rebidding prior to the time
3 the contract expires or when the awarding of a contract is pending
4 at the time the contract expires.

5 (cf: P.L.2016, c.55, s.10)】¹

6
7 ¹22. (New section) a. Subject to the provisions of section 19 of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 nothing in P.L. , c. (C.) (pending before the Legislature as
10 this bill) shall be construed to permit a private entity or a
11 governmental entity to engage in the provision of public utility
12 distribution or transmission service, or to attach or collocate on,
13 without the explicit, written approval of the public utility, a public
14 utility facility, including, but not limited to, a public utility
15 distribution and transmission system, and other support facilities
16 that are owned or controlled by a public utility. A private entity or
17 government entity may petition the board for resolution of a dispute
18 arising from a public utility’s denial of the request of the private
19 entity or government entity for interconnection or to utilize
20 facilities owned or controlled by the public utility.

21 b. Subject to the provisions of section 19 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), a microgrid
23 shall not engage in the provision of electric distribution service or
24 natural gas distribution service for public use pursuant to R.S. 48:2-
25 13, or in violation of a franchise granted to an electric public utility
26 or natural gas public utility pursuant to R.S.48:2-14.¹

27
28 ¹23. (New section) The authority shall, within three years after
29 the effective date of P.L. , c. (C.) (pending before the
30 Legislature as this bill), and annually thereafter, prepare a report to
31 the Governor and, pursuant to section 2 of P.L.1991, c.164
32 (C.52:14-19.1), to the Legislature regarding the number, nature,
33 structure, and scope of energy-related public private partnership
34 agreements developed pursuant to P.L. , c. (C.) (pending
35 before the Legislature as this bill), including: (1) a description of
36 the improvements made to the energy infrastructure of participating
37 governmental entities; (2) environmental impacts; (3) job creation
38 and other economic and societal benefits; (4) costs incurred; and (5)
39 where applicable, reductions in energy usage and demand and
40 enhancements to the resiliency and reliability of the State’s energy
41 infrastructure. The report shall also address any implementation
42 issues, including authority staffing and resource requirements, and
43 set forth recommendations regarding how the processes and
44 methods adopted to foster the development of energy-related public
45 private partnership agreements under P.L. , c. (C.)
46 (pending before the Legislature as this bill) may be improved,
47 expanded, or made more efficient.¹

1 ¹24. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
2 read as follows:

3 15. All contracts for the provision or performance of goods or
4 services shall be awarded for a period not to exceed 24 consecutive
5 months, except that contracts for professional services pursuant to
6 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
7 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
8 exceed 12 consecutive months. Contracts may be awarded for
9 longer periods of time as follows:

10 (1) Supplying of:

11 (a) (Deleted by amendment, P.L.1996, c.113.)

12 (b) (Deleted by amendment, P.L.1996, c.113.)

13 (c) Thermal energy produced by a cogeneration facility, for use
14 for heating or air conditioning or both, for any term not exceeding
15 40 years, when the contract is approved by the Board of Public
16 Utilities. For the purposes of this paragraph, "cogeneration" means
17 the simultaneous production in one facility of electric power and
18 other forms of useful energy such as heating or process steam;

19 (2) (Deleted by amendment, P.L.1977, c.53.)

20 (3) The collection and disposal of municipal solid waste, the
21 collection and disposition of recyclable material, or the disposal of
22 sewage sludge, for any term not exceeding in the aggregate, five
23 years;

24 (4) The collection and recycling of methane gas from a sanitary
25 landfill facility, for any term not exceeding 25 years, when the
26 contract is in conformance with a district solid waste management
27 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
28 with the approval of the Division of Local Government Services in
29 the Department of Community Affairs and the Department of
30 Environmental Protection. The contracting unit shall award the
31 contract to the highest responsible bidder, notwithstanding that the
32 contract price may be in excess of the amount of any necessarily
33 related administrative expenses; except that if the contract requires
34 the contracting unit to expend funds only, the contracting unit shall
35 award the contract to the lowest responsible bidder. The approval
36 by the Division of Local Government Services of public bidding
37 requirements shall not be required for those contracts exempted
38 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

39 (5) Data processing service, for any term of not more than seven
40 years;

41 (6) Insurance, including the purchase of insurance coverages,
42 insurance consulting or administrative services, claims
43 administration services and including participation in a joint self-
44 insurance fund, risk management program or related services
45 provided by a contracting unit insurance group, or participation in
46 an insurance fund established by a local unit pursuant to
47 N.J.S.40A:10-6, or a joint insurance fund established pursuant to

1 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
2 than three years;

3 (7) Leasing or servicing of (a) automobiles, motor vehicles,
4 machinery, and equipment of every nature and kind, for a period not
5 to exceed five years, or (b) machinery and equipment used in the
6 generation of electricity by a municipal shared services energy
7 authority established pursuant to section 4 of P.L.2015, c.129
8 (C.40A:66-4), or a contracting unit engaged in the generation of
9 electricity, for a period not to exceed 20 years; provided, however, a
10 contract shall be awarded only subject to and in accordance with the
11 rules and regulations promulgated by the Director of the Division of
12 Local Government Services in the Department of Community
13 Affairs;

14 (8) The supplying of any product or the rendering of any service
15 by a company providing voice, data, transmission, or switching
16 services for a term not exceeding five years;

17 (9) Any single project for the construction, reconstruction, or
18 rehabilitation of any public building, structure, or facility, or any
19 public works project, including the retention of the services of any
20 architect or engineer in connection therewith, for the length of time
21 authorized and necessary for the completion of the actual
22 construction;

23 (10) The providing of food services for any term not exceeding
24 three years;

25 (11) On-site inspections and plan review services undertaken by
26 private agencies pursuant to the "State Uniform Construction Code
27 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
28 more than three years;

29 (12) (Deleted by amendment, P.L.2009, c.4.)**【.]**

30 (13) (Deleted by amendment, P.L.1999, c.440.)

31 (14) (Deleted by amendment, P.L.1999, c.440.)

32 (15) Leasing of motor vehicles, machinery, and other equipment
33 primarily used to fight fires, for a term not to exceed ten years,
34 when the contract includes an option to purchase, subject to and in
35 accordance with rules and regulations promulgated by the Director
36 of the Division of Local Government Services in the Department of
37 Community Affairs;

38 (16) The provision of water supply services or the designing,
39 financing, construction, operation, or maintenance, or any
40 combination thereof, of a water supply facility, or any component
41 part or parts thereof, including a water filtration system, for a period
42 not to exceed 40 years, when the contract for these services is
43 approved by the Division of Local Government Services in the
44 Department of Community Affairs, the Board of Public Utilities,
45 and the Department of Environmental Protection pursuant to
46 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
47 required for those contracts otherwise exempted pursuant to
48 subsection (30), (31), (34), (35) or (43) of this section. For the

1 purposes of this subsection, "water supply services" means any
2 service provided by a water supply facility; "water filtration
3 system" means any equipment, plants, structures, machinery,
4 apparatus, or land, or any combination thereof, acquired, used,
5 constructed, rehabilitated, or operated for the collection,
6 impoundment, storage, improvement, filtration, or other treatment
7 of drinking water for the purposes of purifying and enhancing water
8 quality and insuring its potability prior to the distribution of the
9 drinking water to the general public for human consumption,
10 including plants and works, and other personal property and
11 appurtenances necessary for their use or operation; and "water
12 supply facility" means and refers to the real property and the plants,
13 structures, or interconnections between existing water supply
14 facilities, machinery and equipment and other property, real,
15 personal, and mixed, acquired, constructed, or operated, or to be
16 acquired, constructed, or operated, in whole or in part by or on
17 behalf of a political subdivision of the State or any agency thereof,
18 for the purpose of augmenting the natural water resources of the
19 State and making available an increased supply of water for all
20 uses, or of conserving existing water resources, and any and all
21 appurtenances necessary, useful, or convenient for the collecting,
22 impounding, storing, improving, treating, filtering, conserving, or
23 transmitting of water and for the preservation and protection of
24 these resources and facilities and providing for the conservation and
25 development of future water supply resources;

26 (17) The provision of resource recovery services by a qualified
27 vendor, the disposal of the solid waste delivered for disposal which
28 cannot be processed by a resource recovery facility or the residual
29 ash generated at a resource recovery facility, including hazardous
30 waste and recovered metals and other materials for reuse, or the
31 design, financing, construction, operation, or maintenance of a
32 resource recovery facility for a period not to exceed 40 years when
33 the contract is approved by the Division of Local Government
34 Services in the Department of Community Affairs, and the
35 Department of Environmental Protection pursuant to P.L.1985, c.38
36 (C.13:1E-136 et al.); and when the resource recovery facility is in
37 conformance with a district solid waste management plan approved
38 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of
39 this subsection, "resource recovery facility" means a solid waste
40 facility constructed and operated for the incineration of solid waste
41 for energy production and the recovery of metals and other
42 materials for reuse; or a mechanized composting facility, or any
43 other facility constructed or operated for the collection, separation,
44 recycling, and recovery of metals, glass, paper, and other materials
45 for reuse or for energy production; and "residual ash" means the
46 bottom ash, fly ash, or any combination thereof, resulting from the
47 combustion of solid waste at a resource recovery facility;

1 (18) The sale of electricity or thermal energy, or both, produced
2 by a resource recovery facility for a period not to exceed 40 years
3 when the contract is approved by the Board of Public Utilities, and
4 when the resource recovery facility is in conformance with a district
5 solid waste management plan approved pursuant to P.L.1970, c.39
6 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
7 recovery facility" means a solid waste facility constructed and
8 operated for the incineration of solid waste for energy production
9 and the recovery of metals and other materials for reuse; or a
10 mechanized composting facility, or any other facility constructed or
11 operated for the collection, separation, recycling, and recovery of
12 metals, glass, paper, and other materials for reuse or for energy
13 production;

14 (19) The provision of wastewater treatment services or the
15 designing, financing, construction, operation, or maintenance, or
16 any combination thereof, of a wastewater treatment system, or any
17 component part or parts thereof, for a period not to exceed 40 years,
18 when the contract for these services is approved by the Division of
19 Local Government Services in the Department of Community
20 Affairs and the Department of Environmental Protection pursuant to
21 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
22 required for those contracts otherwise exempted pursuant to
23 subsection (36) or (43) of this section. For the purposes of this
24 subsection, "wastewater treatment services" means any services
25 provided by a wastewater treatment system, and "wastewater
26 treatment system" means equipment, plants, structures, machinery,
27 apparatus, or land, or any combination thereof, acquired, used,
28 constructed, or operated for the storage, collection, reduction,
29 recycling, reclamation, disposal, separation, or other treatment of
30 wastewater or sewage sludge, or for the final disposal of residues
31 resulting from the treatment of wastewater, including, but not
32 limited to, pumping and ventilating stations, facilities, plants and
33 works, connections, outfall sewers, interceptors, trunk lines, and
34 other personal property and appurtenances necessary for their
35 operation;

36 (20) The supplying of goods or services for the purpose of
37 lighting public streets, for a term not to exceed five years;

38 (21) The provision of emergency medical services for a term not
39 to exceed five years;

40 (22) Towing and storage contracts, awarded pursuant to
41 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
42 (C.40A:11-5) for any term not exceeding three years;

43 (23) Fuel for the purpose of generating electricity for a term not
44 to exceed eight years;

45 (24) The purchase of electricity or administrative or dispatching
46 services related to the transmission of electricity, from a supplier of
47 electricity subject to the jurisdiction of a federal regulatory agency,
48 from a qualifying small power producing facility or qualifying

1 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
2 supplier of electricity within any regional transmission organization
3 or independent system operator or from an organization or operator
4 or their successors, by a contracting unit engaged in the generation
5 of electricity for retail sale, as of May 24, 1991, for a term not to
6 exceed 40 years, or by a contracting unit engaged solely in the
7 distribution of electricity for retail sale for a term not to exceed ten
8 years, except that a contract with a contracting unit, engaged solely
9 in the distribution of electricity for retail sale, in excess of ten
10 years, shall require the written approval of the Director of the
11 Division of Local Government Services. If the director fails to
12 respond in writing to the contracting unit within 10 business days,
13 the contract shall be deemed approved;

14 (25) Basic life support services, for a period not to exceed five
15 years. For the purposes of this subsection, "basic life support"
16 means a basic level of prehospital care, which includes but need not
17 be limited to patient stabilization, airway clearance,
18 cardiopulmonary resuscitation, hemorrhage control, initial wound
19 care, and fracture stabilization;

20 (26) (Deleted by amendment, P.L.1999, c.440.)

21 (27) The provision of transportation services to an elderly
22 person, an individual with a disability, or an indigent person for any
23 term of not more than three years. For the purposes of this
24 subsection, "elderly person" means a person who is 60 years of age
25 or older. "Individual with a disability" means a person of any age
26 who, by reason of illness, injury, age, congenital malfunction, or
27 other permanent or temporary incapacity or disability, are unable,
28 without special facilities or special planning or design to utilize
29 mass transportation facilities and services as effectively as persons
30 who are not so affected. "Indigent person " means a person of any
31 age whose income does not exceed 100 percent of the poverty level,
32 adjusted for family size, established and adjusted under section
33 673(2) of subtitle B, the "Community Services Block Grant Act,"
34 Pub.L.97-35 (42 U.S.C. s.9902 (2));

35 (28) The supplying of liquid oxygen or other chemicals, for a
36 term not to exceed five years, when the contract includes the
37 installation of tanks or other storage facilities by the supplier, on or
38 near the premises of the contracting unit;

39 (29) The performance of patient care services by contracted
40 medical staff at county hospitals, correction facilities, and long term
41 care facilities, for any term of not more than three years;

42 (30) The acquisition of an equitable interest in a water supply
43 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
44 contract entered into pursuant to the "County and Municipal Water
45 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
46 no later than January 7, 1995, for any term of not more than forty
47 years;

- 1 (31) The provision of water supply services or the financing,
2 construction, operation, or maintenance or any combination thereof,
3 of a water supply facility or any component part or parts thereof, by
4 a partnership or copartnership established pursuant to a contract
5 authorized under section 2 of P.L.1993, c.381 (C.58:28-2), for a
6 period not to exceed 40 years;
- 7 (32) Laundry service and the rental, supply, and cleaning of
8 uniforms for any term of not more than three years;
- 9 (33) The supplying of any product or the rendering of any
10 service, including consulting services, by a cemetery management
11 company for the maintenance and preservation of a municipal
12 cemetery operating pursuant to the "New Jersey Cemetery Act,"
13 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;
- 14 (34) A contract between a public entity and a private firm
15 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
16 water supply services may be entered into for any term which, when
17 all optional extension periods are added, may not exceed 40 years;
- 18 (35) A contract for the purchase of a supply of water from a
19 public utility company subject to the jurisdiction of the Board of
20 Public Utilities in accordance with tariffs and schedules of charges
21 made, charged or exacted or contracts filed with the Board of Public
22 Utilities, for any term of not more than 40 years;
- 23 (36) A contract between a public entity and a private firm or
24 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
25 the provision of wastewater treatment services may be entered into
26 for any term of not more than 40 years, including all optional
27 extension periods;
- 28 (37) The operation and management of a facility under a license
29 issued or permit approved by the Department of Environmental
30 Protection, including a wastewater treatment system, a stormwater
31 management system, or a water supply or distribution facility, as
32 the case may be, for any term of not more than ten years. For the
33 purposes of this subsection, "wastewater treatment system" refers to
34 facilities operated or maintained for the storage, collection,
35 reduction, disposal, or other treatment of wastewater or sewage
36 sludge, remediation of groundwater contamination, stormwater
37 runoff, or the final disposal of residues resulting from the treatment
38 of wastewater; "stormwater management system" means the same
39 as that term is defined in section 3 of P.L.2019, c.42 (C.40A:26B-
40 3); and "water supply or distribution facility" refers to facilities
41 operated or maintained for augmenting the natural water resources
42 of the State, increasing the supply of water, conserving existing
43 water resources, or distributing water to users;
- 44 (38) Municipal solid waste collection from facilities owned by a
45 contracting unit, for any term of not more than three years;
- 46 (39) Fuel for heating purposes, for any term of not more than
47 three years;

1 (40) Fuel or oil for use in motor vehicles for any term of not
2 more than three years;

3 (41) Plowing and removal of snow and ice for any term of not
4 more than three years;

5 (42) Purchases made under a contract awarded by the Director of
6 the Division of Purchase and Property in the Department of the
7 Treasury for use by counties, municipalities, or other contracting
8 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
9 term not to exceed the term of that contract;

10 (43) A contract between the governing body of a city of the first
11 class and a duly incorporated nonprofit association for the provision
12 of water supply services as defined in subsection (16) of this
13 section, or wastewater treatment services as defined in subsection
14 (19) of this section, may be entered into for a period not to exceed
15 40 years;

16 (44) The purchase of electricity generated through class I
17 renewable energy or from a power production facility that is fueled
18 by methane gas extracted from a landfill in the county of the
19 contacting unit for any term not exceeding 25 years;

20 (45) The provision or performance of goods or services for the
21 purpose of producing class I renewable energy or class II renewable
22 energy, as those terms are defined in section 3 of P.L.1999, c.23
23 (C.48:3-51), at, or adjacent to, buildings owned by, or operations
24 conducted by, the contracting unit, the entire price of which is to be
25 established as a percentage of the resultant savings in energy costs,
26 for a term not to exceed 15 years; provided, however, that a contract
27 shall be entered into only subject to and in accordance with
28 guidelines promulgated by the Board of Public Utilities establishing
29 a methodology for computing energy cost savings and energy
30 generation costs;

31 (46) A power supply contract, as defined pursuant to section 3 of
32 P.L.2015, c.129 (C.40A:66-3), between a member municipality as
33 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and
34 the municipal shared services energy authority established pursuant
35 to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the
36 electric power needs of its members, for the lease, operation, or
37 management of electric generation within a member municipality's
38 corporate limits and franchise area or the purchase of electricity, or
39 the purchase of fuel for generating units for a term not to exceed 40
40 years; **[and]**

41 (47) A contract entered into pursuant to paragraph (2) of
42 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
43 a county hospital authority and a manager for the management,
44 operation, and maintenance of a hospital owned by the authority or
45 the county for a term not to exceed 20 years, provided, however,
46 that a contract entered into pursuant to paragraph (2) of subsection
47 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
48 two additional periods, not to exceed five years each ; and

1 (48) The sale of electricity or thermal energy, or both, produced
2 by a combined heat and power facility, cogeneration facility, or on-
3 site generation facility, as those terms are defined pursuant to
4 section 3 of P.L.1999, c.23 (C.48:3-51), a microgrid, as that term is
5 defined in section 3 of P.L. , c. (C.) (pending before the
6 Legislature as this bill), a district energy system, or a distributed
7 energy resource, for a period not to exceed 25 years, which period
8 shall commence after construction of the facility has been
9 completed and commercial operation of the facility has commenced.

10 Any contract for services other than professional services, the
11 statutory length of which contract is for three years or less, may
12 include provisions for no more than one two-year, or two one-year,
13 extensions, subject to the following limitations: a. The contract
14 shall be awarded by resolution of the governing body upon a
15 finding by the governing body that the services are being performed
16 in an effective and efficient manner; b. No contract shall be
17 extended so that it runs for more than a total of five consecutive
18 years; c. Any price change included as part of an extension shall be
19 based upon the price of the original contract as cumulatively
20 adjusted pursuant to any previous adjustment or extension and shall
21 not exceed the change in the index rate for the 12 months preceding
22 the most recent quarterly calculation available at the time the
23 contract is renewed; and d. The terms and conditions of the contract
24 remain substantially the same.

25 All multiyear leases and contracts entered into pursuant to this
26 section, including any two-year or one-year extensions, except
27 contracts involving the supplying of electricity for the purpose of
28 lighting public streets and contracts for thermal energy authorized
29 pursuant to subsection (1) above, construction contracts authorized
30 pursuant to subsection (9) above, contracts for the provision or
31 performance of goods or services or the supplying of equipment to
32 promote energy conservation through the production of class I
33 renewable energy or class II renewable energy authorized pursuant
34 to subsection (45) above, contracts for water supply services or for
35 a water supply facility, or any component part or parts thereof
36 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
37 or (43) above, contracts for resource recovery services or a resource
38 recovery facility authorized pursuant to subsection (17) above,
39 contracts for the sale of energy produced by a resource recovery
40 facility authorized pursuant to subsection (18) above, contracts for
41 wastewater treatment services or for a wastewater treatment system
42 or any component part or parts thereof authorized pursuant to
43 subsection (19), (36), (37), or (43) above, contracts for the
44 operation and maintenance of a stormwater management system
45 authorized pursuant to subsection (37) above, and contracts for the
46 purchase of electricity or administrative or dispatching services
47 related to the transmission of electricity authorized pursuant to
48 subsection (24) above, contracts for the purchase of electricity

1 generated from a power production facility that is fueled by
2 methane gas authorized pursuant to subsection (44) above, and
3 power supply contracts authorized pursuant to subsection (46)
4 respectively, shall contain a clause making them subject to the
5 availability and appropriation annually of sufficient funds as may
6 be required to meet the extended obligation, or contain an annual
7 cancellation clause.

8 The Division of Local Government Services in the Department
9 of Community Affairs shall adopt and promulgate rules and
10 regulations concerning the methods of accounting for all contracts
11 that do not coincide with the fiscal year.

12 All contracts shall cease to have effect at the end of the
13 contracted period and shall not be extended by any mechanism or
14 provision, unless in conformance with the "Local Public Contracts
15 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
16 may be extended by mutual agreement of the parties to the contract
17 when a contracting unit has commenced rebidding prior to the time
18 the contract expires or when the awarding of a contract is pending
19 at the time the contract expires.¹

20 (cf: P.L.2019, c.42, s.22)

21

22 ¹**[22.] 25.**¹ N.J.S.18A:18A-42 is amended to read as follows:

23 18A:18A-42. All contracts for the provision or performance of
24 goods or services shall be awarded for a period not to exceed 24
25 consecutive months, except that contracts for professional services
26 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
27 be awarded for a period not to exceed 12 consecutive months. Any
28 board of education may award a contract for longer periods of time
29 as follows:

30 a. Supplying of:

31 (1) Fuel for heating purposes, for any term not exceeding in the
32 aggregate, three years;

33 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
34 or equipment, for any term not exceeding in the aggregate, three
35 years;

36 (3) Thermal energy produced by a cogeneration facility, for use
37 for heating or air conditioning or both, for any term not exceeding
38 40 years, when the contract is approved by the Board of Public
39 Utilities. For the purposes of this paragraph, "cogeneration" means
40 the simultaneous production in one facility of electric power and
41 other forms of useful energy such as heating or process steam; or

42 b. Plowing and removal of snow and ice, for any term not
43 exceeding in the aggregate, three years; or

44 c. Collection and disposal of garbage and refuse, for any term
45 not exceeding in the aggregate, three years; or

46 d. Data processing service, for any term of not more than seven
47 years; or

- 1 e. Insurance, including the purchase of insurance coverages,
2 insurance consultant or administrative services, and including
3 participation in a joint self-insurance fund, risk management
4 program or related services provided by a school board insurance
5 group, or participation in an insurance fund established by a county
6 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
7 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
8 not more than three years; or
- 9 f. Leasing or servicing of automobiles, motor vehicles,
10 electronic communications equipment, machinery and equipment of
11 every nature and kind and textbooks and non-consumable
12 instructional materials, for any term not exceeding in the aggregate,
13 five years; except that contracts for the leasing of school buses may
14 be awarded for any term not exceeding in the aggregate ten years.
15 Contracts awarded pursuant to this subsection shall be awarded only
16 subject to and in accordance with rules and regulations promulgated
17 by the State Board of Education; or
- 18 g. Supplying of any product or the rendering of any service by
19 a company providing voice, data, transmission or switching
20 services, for a term not exceeding five years; or
- 21 h. (Deleted by amendment, P.L.1999, c.440.)
- 22 i. Driver education instruction conducted by private, licensed
23 driver education schools, for any term not exceeding in the
24 aggregate, three years; or
- 25 j. (Deleted by amendment, P.L.2009, c.4.)**[.]**
- 26 k. Any single project for the construction, reconstruction or
27 rehabilitation of any public building, structure or facility, or any
28 public works project, including the retention of the services of any
29 architect or engineer in connection therewith, for the length of time
30 authorized and necessary for the completion of the actual
31 construction; or
- 32 l. Laundry service and the rental, supply and cleaning of
33 uniforms for any term of not more than three years; or
- 34 m. Food supplies and food services for any term of not more
35 than three years; or
- 36 n. Purchases made under a contract awarded by the Director of
37 the Division of Purchase and Property in the Department of the
38 Treasury for use by counties, municipalities or other contracting
39 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
40 term not to exceed the term of that contract; or
- 41 o. The provision or performance of goods or services for the
42 purpose of producing class I renewable energy, as that term is
43 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
44 to, buildings owned by any local board of education, the entire price
45 of which is to be established as a percentage of the resultant savings
46 in energy costs, for a term not to exceed 15 years; provided,
47 however, that these contracts shall be entered into only subject to

1 and in accordance with guidelines promulgated by the Board of
2 Public Utilities establishing a methodology for computing energy
3 cost savings and energy generation costs.

4 p. The sale of electricity or thermal energy, or both, produced
5 by a combined heat and power facility, cogeneration facility, or on-
6 site generation facility, as those terms are defined pursuant to
7 section 3 of P.L.1999, c.23 (C.48:3-51), a microgrid, as that term is
8 defined in section 3 of P.L. , c. (C.) (now pending before the
9 Legislature as this bill), a district energy system, or a distributed
10 energy resource, for a period not to exceed 25 years, which period
11 shall commence after construction of such facility has been
12 completed and commercial operation of the facility has commenced.

13 Any contract for services other than professional services, the
14 statutory length of which contract is for three years or less, may
15 include provisions for no more than one two-year, or two one-year,
16 extensions, subject to the following limitations: a. the contract shall
17 be awarded by resolution of the board of education upon a finding
18 by the board of education that the services are being performed in
19 an effective and efficient manner; b. no such contract shall be
20 extended so that it runs for more than a total of five consecutive
21 years; c. any price change included as part of an extension shall be
22 based upon the price of the original contract as cumulatively
23 adjusted pursuant to any previous adjustment or extension and shall
24 not exceed the change in the index rate for the 12 months preceding
25 the most recent quarterly calculation available at the time the
26 contract is renewed; and d. the terms and conditions of the contract
27 remain substantially the same.

28 All multiyear leases and contracts entered into pursuant to this
29 section, including any two-year or one-year extensions, except
30 contracts for insurance coverages, insurance consultant or
31 administrative services, participation or membership in a joint self-
32 insurance fund, risk management programs or related services of a
33 school board insurance group, participation in an insurance fund
34 established by a county pursuant to N.J.S.40A:10-6 or contracts for
35 thermal energy authorized pursuant to subsection a. above, and
36 contracts for the provision or performance of goods or services to
37 promote energy conservation through the production of class I
38 renewable energy, authorized pursuant to subsection o. of this
39 section, shall contain a clause making them subject to the
40 availability and appropriation annually of sufficient funds as may
41 be required to meet the extended obligation, or contain an annual
42 cancellation clause. All contracts shall cease to have effect at the
43 end of the contracted period and shall not be extended by any
44 mechanism or provision, unless in conformance with the "Public
45 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
46 contract may be extended by mutual agreement of the parties to the
47 contract when a board of education has commenced rebidding prior

1 to the time the contract expires or when the awarding of a contract
2 is pending at the time the contract expires.

3 (cf: P.L.2009, c.4, s.3)

4

5 ¹**[23.]** 26.¹ This act shall take effect immediately.