

[First Reprint]

SENATE, No. 2958

STATE OF NEW JERSEY
218th LEGISLATURE

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Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

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Senator Greenstein

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on May 16, 2019, with amendments.



(Sponsorship Updated As Of: 11/27/2018)

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:

¹Senate SEN 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 before
43 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 ¹,
12 in whole or in part,¹ for a new or existing facility or facilities, owned
13 by a governmental entity, involving the application of energy
14 efficiency, energy conservation, ¹energy generation,¹ energy
15 optimization, renewable and non-carbon-emitting energy technologies,
16 or demand side management measures including, but not limited to:

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

19 smart metering and smart grid technologies and demand response;
20 ¹**[and]**¹

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

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

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

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

36 “Governmental entity” means the State, its subdivisions, and ¹**[**the
37 departments, agencies, commissions, authorities, boards, and
38 instrumentalities]¹ any department, agency, commission, authority,
39 board, or instrumentality¹ thereof, a county, a municipality, a board of
40 education, a State college or university, a county ¹**[community]**¹
41 college, a regional or municipal ¹**[utility or utility]** utilities¹ authority,
42 ¹a quasi-State agency, a State-created corporation,¹ and a municipal
43 corporation. “Governmental entity” may include a combination of
44 governmental entities as defined herein, but shall not mean a
45 municipal electric utility established pursuant to R.S.40:62-12.

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

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

42 “Public-private partnership agreement” or “agreement” means an
43 agreement entered into by a governmental entity and a private entity
44 pursuant to section 4 of P.L. , c. (C.) (pending before the
45 Legislature as this bill) for the purposes of undertaking an energy-
46 related project.

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

29
30 5. (New section) a. An energy-related project may be
31 proposed either by a governmental entity or by a private entity. A
32 public-private partnership agreement may provide that, as part of
33 the agreement, an energy-related project may be proposed and
34 selected individually or as part of the design, construction,
35 reconstruction, alteration, improvement, development or
36 redevelopment of one or more buildings, structures, or facilities
37 owned, or to be owned, by a governmental entity. The public-
38 private partnership agreement may provide for the inclusion of
39 buildings, structures or facilities owned, or to be owned, by one or
40 more non-governmental entities. An energy-related project shall be
41 designed to enable a governmental entity to more reliably,
42 efficiently, and cost-effectively generate, distribute, conserve, store,
43 consume, and acquire energy; improve the reliability and resiliency
44 of its energy infrastructure; reduce greenhouse gas emissions;
45 diversify its sources of energy supply; create jobs; and foster
46 economic development.

47 b. If an unsolicited energy-related project is proposed by a
48 private entity to a governmental entity, the governmental entity to

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

17

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

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

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

42 d. For the purposes of this section, a governmental entity shall
43 include the authority, and any energy-related project undertaken
44 pursuant to P.L. , c. (C.) (pending before the Legislature as
45 this bill) of which the authority becomes an owner or lessee, or
46 which is situated on land of which the authority becomes the lessee,
47 shall be deemed a project as that term is defined in section 3 of
48 P.L.1974, c.80 (C.34:1B-3).

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

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

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

27 (b) provide technical advice, guidance, and assistance to
28 governmental entities to ensure the availability of the necessary
29 expertise and capacity to develop and evaluate the merits of proposed
30 energy-related projects;

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

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

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

37 (f) monitor and enforce the procurement policies and procedures
38 established pursuant to P.L. , c. (C.) (pending before the
39 Legislature as this bill). The policies may also include provision for
40 potential revenue sharing opportunities between a governmental entity
41 and a private entity in certain defined or agreed circumstances,
42 including energy-related projects that achieve profits that exceed a
43 negotiated rate of return established for a private entity in a public-
44 private partnership agreement.

45 b. The authority shall identify the resources and personnel of the
46 authority and other participating agencies, departments, boards, and
47 authorities, including the board, that are deemed necessary and
48 appropriate to staff and support the Energy P3 Unit. The authority may

1 retain one or more qualified private consultants with relevant expertise
2 to provide the technical assistance and resources deemed necessary
3 and appropriate to assist the Energy P3 Unit.

4 c. The authority shall provide sufficient funding to the Energy P3
5 Unit to enable the Energy P3 Unit to adequately and properly perform
6 the duties and responsibilities established by P.L. , c. (C.)
7 (pending before the Legislature as this bill), including the retention of
8 one or more private consultants to assure compliance with the duties
9 and responsibilities established for the Energy P3 Unit by this section.
10 The Energy P3 Unit shall charge a private entity a fee as compensation
11 for the services rendered by the Energy P3 Unit and, if applicable, by
12 one or more retained private consultants, in connection with a
13 completed energy-related project. The fee shall be assessed on a flat
14 fee or percentage basis, based upon the total costs of a completed
15 energy-related project. If a percentage fee is utilized, the percentage
16 fee shall not exceed three percent of the total costs of a completed
17 energy-related project. The Energy P3 Unit may establish standard
18 project development or project review fees for energy-related projects
19 that are not completed for any reason.

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

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

38 ¹[e.] f.¹ The authority shall, within 90 days of the effective date
39 of P.L. , c. (C.) (pending before the Legislature as this bill),
40 undertake a study of the staffing and other resources, including one or
41 more private consultants, deemed necessary to enable the Energy P3
42 Unit to perform the duties and responsibilities established for the
43 Energy P3 Unit by P.L. , c. (C.) (pending before the Legislature
44 as this bill). The authority shall prepare a report of its study, and shall
45 provide a copy thereof to the Governor and, pursuant to section 2 of
46 P.L.1991, c.164 (C.52:14-19.1), to the Legislature, recommending any
47 further action and implementation.

1 8. (New section) a. The Energy P3 Unit shall require each private
2 entity that seeks to submit a solicited or unsolicited energy-related
3 project proposal to a governmental entity pursuant to P.L. , c.
4 (C.) (pending before the Legislature as this bill) to provide a
5 certified statement in response to a questionnaire that is standardized
6 for like classes of energy-related projects and private entities. The
7 questionnaire shall be designed to fully develop the prior experience
8 and qualifications, financial strength, adequacy of equipment, plant,
9 organization and personnel of the private entity, and other pertinent
10 and material facts deemed necessary by the Energy P3 Unit, in order to
11 enable the Energy P3 Unit to qualify a private entity for the type, cost,
12 or other applicable metric, of energy-related project that the private
13 entity shall be deemed qualified to develop, design, build, finance,
14 own, operate, or maintain, or a combination ¹of¹ thereof, as the case
15 may be. The qualification criteria established by the Energy P3 Unit
16 shall be competitively neutral, designed to maximize participation by
17 qualified private entities, and shall not include classifications or
18 requirements that would create preferences or advantages of any
19 nature to particular classes of private entities including, but not limited
20 to, private entities that are located within the State, equipment
21 manufacturers, or incumbent providers of energy-related products or
22 services, including operational and maintenance services, to
23 governmental entities.

24 b. The Energy P3 Unit shall determine the qualification of each
25 private entity that seeks to be qualified to develop an energy-related
26 project. The private entity classifications established pursuant to this
27 section shall be tiered to coincide with the level of experience and
28 qualifications, financial strength, adequacy of personnel, equipment
29 and other necessary resources sufficient for the energy-related projects
30 or classifications that are included within each tier. A finding by the
31 Energy P3 Unit that a private entity is qualified to develop energy-
32 related projects included within a particular tier shall be predicated
33 upon the demonstrated ability of the private entity to develop, design,
34 build, finance, own, operate, and maintain, as the case may be, energy-
35 related projects having the same or similar experience, sophistication,
36 complexity, and capital investment established for projects within the
37 tier. The Energy P3 Unit shall classify each private entity within 60
38 business days after receipt of certified statements from the private
39 entity that are deemed to be administratively complete and fully
40 responsive to the questionnaire described in this section. Notice of the
41 classification shall be forwarded to the private entity by registered mail
42 within five business days after the classification is made. Each
43 classification shall be subject to expiration and renewal upon terms as
44 shall be established by the Energy P3 Unit in accordance with this
45 section.

46 c. A private entity that is dissatisfied with its classification may
47 request, in writing, a hearing before the authority or its designee, and
48 may present the evidence with respect to the financial responsibility,

1 organization, plant and equipment, personnel, or experience of the
2 private entity as might justify a different classification. After
3 presentation of the evidence, the authority or its designee may retain or
4 modify the classification of the private entity.

5 d. A current list of each qualified private entity, arranged by tier
6 of energy-related project or projects for which the private entity has
7 been qualified, shall be maintained by the Energy P3 Unit. Each
8 governmental entity that seeks to develop an energy-related project
9 pursuant to P.L. c. (C.) (pending before the Legislature as this
10 bill) shall be provided with the complete list of approved private
11 entities that have been qualified by the Energy P3 Unit for the type of
12 energy-related project proposed by the governmental entity. The
13 Energy P3 Unit shall post the list on an Internet website maintained by
14 or for the Energy P3 Unit and shall update the list monthly.

15

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

41 b. Once the private entities have been selected, each private
42 entity shall be requested to make a formal proposal to the
43 governmental entity regarding the energy-related project. The
44 proposal shall include, but not be limited to, a project scope of
45 work, identification of proposed equipment and measures,
46 subcontractors, projected project costs, and, if applicable, long term
47 maintenance and operations costs and anticipated energy or other
48 cost savings. If the governmental entity so elects, it may request

1 supplemental information or revised proposals from the private
2 entities and may require each private entity to make an oral
3 presentation, and to respond to questions regarding the private
4 entity's proposal. The governmental entity shall afford each private
5 entity a reasonable opportunity to present supplemental information
6 with regard to the private entity's proposal and to respond to
7 questions regarding the private entity's proposal or qualification to
8 develop the energy-related project. Each private entity shall be
9 afforded an opportunity to supplement its proposal to respond to
10 any proposed changes to the scope or specifications of the energy-
11 related project by the governmental entity after review of the
12 private entities' written proposals.

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

32 d. The governmental entity shall award the energy-related
33 project to the private entity whose proposal is determined to be the
34 most advantageous to the governmental entity, with price and other
35 factors considered. The criteria upon which the determination shall
36 be based shall include, but not be limited to:

- 37 (1) the general reputation, industry experience, technical
38 capability, and expertise of the private entity;
- 39 (2) the cost of the proposed energy-related project;
- 40 (3) the responsiveness, creativity, innovativeness, and
41 comprehensiveness of the private entity's proposal;
- 42 (4) if applicable, the ability of the private entity to arrange
43 financing on terms favorable to the governmental entity;
- 44 (5) the proposed allocation of risks and performance guarantees;
- 45 (6) the incorporation of innovative terms and conditions that
46 would not otherwise be available to, or would not be available upon
47 a comparable basis to the governmental entity;

1 (7) if applicable, any cost savings associated with the energy-
2 related project;

3 (8) the public benefits of the energy-related project, including
4 economic development, job creation, and reduced electric demand
5 and greenhouse gas emissions; and

6 (9) the experience and capability of the private entity in the
7 implementation of comparable energy-related projects.

8 e. The governmental entity shall negotiate a public-private
9 partnership agreement for the energy-related project with the
10 private entity selected as having submitted the most advantageous
11 proposal in accordance with the selection standards set forth in the
12 section. If the governmental entity elected the fixed price option
13 described in this section, the price term included in any public
14 private partnership agreement shall not exceed, by more than ten
15 percent, the quoted price for the same scope of work presented
16 during the procurement phase of the energy-related project. In the
17 event that the price term presented by a private entity for inclusion
18 in a public-private partnership agreement shall exceed, by more
19 than ten percent, the private entity's original fixed price quoted for
20 the same scope of work, the governmental entity may, at its sole
21 election, terminate negotiations with the private entity, without cost
22 or penalty to the governmental entity.

23 f. If the governmental entity is unable to negotiate a public-
24 private partnership agreement with the selected private entity on
25 terms that the governmental entity determines to be fair and
26 reasonable, negotiations with the selected private entity shall be
27 terminated. The governmental entity shall then commence
28 negotiations with the private entity deemed to have submitted the
29 next best proposal in accordance with the selection standards set
30 forth in this section. If the governmental entity is unable to
31 negotiate a public-private partnership agreement with the second
32 selected private entity, the governmental entity shall terminate
33 negotiations and commence negotiations with the third selected
34 private entity. If the governmental entity is unable to negotiate a
35 public-private partnership agreement with the third selected private
36 entity, the governmental entity shall continue to negotiate with the
37 remaining private entities that submitted proposals, in order of
38 selection, as are necessary in order to enable the governmental
39 entity to conclude a satisfactory public-private partnership
40 agreement with a qualified private entity. If the governmental entity
41 is unable to conclude a satisfactory public- private partnership
42 agreement with a qualified private entity, the governmental entity
43 may cease further negotiations and terminate the energy-related
44 project or commence a new proposal procedure in accordance with
45 the provisions of P.L. , c. (C.) (pending before the
46 Legislature as this bill).

1 10. (New section) Prior to, or in connection with, the
2 negotiation and execution of a public-private partnership
3 agreement, a governmental entity may negotiate and execute a
4 preliminary agreement with the private entity selected for the
5 energy-related project. The preliminary agreement may:

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

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

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

15 d. establish other terms and conditions that the governmental
16 entity and private entity deem necessary and appropriate to foster
17 the development of the energy-related project.

18
19 11. (New section) a. A governmental entity and a private entity
20 shall cooperate to leverage, to the greatest extent possible, available
21 private sector financial resources and expertise and to enhance the
22 ability of the energy-related project to obtain and maximize federal,
23 State, local or other funds, including the “Global Warming
24 Solutions Fund,” grants or incentives, tax advantages, or financial
25 and other benefits to finance, secure, guarantee, service or reduce
26 project debt, or to minimize, repay, or accelerate the repayment of
27 project costs, or provide other financial or other advantages.
28 Notwithstanding the provisions of any law, rule, regulation,
29 decision, or order to the contrary, funding available to an energy-
30 related project from the “Global Warming Solutions Fund” shall be
31 incremental to funding available to an energy-related project from
32 all other sources including, but not limited to, the New Jersey Clean
33 Energy Program administered by the board.

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

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

39 (2) issue indebtedness in accordance with the governmental
40 entity’s enabling legislation provided that, at a minimum, the
41 private entity guarantees the performance of the energy-related
42 project to the governmental entity;

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

46 (4) exercise all powers conferred on the governmental entity by
47 law including, but not limited to, the power to lease or grant rights
48 of way, easements, and access, exercise the power of eminent

1 domain, grant development rights, issue and accelerate permits and
2 other authorizations, and grant licenses, franchises, contractual, and
3 real property rights.

4 c. A public-private partnership agreement may also provide for
5 the sale, long-term lease, or lease-purchase of, or grant of
6 concessions for, the existing and new assets and facilities of a
7 governmental entity to a private entity, and to enter into revenue
8 sharing opportunities between the governmental entity and private
9 entity in agreed circumstances. If the public-private partnership
10 agreement provides for ownership of the energy-related project, or a
11 portion thereof, by the private entity during the term of the
12 agreement, the agreement may provide for the transfer of the project
13 by the private entity to the governmental entity at no charge upon
14 the expiration of the term of the agreement or any extension thereof.
15

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

44 13. (New section) If no public fund has been established for the
45 financing of an energy-related project developed pursuant to
46 P.L. , c. (C.) (pending before the Legislature as this bill), the
47 chief financial officer of the governmental entity may require the
48 private entity responsible for the development of the energy-related

1 project to post, or to cause to be posted, a bond guaranteeing
2 prompt payment of funds due to the contractor, its subcontractors,
3 and to all persons furnishing labor or materials to the contractor or
4 its subcontractors in the conduct of the work on the energy-related
5 project.

6
7 14. (New section) a. All workers employed in the performance
8 of any construction undertaken in connection with an energy-related
9 project for which a public-private partnership agreement has been
10 negotiated pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill), including all workers for subcontractors
12 employed in the performance of any construction undertaken in
13 connection with an energy-related project, shall be paid not less
14 than the prevailing wage rate for the worker's craft or trade as
15 determined by the Commissioner of Labor and Workforce
16 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
17 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

18 b. All energy-related projects developed pursuant to a public-
19 private partnership agreement negotiated pursuant to P.L. ,
20 c. (C.) (pending before the Legislature as this bill) may
21 contain a project labor agreement. A project labor agreement shall
22 be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.)
23 and shall be structured in a manner that to the greatest extent
24 possible enhances employment opportunities for individuals
25 residing in the county in which the energy-related project will be
26 located.

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

33
34 15. (New section) Each general contractor, construction
35 manager, design-build team, and subcontractor that performs work
36 in connection with an energy-related project pursuant to P.L. ,
37 c. (C.) (pending before the Legislature as this bill) shall be
38 classified by the Energy P3 Unit in accordance with the provisions
39 of P.L. , c. (C.) (pending before the Legislature as this bill),
40 in consultation with the Division of Property Management and
41 Construction in the Department of the Treasury.

42
43 16. (New section) a. All energy-related projects proposed by a
44 governmental entity, upon receiving a solicited or unsolicited
45 energy-related project proposal pursuant to section 8 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), shall be
47 submitted to the Energy P3 Unit for project review and approval.
48 Only an application deemed to be complete by the Energy P3 Unit

1 shall be considered. In order for an application to be deemed
2 complete, the application shall include, but not be limited to:

3 (1) a public-private partnership agreement between a
4 governmental entity and a private entity and, if applicable, a
5 preliminary agreement;

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

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

11 (4) financial information, including the estimated cost of the
12 energy-related project, a sources and uses statement, an operating
13 pro forma, evidence of legally binding financial commitments,
14 evidence of the private entity's bonding capacity for the
15 development and operation of the energy-related project and, if
16 applicable, a long term service agreement;

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

22 (6) proof of receipt or anticipated date of receipt of required
23 approvals;

24 (7) if applicable, a demonstration of projected energy cost
25 savings; and

26 (8) any other requirements that the Energy P3 Unit may
27 reasonably deem necessary or appropriate for the energy-related
28 project.

29 b. As part of the estimated costs and financial documentation
30 for an energy-related project, the application of the private entity
31 shall contain a long-range operation and maintenance plan and shall
32 separately state and clearly set forth the expenditures associated
33 with the plan. The long-range operation and maintenance plan shall
34 be approved by the Energy P3 Unit pursuant to regulations
35 promulgated by the Energy P3 Unit that reflect national building
36 maintenance standards and other appropriate building maintenance
37 benchmarks.

38 c. The Energy P3 Unit shall review all applications for
39 completeness in accordance with this section, and may request
40 additional information as may be required to make a complete
41 assessment of the energy-related project. The Energy P3 Unit shall
42 perform a substantive review of the application, which shall include
43 an assessment of the feasibility and design of the project, the
44 experience and qualification of the private entity, the soundness of
45 the financial plan, the adequacy of the public-private partnership
46 agreement, preliminary agreement, land lease, and other
47 agreements, and the adequacy of the long range operation and
48 maintenance plan. The Energy P3 Unit shall have the right to obtain

1 additional information from a private entity if required to complete
2 the review, including the right to issue notices of deficiency to the
3 private entity and require that the record be supplemented until it is
4 deemed complete.

5 d. An energy-related project shall not proceed until the
6 application has met the conditions established pursuant to the
7 provisions of this section and has received the approval of the
8 Energy P3 Unit. The Energy P3 Unit shall be permitted to revoke an
9 approval if it determines that an energy-related project materially
10 deviates from the application submitted pursuant to this section or
11 has not received all required approvals, including a certificate of
12 occupancy. An energy-related project that has been approved by the
13 Energy P3 Unit shall be completed within five years after the date
14 of approval by the Energy P3 Unit.

15

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

39 b. Notwithstanding the provisions of any law, rule, regulation,
40 decision, or order to the contrary, a private entity that submits an
41 unsolicited proposal for an energy-related project that is accepted
42 by a governmental entity and made the basis for a solicitation for an
43 energy-related project pursuant to P.L. , c. (C.) (pending
44 before the Legislature as this bill), may identify those portions of
45 the unsolicited proposal that the private entity deems to be
46 confidential, competitively sensitive bid-related information,
47 including, but not limited to, pricing, financing terms, and
48 proprietary or trade secret information. The private entity shall

1 provide justification as to why the materials identified as
2 confidential should not, upon request, be produced to others by the
3 governmental entity. Information determined by the governmental
4 entity to be confidential, competitively sensitive bid-related
5 information shall not be subject to disclosure or considered a public
6 or government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or
7 P.L.2001, c.404 (C.47:1A-5 et al.) or otherwise, prior to the
8 selection of the winning proposal. Disclosure of confidential,
9 competitively sensitive bid-related information shall occur, upon
10 request, after the selection of the winning proposal, but prior to the
11 execution of the final public-private partnership agreement by the
12 governmental entity and the private entity. Information determined
13 to be proprietary or trade secret information shall not be subject to
14 production at any time by the governmental entity pursuant to
15 P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et
16 al.), or otherwise.

17 c. Notwithstanding the provisions of any law, rule, regulation,
18 decision, or order to the contrary, a private entity that submits an
19 unsolicited proposal for an energy-related project that is rejected by
20 a governmental entity and not made the basis of a solicitation for an
21 energy-related project pursuant to P.L. , c. (C.) (pending
22 before the Legislature as this bill), may request the governmental
23 entity to return the entire unsolicited proposal to the private entity,
24 and the governmental entity shall promptly comply with any
25 request. An unsolicited proposal for a governmental entity energy-
26 related project that is rejected by a governmental entity and not
27 made the basis of a solicitation for an energy-related project shall
28 not be subject to disclosure or considered a public or government
29 record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404
30 (C.47:1A-5 et al.), or otherwise, and no disclosure of the unsolicited
31 proposal, or any portion thereof, or records of any communications
32 relating to the unsolicited proposal, shall be made to the public
33 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404
34 (C.47:1A-5 et al.), or otherwise.

35
36 18. (New section) Notwithstanding the provisions of section 2
37 of P.L.1999, c.440 (C.40A:11-4.2), section 46 of P.L.1999, c.440
38 (C.18A:18A-4.2), and P.L.1954, c.48 (C.52:34-6 et seq.), and any
39 other law, regulation, decision, or order to the contrary, a public-
40 private partnership agreement between a governmental entity and a
41 private entity to design, develop, finance, build, own, operate or
42 maintain, or a combination thereof, an energy-related project in
43 accordance with the provisions of P.L. , c. (C.) (pending
44 before the Legislature as this bill), may have a term not to exceed
45 20 years. A public-private partnership agreement between a
46 governmental entity and a private entity to design, develop, finance,
47 build, own, operate or maintain an energy-related project that
48 includes a combined heat and power facility, cogeneration facility,

1 or on-site generation facility, as those terms are defined pursuant to
2 section 3 of P.L.1999, c.23 (C.48:3-51), a district energy system, a
3 microgrid, or a distributed energy resource in accordance with the
4 provisions of P.L. , c. (C.) (pending before the Legislature
5 as this bill) may have a term not to exceed 25 years, which term
6 shall commence after construction of the combined heat and power
7 facility, cogeneration facility, on-site generation facility, district
8 energy system, microgrid, or distributed energy resource has been
9 completed and commercial operation of the facility has commenced.
10 A public-private partnership agreement between a governmental
11 entity and a private entity may authorize the entry of a long term
12 service agreement that may include routine and preventive
13 maintenance and overhaul and rebuild coverage, for coverage
14 periods of not less than 10 years, up to the period coinciding with
15 the useful life of the equipment included within the scope of the
16 service agreement.

17

18 ^{19.} (New section) Notwithstanding the provisions of any law,
19 rule, regulation, decision, or order to the contrary, a distributed electric
20 generation resource that is included as part of a microgrid shall not be
21 required to be located on the property, or on a property contiguous to
22 the property, on which a customer that is interconnected with the
23 microgrid is located, or be otherwise subject to any form of contiguity
24 or proximity-related requirement, provided that all interconnected
25 distributed electric generation resources and customer loads that
26 comprise the microgrid shall be located within the electrical or
27 geographic boundary of the microgrid, and the microgrid shall satisfy
28 the engineering and safety requirements and procedures of the electric
29 public utility to which the microgrid is interconnected. A microgrid
30 shall not be limited with regard to the number or type of customers
31 that may be served by the microgrid, provided that all customers
32 served by the microgrid shall be located within the electrical or
33 geographic boundary of the microgrid and shall include a
34 governmental entity. A net metered solar facility shall be permitted to
35 operate on the same circuit as a combined heat and power,
36 cogeneration, or on-site generation facility and obtain authorized
37 credits for solar energy produced by the net metered solar facility if the
38 output of the net metered solar facility is separately metered, and the
39 total power exported to the power grid by the solar facility does not
40 exceed the total power imported from the power grid to the customer
41 or customers served by the solar facility, as measured on an annualized
42 basis. A private entity or a government entity that seeks to operate a
43 net metered solar facility on the same circuit as a combined heat and
44 power, cogeneration, or on-site generation facility shall satisfy all
45 other regulatory and utility requirements applicable to the facility and
46 necessary applications, including, but not limited to, all PJM
47 Interconnection and electric public utility interconnection policies,
48 practices, and procedures, and electric public utility engineering

1 analyses concerning the capacity of a circuit to accommodate both
2 facilities. A microgrid may utilize privately-owned distribution wires
3 to interconnect a distributed electric generation resource with
4 customers served by the microgrid and that are located within the
5 electric or geographic boundary of the microgrid. A microgrid that
6 attaches to or collocates on electric public utility poles and distribution
7 wires that are part of an electric public utility distribution system shall
8 be developed utilizing only skilled labor that is knowledgeable
9 regarding the electric public utility's distribution system and safety
10 practices, and shall compensate the electric public utility for the use of
11 its facilities.¹

12

13 ¹**[19.] 20.**¹ (New section) The provisions of P.L.2009, c.136
14 (C.52:18-42 et seq.) shall not apply to any energy-related project
15 developed pursuant to P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17

18 ¹**[20.] 21.**¹ (New section) Nothing in P.L. , c. (C.)
19 (pending before the Legislature as this bill) shall ¹be construed to¹
20 limit the powers of the Office of the State Comptroller pursuant to
21 P.L.2007, c.52 (C.52:15C-1 et al.) ¹, or be construed to limit the
22 authority of the board¹.

23

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

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

33 (1) Supplying of:

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

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

36 (c) 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;

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

43 (3) The collection and disposal of municipal solid waste, the
44 collection and disposition of recyclable material, or the disposal of
45 sewage sludge, for any term not exceeding in the aggregate, five
46 years;

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

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

18 (6) Insurance, including the purchase of insurance coverages,
19 insurance consulting or administrative services, claims
20 administration services and including participation in a joint self-
21 insurance fund, risk management program or related services
22 provided by a contracting unit insurance group, or participation in
23 an insurance fund established by a local unit pursuant to
24 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
25 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
26 than three years;

27 (7) Leasing or servicing of (a) automobiles, motor vehicles,
28 machinery, and equipment of every nature and kind, for a period not
29 to exceed five years, or (b) machinery and equipment used in the
30 generation of electricity by a municipal shared services energy
31 authority established pursuant to section 4 of P.L.2015, c.129
32 (C.40A:66-4), or a contracting unit engaged in the generation of
33 electricity, for a period not to exceed 20 years; provided, however, a
34 contract shall be awarded only subject to and in accordance with the
35 rules and regulations promulgated by the Director of the Division of
36 Local Government Services in the Department of Community
37 Affairs;

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

41 (9) Any single project for the construction, reconstruction, or
42 rehabilitation of any public building, structure, or facility, or any
43 public works project, including the retention of the services of any
44 architect or engineer in connection therewith, for the length of time
45 authorized and necessary for the completion of the actual
46 construction;

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

- 1 (11) On-site inspections and plan review services undertaken by
2 private agencies pursuant to the "State Uniform Construction Code
3 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
4 more than three years;
- 5 (12) (Deleted by amendment, P.L.2009, c.4.)**[.]**
- 6 (13) (Deleted by amendment, P.L.1999, c.440.)
- 7 (14) (Deleted by amendment, P.L.1999, c.440.)
- 8 (15) Leasing of motor vehicles, machinery, and other equipment
9 primarily used to fight fires, for a term not to exceed ten years,
10 when the contract includes an option to purchase, subject to and in
11 accordance with rules and regulations promulgated by the Director
12 of the Division of Local Government Services in the Department of
13 Community Affairs;
- 14 (16) The provision of water supply services or the designing,
15 financing, construction, operation, or maintenance, or any
16 combination thereof, of a water supply facility, or any component
17 part or parts thereof, including a water filtration system, for a period
18 not to exceed 40 years, when the contract for these services is
19 approved by the Division of Local Government Services in the
20 Department of Community Affairs, the Board of Public Utilities,
21 and the Department of Environmental Protection pursuant to
22 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
23 required for those contracts otherwise exempted pursuant to
24 subsection (30), (31), (34), (35), or (43) of this section. For the
25 purposes of this subsection, "water supply services" means any
26 service provided by a water supply facility; "water filtration
27 system" means any equipment, plants, structures, machinery,
28 apparatus, or land, or any combination thereof, acquired, used,
29 constructed, rehabilitated, or operated for the collection,
30 impoundment, storage, improvement, filtration, or other treatment
31 of drinking water for the purposes of purifying and enhancing water
32 quality and insuring its potability prior to the distribution of the
33 drinking water to the general public for human consumption,
34 including plants and works, and other personal property and
35 appurtenances necessary for their use or operation; and "water
36 supply facility" means and refers to the real property and the plants,
37 structures, or interconnections between existing water supply
38 facilities, machinery and equipment and other property, real,
39 personal, and mixed, acquired, constructed, or operated, or to be
40 acquired, constructed, or operated, in whole or in part by or on
41 behalf of a political subdivision of the State or any agency thereof,
42 for the purpose of augmenting the natural water resources of the
43 State and making available an increased supply of water for all
44 uses, or of conserving existing water resources, and any and all
45 appurtenances necessary, useful, or convenient for the collecting,
46 impounding, storing, improving, treating, filtering, conserving, or
47 transmitting of water and for the preservation and protection of

1 these resources and facilities and providing for the conservation and
2 development of future water supply resources;

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

25 (18) The sale of electricity or thermal energy, or both, produced
26 by a resource recovery facility for a period not to exceed 40 years
27 when the contract is approved by the Board of Public Utilities, and
28 when the resource recovery facility is in conformance with a district
29 solid waste management plan approved pursuant to P.L.1970, c.39
30 (C.13:1E-1 et seq.). For the purposes of this subsection, "resource
31 recovery facility" means a solid waste facility constructed and
32 operated for the incineration of solid waste for energy production
33 and the recovery of metals and other materials for reuse; or a
34 mechanized composting facility, or any other facility constructed or
35 operated for the collection, separation, recycling, and recovery of
36 metals, glass, paper, and other materials for reuse or for energy
37 production;

38 (19) The provision of wastewater treatment services or the
39 designing, financing, construction, operation, or maintenance, or
40 any combination thereof, of a wastewater treatment system, or any
41 component part or parts thereof, for a period not to exceed 40 years,
42 when the contract for these services is approved by the Division of
43 Local Government Services in the Department of Community
44 Affairs and the Department of Environmental Protection pursuant to
45 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
46 required for those contracts otherwise exempted pursuant to
47 subsection (36) or (43) of this section. For the purposes of this
48 subsection, "wastewater treatment services" means any services

1 provided by a wastewater treatment system, and "wastewater
2 treatment system" means equipment, plants, structures, machinery,
3 apparatus, or land, or any combination thereof, acquired, used,
4 constructed, or operated for the storage, collection, reduction,
5 recycling, reclamation, disposal, separation, or other treatment of
6 wastewater or sewage sludge, or for the final disposal of residues
7 resulting from the treatment of wastewater, including, but not
8 limited to, pumping and ventilating stations, facilities, plants and
9 works, connections, outfall sewers, interceptors, trunk lines, and
10 other personal property and appurtenances necessary for their
11 operation;

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

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

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

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

21 (24) The purchase of electricity or administrative or dispatching
22 services related to the transmission of electricity, from a supplier of
23 electricity subject to the jurisdiction of a federal regulatory agency,
24 from a qualifying small power producing facility or qualifying
25 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
26 supplier of electricity within any regional transmission organization
27 or independent system operator or from an organization or operator
28 or their successors, by a contracting unit engaged in the generation
29 of electricity for retail sale, as of May 24, 1991, for a term not to
30 exceed 40 years, or by a contracting unit engaged solely in the
31 distribution of electricity for retail sale for a term not to exceed ten
32 years, except that a contract with a contracting unit, engaged solely
33 in the distribution of electricity for retail sale, in excess of ten
34 years, shall require the written approval of the Director of the
35 Division of Local Government Services. If the director fails to
36 respond in writing to the contracting unit within 10 business days,
37 the contract shall be deemed approved;

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

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

45 (27) The provision of transportation services to an elderly
46 person, an individual with a disability, or an indigent person for any
47 term of not more than three years. For the purposes of this
48 subsection, "elderly person" means a person who is 60 years of age

1 or older. "Individual with a disability" means a person of any age
2 who, by reason of illness, injury, age, congenital malfunction, or
3 other permanent or temporary incapacity or disability, are unable,
4 without special facilities or special planning or design to utilize
5 mass transportation facilities and services as effectively as persons
6 who are not so affected. "Indigent person " means a person of any
7 age whose income does not exceed 100 percent of the poverty level,
8 adjusted for family size, established and adjusted under section
9 673(2) of subtitle B, the "Community Services Block Grant Act,"
10 Pub.L.97-35 (42 U.S.C. s.9902 (2));

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

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

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

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

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

32 (33) The supplying of any product or the rendering of any
33 service, including consulting services, by a cemetery management
34 company for the maintenance and preservation of a municipal
35 cemetery operating pursuant to the "New Jersey Cemetery Act,"
36 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years;

37 (34) A contract between a public entity and a private firm
38 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
39 water supply services may be entered into for any term which, when
40 all optional extension periods are added, may not exceed 40 years;

41 (35) A contract for the purchase of a supply of water from a
42 public utility company subject to the jurisdiction of the Board of
43 Public Utilities in accordance with tariffs and schedules of charges
44 made, charged or exacted or contracts filed with the Board of Public
45 Utilities, for any term of not more than 40 years;

46 (36) A contract between a public entity and a private firm or
47 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
48 the provision of wastewater treatment services may be entered into

1 for any term of not more than 40 years, including all optional
2 extension periods;

3 (37) The operation and management of a facility under a license
4 issued or permit approved by the Department of Environmental
5 Protection, including a wastewater treatment system or a water
6 supply or distribution facility, as the case may be, for any term of
7 not more than ten years. For the purposes of this subsection,
8 "wastewater treatment system" refers to facilities operated or
9 maintained for the storage, collection, reduction, disposal, or other
10 treatment of wastewater or sewage sludge, remediation of
11 groundwater contamination, stormwater runoff, or the final disposal
12 of residues resulting from the treatment of wastewater; and "water
13 supply or distribution facility" refers to facilities operated or
14 maintained for augmenting the natural water resources of the State,
15 increasing the supply of water, conserving existing water resources,
16 or distributing water to users;

17 (38) Municipal solid waste collection from facilities owned by a
18 contracting unit, for any term of not more than three years;

19 (39) Fuel for heating purposes, for any term of not more than
20 three years;

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

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

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

30 (43) A contract between the governing body of a city of the first
31 class and a duly incorporated nonprofit association for the provision
32 of water supply services as defined in subsection (16) of this
33 section, or wastewater treatment services as defined in subsection
34 (19) of this section, may be entered into for a period not to exceed
35 40 years;

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

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

1 a methodology for computing energy cost savings and energy
2 generation costs;

3 (46) A power supply contract, as defined pursuant to section 3 of
4 P.L.2015, c.129 (C.40A:66-3), between a member municipality as
5 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and
6 the municipal shared services energy authority established pursuant
7 to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the
8 electric power needs of its members, for the lease, operation, or
9 management of electric generation within a member municipality's
10 corporate limits and franchise area or the purchase of electricity, or
11 the purchase of fuel for generating units for a term not to exceed 40
12 years; **【and】**

13 (47) A contract entered into pursuant to paragraph (2) of
14 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
15 a county hospital authority and a manager for the management,
16 operation, and maintenance of a hospital owned by the authority or
17 the county for a term not to exceed 20 years, provided, however,
18 that a contract entered into pursuant to paragraph (2) of subsection
19 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
20 two additional periods, not to exceed five years each **【.】**; and

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

30 Any contract for services other than professional services, the
31 statutory length of which contract is for three years or less, may
32 include provisions for no more than one two-year, or two one-year,
33 extensions, subject to the following limitations: a. The contract
34 shall be awarded by resolution of the governing body upon a
35 finding by the governing body that the services are being performed
36 in an effective and efficient manner; b. No contract shall be
37 extended so that it runs for more than a total of five consecutive
38 years; c. Any price change included as part of an extension shall be
39 based upon the price of the original contract as cumulatively
40 adjusted pursuant to any previous adjustment or extension and shall
41 not exceed the change in the index rate for the 12 months preceding
42 the most recent quarterly calculation available at the time the
43 contract is renewed; and d. The terms and conditions of the contract
44 remain substantially the same.

45 All multiyear leases and contracts entered into pursuant to this
46 section, including any two-year or one-year extensions, except
47 contracts involving the supplying of electricity for the purpose of
48 lighting public streets and contracts for thermal energy authorized

1 pursuant to subsection (1) above, construction contracts authorized
2 pursuant to subsection (9) above, contracts for the provision or
3 performance of goods or services or the supplying of equipment to
4 promote energy conservation through the production of class I
5 renewable energy or class II renewable energy authorized pursuant
6 to subsection (45) above, contracts for water supply services or for
7 a water supply facility, or any component part or parts thereof
8 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
9 or (43) above, contracts for resource recovery services or a resource
10 recovery facility authorized pursuant to subsection (17) above,
11 contracts for the sale of energy produced by a resource recovery
12 facility authorized pursuant to subsection (18) above, contracts for
13 wastewater treatment services or for a wastewater treatment system
14 or any component part or parts thereof authorized pursuant to
15 subsection (19), (36), (37), or (43) above, and contracts for the
16 purchase of electricity or administrative or dispatching services
17 related to the transmission of electricity authorized pursuant to
18 subsection (24) above, contracts for the purchase of electricity
19 generated from a power production facility that is fueled by
20 methane gas authorized pursuant to subsection (44) above, and
21 power supply contracts authorized pursuant to subsection (46)
22 respectively, shall contain a clause making them subject to the
23 availability and appropriation annually of sufficient funds as may
24 be required to meet the extended obligation, or contain an annual
25 cancellation clause.

26 The Division of Local Government Services in the Department
27 of Community Affairs shall adopt and promulgate rules and
28 regulations concerning the methods of accounting for all contracts
29 that do not coincide with the fiscal year.

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

38 (cf: P.L.2016, c.55, s.10) **1**

39

40 ¹22. (New section) a. Subject to the provisions of section 19 of
41 P.L. , c. (C.) (pending before the Legislature as this bill),
42 nothing in P.L. , c. (C.) (pending before the Legislature as this
43 bill) shall be construed to permit a private entity or a governmental
44 entity to engage in the provision of public utility distribution or
45 transmission service, or to attach or collocate on, without the explicit,
46 written approval of the public utility, a public utility facility, including,
47 but not limited to, a public utility distribution and transmission system,
48 and other support facilities that are owned or controlled by a public

1 utility. A private entity or government entity may petition the board for
 2 resolution of a dispute arising from a public utility's denial of the
 3 request of the private entity or government entity for interconnection
 4 or to utilize facilities owned or controlled by the public utility.

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

11
 12 ¹23. (New section) The authority shall, within three years after
 13 the effective date of P.L. , c. (C.) (pending before the
 14 Legislature as this bill), and annually thereafter, prepare a report to the
 15 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
 16 to the Legislature regarding the number, nature, structure, and scope of
 17 energy-related public private partnership agreements developed
 18 pursuant to P.L. , c. (C.) (pending before the Legislature as this
 19 bill), including: (1) a description of the improvements made to the
 20 energy infrastructure of participating governmental entities; (2)
 21 environmental impacts; (3) job creation and other economic and
 22 societal benefits; (4) costs incurred; and (5) where applicable,
 23 reductions in energy usage and demand and enhancements to the
 24 resiliency and reliability of the State's energy infrastructure. The
 25 report shall also address any implementation issues, including
 26 authority staffing and resource requirements, and set forth
 27 recommendations regarding how the processes and methods adopted to
 28 foster the development of energy-related public private partnership
 29 agreements under P.L. , c. (C.) (pending before the
 30 Legislature as this bill) may be improved, expanded, or made more
 31 efficient.¹

32
 33 ¹24. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to
 34 read as follows:

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

42 (1) Supplying of:

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

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

45 (c) Thermal energy produced by a cogeneration facility, for use for
 46 heating or air conditioning or both, for any term not exceeding 40
 47 years, when the contract is approved by the Board of Public Utilities.
 48 For the purposes of this paragraph, "cogeneration" means the

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

1 architect or engineer in connection therewith, for the length of time
2 authorized and necessary for the completion of the actual construction;

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

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

9 (12) (Deleted by amendment, P.L.2009, c.4.)**[.]**

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

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

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

18 (16) The provision of water supply services or the designing,
19 financing, construction, operation, or maintenance, or any combination
20 thereof, of a water supply facility, or any component part or parts
21 thereof, including a water filtration system, for a period not to exceed
22 40 years, when the contract for these services is approved by the
23 Division of Local Government Services in the Department of
24 Community Affairs, the Board of Public Utilities, and the Department
25 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et
26 al.), except that no approvals shall be required for those contracts
27 otherwise exempted pursuant to subsection (30), (31), (34), (35) or
28 (43) of this section. For the purposes of this subsection, "water supply
29 services" means any service provided by a water supply facility;
30 "water filtration system" means any equipment, plants, structures,
31 machinery, apparatus, or land, or any combination thereof, acquired,
32 used, constructed, rehabilitated, or operated for the collection,
33 impoundment, storage, improvement, filtration, or other treatment of
34 drinking water for the purposes of purifying and enhancing water
35 quality and insuring its potability prior to the distribution of the
36 drinking water to the general public for human consumption, including
37 plants and works, and other personal property and appurtenances
38 necessary for their use or operation; and "water supply facility" means
39 and refers to the real property and the plants, structures, or
40 interconnections between existing water supply facilities, machinery
41 and equipment and other property, real, personal, and mixed, acquired,
42 constructed, or operated, or to be acquired, constructed, or operated, in
43 whole or in part by or on behalf of a political subdivision of the State
44 or any agency thereof, for the purpose of augmenting the natural water
45 resources of the State and making available an increased supply of
46 water for all uses, or of conserving existing water resources, and any
47 and all appurtenances necessary, useful, or convenient for the
48 collecting, impounding, storing, improving, treating, filtering,

1 conserving, or transmitting of water and for the preservation and
2 protection of these resources and facilities and providing for the
3 conservation and development of future water supply resources;

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

26 (18) The sale of electricity or thermal energy, or both, produced by
27 a resource recovery facility for a period not to exceed 40 years when
28 the contract is approved by the Board of Public Utilities, and when the
29 resource recovery facility is in conformance with a district solid waste
30 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et
31 seq.). For the purposes of this subsection, "resource recovery facility"
32 means a solid waste facility constructed and operated for the
33 incineration of solid waste for energy production and the recovery of
34 metals and other materials for reuse; or a mechanized composting
35 facility, or any other facility constructed or operated for the collection,
36 separation, recycling, and recovery of metals, glass, paper, and other
37 materials for reuse or for energy production;

38 (19) The provision of wastewater treatment services or the
39 designing, financing, construction, operation, or maintenance, or any
40 combination thereof, of a wastewater treatment system, or any
41 component part or parts thereof, for a period not to exceed 40 years,
42 when the contract for these services is approved by the Division of
43 Local Government Services in the Department of Community Affairs
44 and the Department of Environmental Protection pursuant to P.L.1985,
45 c.72 (C.58:27-1 et al.), except that no approvals shall be required for
46 those contracts otherwise exempted pursuant to subsection (36) or (43)
47 of this section. For the purposes of this subsection, "wastewater
48 treatment services" means any services provided by a wastewater

1 treatment system, and "wastewater treatment system" means
2 equipment, plants, structures, machinery, apparatus, or land, or any
3 combination thereof, acquired, used, constructed, or operated for the
4 storage, collection, reduction, recycling, reclamation, disposal,
5 separation, or other treatment of wastewater or sewage sludge, or for
6 the final disposal of residues resulting from the treatment of
7 wastewater, including, but not limited to, pumping and ventilating
8 stations, facilities, plants and works, connections, outfall sewers,
9 interceptors, trunk lines, and other personal property and
10 appurtenances necessary for their operation;

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

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

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

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

20 (24) The purchase of electricity or administrative or dispatching
21 services related to the transmission of electricity, from a supplier of
22 electricity subject to the jurisdiction of a federal regulatory agency,
23 from a qualifying small power producing facility or qualifying
24 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
25 supplier of electricity within any regional transmission organization or
26 independent system operator or from an organization or operator or
27 their successors, by a contracting unit engaged in the generation of
28 electricity for retail sale, as of May 24, 1991, for a term not to exceed
29 40 years, or by a contracting unit engaged solely in the distribution of
30 electricity for retail sale for a term not to exceed ten years, except that
31 a contract with a contracting unit, engaged solely in the distribution of
32 electricity for retail sale, in excess of ten years, shall require the
33 written approval of the Director of the Division of Local Government
34 Services. If the director fails to respond in writing to the contracting
35 unit within 10 business days, the contract shall be deemed approved;

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

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

43 (27) The provision of transportation services to an elderly person,
44 an individual with a disability, or an indigent person for any term of
45 not more than three years. For the purposes of this subsection, "elderly
46 person" means a person who is 60 years of age or older. "Individual
47 with a disability" means a person of any age who, by reason of illness,
48 injury, age, congenital malfunction, or other permanent or temporary

1 incapacity or disability, are unable, without special facilities or special
2 planning or design to utilize mass transportation facilities and services
3 as effectively as persons who are not so affected. "Indigent person "
4 means a person of any age whose income does not exceed 100 percent
5 of the poverty level, adjusted for family size, established and adjusted
6 under section 673(2) of subtitle B, the "Community Services Block
7 Grant Act," Pub.L.97-35 (42 U.S.C. s.9902 (2));

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

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

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

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

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

28 (33) The supplying of any product or the rendering of any service,
29 including consulting services, by a cemetery management company for
30 the maintenance and preservation of a municipal cemetery operating
31 pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for a
32 term not exceeding 15 years;

33 (34) A contract between a public entity and a private firm pursuant
34 to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply
35 services may be entered into for any term which, when all optional
36 extension periods are added, may not exceed 40 years;

37 (35) A contract for the purchase of a supply of water from a public
38 utility company subject to the jurisdiction of the Board of Public
39 Utilities in accordance with tariffs and schedules of charges made,
40 charged or exacted or contracts filed with the Board of Public Utilities,
41 for any term of not more than 40 years;

42 (36) A contract between a public entity and a private firm or public
43 authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the
44 provision of wastewater treatment services may be entered into for any
45 term of not more than 40 years, including all optional extension
46 periods;

47 (37) The operation and management of a facility under a license
48 issued or permit approved by the Department of Environmental

1 Protection, including a wastewater treatment system, a stormwater
2 management system, or a water supply or distribution facility, as the
3 case may be, for any term of not more than ten years. For the purposes
4 of this subsection, "wastewater treatment system" refers to facilities
5 operated or maintained for the storage, collection, reduction, disposal,
6 or other treatment of wastewater or sewage sludge, remediation of
7 groundwater contamination, stormwater runoff, or the final disposal of
8 residues resulting from the treatment of wastewater; "stormwater
9 management system" means the same as that term is defined in section
10 3 of P.L.2019, c.42 (C.40A:26B-3); and "water supply or distribution
11 facility" refers to facilities operated or maintained for augmenting the
12 natural water resources of the State, increasing the supply of water,
13 conserving existing water resources, or distributing water to users;

14 (38) Municipal solid waste collection from facilities owned by a
15 contracting unit, for any term of not more than three years;

16 (39) Fuel for heating purposes, for any term of not more than three
17 years;

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

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

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

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

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

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

47 (46) A power supply contract, as defined pursuant to section 3 of
48 P.L.2015, c.129 (C.40A:66-3), between a member municipality as

1 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and the
2 municipal shared services energy authority established pursuant to the
3 provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the electric
4 power needs of its members, for the lease, operation, or management
5 of electric generation within a member municipality's corporate limits
6 and franchise area or the purchase of electricity, or the purchase of fuel
7 for generating units for a term not to exceed 40 years; **[and]**

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

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

25 Any contract for services other than professional services, the
26 statutory length of which contract is for three years or less, may
27 include provisions for no more than one two-year, or two one-year,
28 extensions, subject to the following limitations: a. The contract shall
29 be awarded by resolution of the governing body upon a finding by the
30 governing body that the services are being performed in an effective
31 and efficient manner; b. No contract shall be extended so that it runs
32 for more than a total of five consecutive years; c. Any price change
33 included as part of an extension shall be based upon the price of the
34 original contract as cumulatively adjusted pursuant to any previous
35 adjustment or extension and shall not exceed the change in the index
36 rate for the 12 months preceding the most recent quarterly calculation
37 available at the time the contract is renewed; and d. The terms and
38 conditions of the contract remain substantially the same.

39 All multiyear leases and contracts entered into pursuant to this
40 section, including any two-year or one-year extensions, except
41 contracts involving the supplying of electricity for the purpose of
42 lighting public streets and contracts for thermal energy authorized
43 pursuant to subsection (1) above, construction contracts authorized
44 pursuant to subsection (9) above, contracts for the provision or
45 performance of goods or services or the supplying of equipment to
46 promote energy conservation through the production of class I
47 renewable energy or class II renewable energy authorized pursuant to
48 subsection (45) above, contracts for water supply services or for a

1 water supply facility, or any component part or parts thereof
2 authorized pursuant to subsection (16), (30), (31), (34), (35), (37), or
3 (43) above, contracts for resource recovery services or a resource
4 recovery facility authorized pursuant to subsection (17) above,
5 contracts for the sale of energy produced by a resource recovery
6 facility authorized pursuant to subsection (18) above, contracts for
7 wastewater treatment services or for a wastewater treatment system or
8 any component part or parts thereof authorized pursuant to subsection
9 (19), (36), (37), or (43) above, contracts for the operation and
10 maintenance of a stormwater management system authorized pursuant
11 to subsection (37) above, and contracts for the purchase of electricity
12 or administrative or dispatching services related to the transmission of
13 electricity authorized pursuant to subsection (24) above, contracts for
14 the purchase of electricity generated from a power production facility
15 that is fueled by methane gas authorized pursuant to subsection (44)
16 above, and power supply contracts authorized pursuant to subsection
17 (46) respectively, shall contain a clause making them subject to the
18 availability and appropriation annually of sufficient funds as may be
19 required to meet the extended obligation, or contain an annual
20 cancellation clause.

21 The Division of Local Government Services in the Department of
22 Community Affairs shall adopt and promulgate rules and regulations
23 concerning the methods of accounting for all contracts that do not
24 coincide with the fiscal year.

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

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

34

35 ¹**[22.]** 25.¹ N.J.S.18A:18A-42 is amended to read as follows:

36 18A:18A-42. All contracts for the provision or performance of
37 goods or services shall be awarded for a period not to exceed 24
38 consecutive months, except that contracts for professional services
39 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
40 be awarded for a period not to exceed 12 consecutive months. Any
41 board of education may award a contract for longer periods of time
42 as follows:

43 a. Supplying of:

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

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

- 1 (3) Thermal energy produced by a cogeneration facility, for use
2 for heating or air conditioning or both, for any term not exceeding
3 40 years, when the contract is approved by the Board of Public
4 Utilities. For the purposes of this paragraph, "cogeneration" means
5 the simultaneous production in one facility of electric power and
6 other forms of useful energy such as heating or process steam; or
- 7 b. Plowing and removal of snow and ice, for any term not
8 exceeding in the aggregate, three years; or
- 9 c. Collection and disposal of garbage and refuse, for any term
10 not exceeding in the aggregate, three years; or
- 11 d. Data processing service, for any term of not more than seven
12 years; or
- 13 e. Insurance, including the purchase of insurance coverages,
14 insurance consultant or administrative services, and including
15 participation in a joint self-insurance fund, risk management
16 program or related services provided by a school board insurance
17 group, or participation in an insurance fund established by a county
18 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
19 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
20 not more than three years; or
- 21 f. Leasing or servicing of automobiles, motor vehicles,
22 electronic communications equipment, machinery and equipment of
23 every nature and kind and textbooks and non-consumable
24 instructional materials, for any term not exceeding in the aggregate,
25 five years; except that contracts for the leasing of school buses may
26 be awarded for any term not exceeding in the aggregate ten years.
27 Contracts awarded pursuant to this subsection shall be awarded only
28 subject to and in accordance with rules and regulations promulgated
29 by the State Board of Education; or
- 30 g. Supplying of any product or the rendering of any service by
31 a company providing voice, data, transmission or switching
32 services, for a term not exceeding five years; or
- 33 h. (Deleted by amendment, P.L.1999, c.440.)
- 34 i. Driver education instruction conducted by private, licensed
35 driver education schools, for any term not exceeding in the
36 aggregate, three years; or
- 37 j. (Deleted by amendment, P.L.2009, c.4.)**[.]**
- 38 k. Any single project for the construction, reconstruction or
39 rehabilitation of any public building, structure or facility, or any
40 public works project, including the retention of the services of any
41 architect or engineer in connection therewith, for the length of time
42 authorized and necessary for the completion of the actual
43 construction; or
- 44 l. Laundry service and the rental, supply and cleaning of
45 uniforms for any term of not more than three years; or
- 46 m. Food supplies and food services for any term of not more
47 than three years; or

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

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

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

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

40 All multiyear leases and contracts entered into pursuant to this
41 section, including any two-year or one-year extensions, except
42 contracts for insurance coverages, insurance consultant or
43 administrative services, participation or membership in a joint self-
44 insurance fund, risk management programs or related services of a
45 school board insurance group, participation in an insurance fund
46 established by a county pursuant to N.J.S.40A:10-6 or contracts for
47 thermal energy authorized pursuant to subsection a. above, and
48 contracts for the provision or performance of goods or services to

1 promote energy conservation through the production of class I
2 renewable energy, authorized pursuant to subsection o. of this
3 section, shall contain a clause making them subject to the
4 availability and appropriation annually of sufficient funds as may
5 be required to meet the extended obligation, or contain an annual
6 cancellation clause. All contracts shall cease to have effect at the
7 end of the contracted period and shall not be extended by any
8 mechanism or provision, unless in conformance with the "Public
9 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
10 contract may be extended by mutual agreement of the parties to the
11 contract when a board of education has commenced rebidding prior
12 to the time the contract expires or when the awarding of a contract
13 is pending at the time the contract expires.

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

15

16 ¹**[23.]** 26.¹ This act shall take effect immediately.