

[Second Reprint]

SENATE, No. 2958

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2018

Sponsored by:

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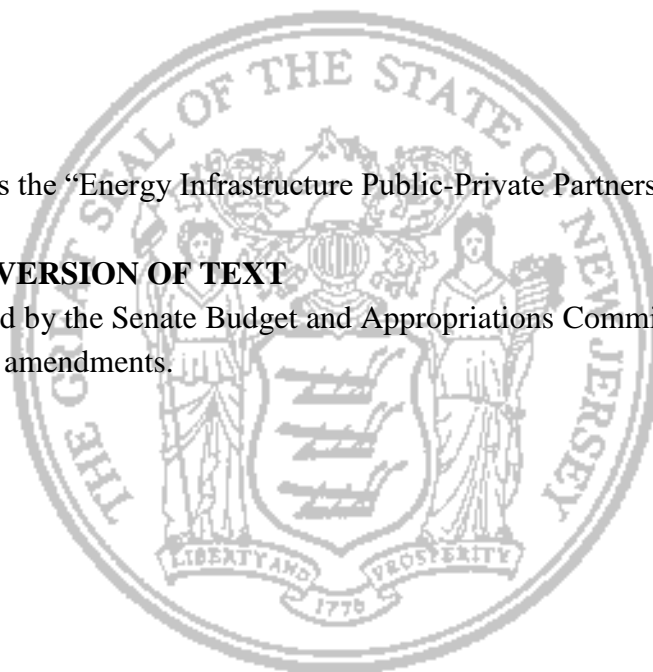
Assemblywomen Lampitt, Pinkin, Jasey and Assemblyman Calabrese

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on January 9, 2020, with amendments.



(Sponsorship Updated As Of: 1/14/2020)

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.

²Senate SBA committee amendments adopted January 9, 2020.

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

5 b. The Legislature therefore determines that:

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

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

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

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

41

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

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

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

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

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

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

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

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

22 distributed electric generation resources including, but not
 23 limited to, cogeneration, combined heat and power and on-site
 24 generation facilities, ²and² district energy systems ²**[, and**
 25 **microgrids]**²;

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

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

34 “Energy-related project” shall not include a self-funded energy
 35 efficiency project that is an energy savings improvement program
 36 undertaken pursuant to the provisions of P.L.2009, c.4 (C.18A:18A-
 37 4.6 et al.) and P.L.2012, c.55 (C.52:34-25.1 et al.).

38 “Governmental entity” means the State, its subdivisions, and
 39 ¹**[the departments, agencies, commissions, authorities, boards, and**
 40 **instrumentalities]** any department, agency, commission, authority,
 41 board, or instrumentality¹ thereof, a county, a municipality, a board
 42 of education, a State college or university, a county ¹**[community]**¹
 43 college, a regional or municipal ¹**[utility or utility]** utilities¹
 44 authority, ¹a quasi-State agency, a State-created corporation,¹
 45 ²**[and]**² a municipal corporation², and a private, not-for-profit
 46 hospital licensed by the Department of Health pursuant to the

1 “Health Care Facilities Planning Act,” P.L.1971, c.136 (C.26:2H-1
2 et al.)². “Governmental entity” may include a combination of
3 governmental entities as defined herein, but shall not mean a
4 municipal electric utility established pursuant to R.S.40:62-12.

5 ²“Microgrid” means ¹“a group” an independent system¹ of
6 interconnected customer loads and distributed ¹“energy” electric
7 generation¹ resources including, but not limited to, combined heat
8 and power, cogeneration ¹“,” and¹ on-site generation ¹“facilities”,
9 district energy ¹“system” systems¹, “Class I renewable energy and
10 Class II”¹ renewable energy ¹“generation”¹, dispatchable generation,
11 and energy storage facilities, located within a clearly defined
12 electrical or geographic boundary, that acts as a single controllable
13 entity and ¹“is” may be¹ capable of disconnection from the utility
14 grid to enable the microgrid to operate in both utility grid-connected
15 and ¹“islanded” non-grid connected¹ modes. ¹“Notwithstanding the
16 provisions of any other law, rule, regulation, decision, or order to
17 the contrary, a distributed energy resource that is included as part of
18 a microgrid shall not be required to be located on the property, or
19 on a property contiguous to the property on which a customer that is
20 interconnected with the microgrid is located, or be otherwise
21 subject to any form of contiguity or proximity-related requirement,
22 other than the requirement that all interconnected distributed energy
23 resources and customer loads that comprise the microgrid be
24 located within the electrical or geographic boundary of the
25 microgrid. Nor shall a microgrid be limited with regard to the
26 number or type of customers that may be served by the microgrid,
27 subject to the limitation that all customers served by the microgrid
28 must be located within the electrical or geographic boundary of the
29 microgrid. A microgrid may utilize privately-owned distribution
30 wires to interconnect the distributed energy resources with
31 customers served by the microgrid and that are located within the
32 electric or geographic boundary of the microgrid.”¹ A microgrid
33 shall be considered an “on-site generation facility” for the purposes
34 of sections 3 and 28 of P.L.1999, c.23, (C.48:3-51 and C.48:3-77.)
35 A microgrid shall not be considered a public utility as defined in
36 R.S.48:2-13.²

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

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

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

35
36 5. (New section) a. An energy-related project may be
37 proposed either by a governmental entity or by a private entity.
38 ²[A] Notwithstanding the provisions of any law, rule, regulation,
39 decision, or order to the contrary, a² public-private partnership
40 agreement may provide that, as part of the agreement, an energy-
41 related project may be proposed and selected individually or as part
42 of the design, construction, reconstruction, alteration, improvement,
43 development or redevelopment of one or more buildings, structures,
44 or facilities owned, or to be owned, by a governmental entity. The
45 public-private partnership agreement may provide for the inclusion
46 of buildings, structures or facilities owned, or to be owned, by one
47 or more non-governmental entities. An energy-related project shall
48 be designed to enable a governmental entity to more reliably,

1 efficiently, and cost-effectively generate, distribute, conserve, store,
2 consume, and acquire energy; improve the reliability and resiliency
3 of its energy infrastructure; reduce greenhouse gas emissions;
4 diversify its sources of energy supply; create jobs; and foster
5 economic development.

6 b. If an unsolicited energy-related project is proposed by a
7 private entity to a governmental entity, the governmental entity to
8 which the energy-related project proposal is made shall determine
9 whether to accept, reject, or modify the proposal. If the energy-
10 related project proposal is accepted in its entirety, or with
11 modifications, by the governmental entity, and the governmental
12 entity elects to implement the energy-related project, the
13 governmental entity shall initiate and adhere to the competitive
14 solicitation procedure established pursuant to sections 8 and 9 of
15 P.L. , c. (C.) (pending before the Legislature as this bill). If
16 the unsolicited proposal is rejected by the governmental entity, the
17 governmental entity shall promptly return the unsolicited proposal,
18 and all copies thereof, to the private entity and shall treat the
19 unsolicited proposal, and all records of communications and
20 negotiations related to the proposal, as confidential and exempt
21 from public disclosure in accordance with the provisions of section
22 17 of P.L. , c. (C.) (pending before the Legislature as this
23 bill).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 classification shall be forwarded to the private entity by registered mail
2 within five business days after the classification is made. Each
3 classification shall be subject to expiration and renewal upon terms as
4 shall be established by the Energy P3 Unit in accordance with this
5 section.

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

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

23

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

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

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

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

- 45 (1) the general reputation, industry experience, technical
46 capability, and expertise of the private entity;
- 47 (2) the cost of the proposed energy-related project;

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

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

7
8 10. (New section) Prior to, or in connection with, the
9 negotiation and execution of a public-private partnership
10 agreement, a governmental entity may negotiate and execute a
11 preliminary agreement with the private entity selected for the
12 energy-related project. The preliminary agreement may:

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

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

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

22 d. establish other terms and conditions that the governmental
23 entity and private entity deem necessary and appropriate to foster
24 the development of the energy-related project.

25
26 11. (New section) a. A governmental entity and a private entity
27 shall cooperate to leverage, to the greatest extent possible, available
28 private sector financial resources and expertise and to enhance the
29 ability of the energy-related project to obtain and maximize federal,
30 State, local or other funds, including the “Global Warming
31 Solutions Fund,” grants or incentives, tax advantages, or financial
32 and other benefits to finance, secure, guarantee, service or reduce
33 project debt, or to minimize, repay, or accelerate the repayment of
34 project costs, or provide other financial or other advantages.
35 Notwithstanding the provisions of any law, rule, regulation,
36 decision, or order to the contrary, funding available to an energy-
37 related project from the “Global Warming Solutions Fund” shall be
38 available to a “private entity,” as defined pursuant to section 3 of
39 P.L. , c. (C.) (pending before the Legislature as this bill),
40 and shall be² incremental to funding available to an energy-related
41 project from all other sources including, but not limited to, the New
42 Jersey Clean Energy Program administered by the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

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

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

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

1 18. (New section) Notwithstanding the provisions of section 2
2 of P.L.1999, c.440 (C.40A:11-4.2), section 46 of P.L.1999, c.440
3 (C.18A:18A-4.2), and P.L.1954, c.48 (C.52:34-6 et seq.), and any
4 other law, regulation, decision, or order to the contrary, a public-
5 private partnership agreement between a governmental entity and a
6 private entity to design, develop, finance, build, own, operate ²,²
7 maintain, or a combination thereof, an energy-related project in
8 accordance with the provisions of P.L. , c. (C.) (pending
9 before the Legislature as this bill), may have a term not to exceed
10 20 years. A public-private partnership agreement between a
11 governmental entity and a private entity to design, develop, finance,
12 build, own, operate or maintain an energy-related project that
13 includes a combined heat and power facility, cogeneration facility,
14 or on-site generation facility, as those terms are defined pursuant to
15 section 3 of P.L.1999, c.23 (C.48:3-51), a district energy system ²[,
16 a microgrid]² , or a distributed ²[energy] electric generation²
17 resource in accordance with the provisions of P.L. , c. (C.)
18 (pending before the Legislature as this bill) may have a term not to
19 exceed 25 years, which term shall commence after construction of
20 the combined heat and power facility, cogeneration facility, on-site
21 generation facility, district energy system, ²[microgrid,]² or
22 distributed ²[energy] electric generation² resource has been
23 completed and commercial operation of the facility has commenced.
24 A public-private partnership agreement between a governmental
25 entity and a private entity may authorize the entry of a long term
26 service agreement that may include routine and preventive
27 maintenance and overhaul and rebuild coverage, for coverage
28 periods of not less than 10 years, up to the period coinciding with
29 the useful life of the equipment included within the scope of the
30 service agreement.

31

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

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

27

28 ¹~~[19.]~~ ²~~[20.1]~~ 19.2 (New section) The provisions of P.L.2009,
 29 c.136 (C.52:18-42 et seq.) shall not apply to any energy-related
 30 project developed pursuant to P.L. , c. (C.) (pending before
 31 the Legislature as this bill).

32

33 ¹~~[20.]~~ ²~~[21.1]~~ 20.2 (New section) Nothing in P.L. ,
 34 c. (C.) (pending before the Legislature as this bill) shall ¹be
 35 construed to¹ limit the powers of the Office of the State Comptroller
 36 pursuant to P.L.2007, c.52 (C.52:15C-1 et al.) ¹, or be construed to
 37 limit the authority of the board¹.

38

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

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

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

1 rules and regulations promulgated by the Director of the Division of
2 Local Government Services in the Department of Community
3 Affairs;

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

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

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

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

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

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

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

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

28 (16) The provision of water supply services or the designing,
29 financing, construction, operation, or maintenance, or any
30 combination thereof, of a water supply facility, or any component
31 part or parts thereof, including a water filtration system, for a period
32 not to exceed 40 years, when the contract for these services is
33 approved by the Division of Local Government Services in the
34 Department of Community Affairs, the Board of Public Utilities,
35 and the Department of Environmental Protection pursuant to
36 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
37 required for those contracts otherwise exempted pursuant to
38 subsection (30), (31), (34), (35)₂ or (43) of this section. For the
39 purposes of this subsection, "water supply services" means any
40 service provided by a water supply facility; "water filtration
41 system" means any equipment, plants, structures, machinery,
42 apparatus, or land, or any combination thereof, acquired, used,
43 constructed, rehabilitated, or operated for the collection,
44 impoundment, storage, improvement, filtration, or other treatment
45 of drinking water for the purposes of purifying and enhancing water
46 quality and insuring its potability prior to the distribution of the
47 drinking water to the general public for human consumption,
48 including plants and works, and other personal property and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (cf: P.L.2016, c.55, s.10)】¹

6
 7 ²【¹22.】 21.² (New section) ²【a.】² Subject to the provisions
 8 ²【of section 19】² of P.L. , c. (C.) (pending before the
 9 Legislature as this bill), nothing in P.L. , c. (C.) (pending
 10 before the Legislature as this bill) shall be construed to permit a
 11 private entity or a governmental entity to engage in the provision of
 12 public utility distribution or transmission service, or to attach or
 13 collocate on, without the explicit, written approval of the public
 14 utility, a public utility facility, including, but not limited to, a public
 15 utility distribution and transmission system, and other support
 16 facilities that are owned or controlled by a public utility. A private
 17 entity or government entity may petition the board for resolution of
 18 a dispute arising from a public utility's denial of the request of the
 19 private entity or government entity for interconnection or to utilize
 20 facilities owned or controlled by the public utility.

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

27
 28 ²【¹23.】 22.² (New section) The authority shall, within three years
 29 after the effective date of P.L. , c. (C.) (pending before the
 30 Legislature as this bill), and annually thereafter, prepare a report to the
 31 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
 32 to the Legislature regarding the number, nature, structure, and scope of
 33 energy-related public private partnership agreements developed
 34 pursuant to P.L. , c. (C.) (pending before the Legislature as this
 35 bill), including: (1) a description of the improvements made to the
 36 energy infrastructure of participating governmental entities; (2)
 37 environmental impacts; (3) job creation and other economic and
 38 societal benefits; (4) costs incurred; and (5) where applicable,
 39 reductions in energy usage and demand and enhancements to the
 40 resiliency and reliability of the State's energy infrastructure. The
 41 report shall also address any implementation issues, including
 42 authority staffing and resource requirements, and set forth
 43 recommendations regarding how the processes and methods adopted to
 44 foster the development of energy-related public private partnership
 45 agreements under P.L. , c. (C.) (pending before the
 46 Legislature as this bill) may be improved, expanded, or made more
 47 efficient.¹

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

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

10 (1) Supplying of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 incineration of solid waste for energy production and the recovery of
2 metals and other materials for reuse; or a mechanized composting
3 facility, or any other facility constructed or operated for the collection,
4 separation, recycling, and recovery of metals, glass, paper, and other
5 materials for reuse or for energy production;

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

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

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

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

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

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

1 written approval of the Director of the Division of Local Government
2 Services. If the director fails to respond in writing to the contracting
3 unit within 10 business days, the contract shall be deemed approved;

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

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

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

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

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

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

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

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

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

- 1 (34) A contract between a public entity and a private firm pursuant
2 to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of water supply
3 services may be entered into for any term which, when all optional
4 extension periods are added, may not exceed 40 years;
- 5 (35) A contract for the purchase of a supply of water from a public
6 utility company subject to the jurisdiction of the Board of Public
7 Utilities in accordance with tariffs and schedules of charges made,
8 charged or exacted or contracts filed with the Board of Public Utilities,
9 for any term of not more than 40 years;
- 10 (36) A contract between a public entity and a private firm or public
11 authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the
12 provision of wastewater treatment services may be entered into for any
13 term of not more than 40 years, including all optional extension
14 periods;
- 15 (37) The operation and management of a facility under a license
16 issued or permit approved by the Department of Environmental
17 Protection, including a wastewater treatment system, a stormwater
18 management system, or a water supply or distribution facility, as the
19 case may be, for any term of not more than ten years. For the purposes
20 of this subsection, "wastewater treatment system" refers to facilities
21 operated or maintained for the storage, collection, reduction, disposal,
22 or other treatment of wastewater or sewage sludge, remediation of
23 groundwater contamination, stormwater runoff, or the final disposal of
24 residues resulting from the treatment of wastewater; "stormwater
25 management system" means the same as that term is defined in section
26 3 of P.L.2019, c.42 (C.40A:26B-3); and "water supply or distribution
27 facility" refers to facilities operated or maintained for augmenting the
28 natural water resources of the State, increasing the supply of water,
29 conserving existing water resources, or distributing water to users;
- 30 (38) Municipal solid waste collection from facilities owned by a
31 contracting unit, for any term of not more than three years;
- 32 (39) Fuel for heating purposes, for any term of not more than three
33 years;
- 34 (40) Fuel or oil for use in motor vehicles for any term of not more
35 than three years;
- 36 (41) Plowing and removal of snow and ice for any term of not
37 more than three years;
- 38 (42) Purchases made under a contract awarded by the Director of
39 the Division of Purchase and Property in the Department of the
40 Treasury for use by counties, municipalities, or other contracting units
41 pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not
42 to exceed the term of that contract;
- 43 (43) A contract between the governing body of a city of the first
44 class and a duly incorporated nonprofit association for the provision of
45 water supply services as defined in subsection (16) of this section, or
46 wastewater treatment services as defined in subsection (19) of this
47 section, may be entered into for a period not to exceed 40 years;

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

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

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

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

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

42 Any contract for services other than professional services, the
43 statutory length of which contract is for three years or less, may
44 include provisions for no more than one two-year, or two one-year,
45 extensions, subject to the following limitations: a. The contract shall
46 be awarded by resolution of the governing body upon a finding by the
47 governing body that the services are being performed in an effective
48 and efficient manner; b. No contract shall be extended so that it runs

1 for more than a total of five consecutive years; c. Any price change
2 included as part of an extension shall be based upon the price of the
3 original contract as cumulatively adjusted pursuant to any previous
4 adjustment or extension and shall not exceed the change in the index
5 rate for the 12 months preceding the most recent quarterly calculation
6 available at the time the contract is renewed; and d. The terms and
7 conditions of the contract remain substantially the same.

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

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

42 All contracts shall cease to have effect at the end of the contracted
43 period and shall not be extended by any mechanism or provision,
44 unless in conformance with the "Local Public Contracts Law,"
45 P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract may be
46 extended by mutual agreement of the parties to the contract when a
47 contracting unit has commenced rebidding prior to the time the

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

3 (cf: P.L.2019, c.42, s.22)]²

4

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

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

14 (1) Supplying of:

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

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

17 (c) Thermal energy produced by a cogeneration facility, for use
18 for heating or air conditioning or both, for any term not exceeding
19 40 years, when the contract is approved by the Board of Public
20 Utilities

21 For the purposes of this paragraph, "cogeneration" means the
22 simultaneous production in one facility of electric power and other
23 forms of useful energy such as heating or process steam;

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

25 (3) The collection and disposal of municipal solid waste, the
26 collection and disposition of recyclable material, or the disposal of
27 sewage sludge, for any term not exceeding in the aggregate, five
28 years;

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

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

46 (6) Insurance, including the purchase of insurance coverages,
47 insurance consulting or administrative services, claims
48 administration services, including participation in a joint self-

1 insurance fund, risk management program or related services
2 provided by a contracting unit insurance group, or participation in
3 an insurance fund established by a local unit pursuant to
4 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
5 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
6 than three years;

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

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

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

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

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

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

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

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

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

42 (16) The provision of water supply services or the designing,
43 financing, construction, operation, or maintenance, or any
44 combination thereof, of a water supply facility, or any component
45 part or parts thereof, including a water filtration system, for a period
46 not to exceed 40 years, when the contract for these services is
47 approved by the Division of Local Government Services in the
48 Department of Community Affairs, the Board of Public Utilities,

1 and the Department of Environmental Protection pursuant to
2 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
3 required for those contracts otherwise exempted pursuant to
4 subsection (30), (31), (34), (35) or (43) of this section.

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

30 (17) The provision of resource recovery services by a qualified
31 vendor, the disposal of the solid waste delivered for disposal which
32 cannot be processed by a resource recovery facility or the residual
33 ash generated at a resource recovery facility, including hazardous
34 waste and recovered metals and other materials for reuse, or the
35 design, financing, construction, operation, or maintenance of a
36 resource recovery facility for a period not to exceed 40 years when
37 the contract is approved by the Division of Local Government
38 Services in the Department of Community Affairs, and the
39 Department of Environmental Protection pursuant to P.L.1985, c.38
40 (C.13:1E-136 et al.); and when the resource recovery facility is in
41 conformance with a district solid waste management plan approved
42 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

43 For the purposes of this subsection, "resource recovery facility"
44 means a solid waste facility constructed and operated for the
45 incineration of solid waste for energy production and the recovery
46 of metals and other materials for reuse, or a mechanized composting
47 facility, or any other facility constructed or operated for the
48 collection, separation, recycling, and recovery of metals, glass,

1 paper, and other materials for reuse or for energy production; and
2 "residual ash" means the bottom ash, fly ash, or any combination
3 thereof, resulting from the combustion of solid waste at a resource
4 recovery facility;

5 (18) The sale of electricity or thermal energy, or both, produced
6 by a resource recovery facility for a period not to exceed 40 years
7 when the contract is approved by the Board of Public Utilities, and
8 when the resource recovery facility is in conformance with a district
9 solid waste management plan approved pursuant to P.L.1970, c.39
10 (C.13:1E-1 et seq.).

11 For the purposes of this subsection, "resource recovery facility"
12 means a solid waste facility constructed and operated for the
13 incineration of solid waste for energy production and the recovery
14 of metals and other materials for reuse, or a mechanized composting
15 facility, or any other facility constructed or operated for the
16 collection, separation, recycling, and recovery of metals, glass,
17 paper, and other materials for reuse or for energy production;

18 (19) The provision of wastewater treatment services or the
19 designing, financing, construction, operation, or maintenance, or
20 any combination thereof, of a wastewater treatment system, or any
21 component part or parts thereof, for a period not to exceed 40 years,
22 when the contract for these services is approved by the Division of
23 Local Government Services in the Department of Community
24 Affairs and the Department of Environmental Protection pursuant to
25 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
26 required for those contracts otherwise exempted pursuant to
27 subsection (36) or (43) of this section.

28 For the purposes of this subsection, "wastewater treatment
29 services" means any services provided by a wastewater treatment
30 system; and "wastewater treatment system" means equipment,
31 plants, structures, machinery, apparatus, or land, or any
32 combination thereof, acquired, used, constructed, or operated for
33 the storage, collection, reduction, recycling, reclamation, disposal,
34 separation, or other treatment of wastewater or sewage sludge, or
35 for the final disposal of residues resulting from the treatment of
36 wastewater, including, but not limited to, pumping and ventilating
37 stations, facilities, plants and works, connections, outfall sewers,
38 interceptors, trunk lines, and other personal property and
39 appurtenances necessary for their operation;

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

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

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

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

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

18 (25) Basic life support services, for a period not to exceed five
19 years.

20 For the purposes of this subsection, "basic life support" means a
21 basic level of prehospital care, which includes but need not be
22 limited to patient stabilization, airway clearance, cardiopulmonary
23 resuscitation, hemorrhage control, initial wound care, and fracture
24 stabilization;

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

26 (27) The provision of transportation services to an elderly
27 person, an individual with a disability, or an indigent person for any
28 term of not more than three years.

29 For the purposes of this subsection, "elderly person" means a
30 person who is 60 years of age or older. "Individual with a
31 disability" means a person of any age who, by reason of illness,
32 injury, age, congenital malfunction, or other permanent or
33 temporary incapacity or disability, is unable, without special
34 facilities or special planning or design to utilize mass transportation
35 facilities and services as effectively as persons who are not so
36 affected. "Indigent person " means a person of any age whose
37 income does not exceed 100 percent of the poverty line, adjusted
38 for family size, established and adjusted under section 2 of the
39 "Community Services Block Grant Act," (42 U.S.C. s.9902);

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

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

47 (30) The acquisition of an equitable interest in a water supply
48 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a

1 contract entered into pursuant to the "County and Municipal Water
2 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
3 no later than January 7, 1995, for any term of not more than forty
4 years;

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

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

13 (33) The supplying of any product or the rendering of any
14 service, including consulting services, by a cemetery management
15 company for the maintenance and preservation of a municipal
16 cemetery operating pursuant to the "New Jersey Cemetery Act,
17 2003," P.L.2003, c.261 (C.45:27-1 et seq.), for a term not exceeding
18 15 years;

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

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

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

33 (37) The operation and management of a facility under a license
34 issued or permit approved by the Department of Environmental
35 Protection, including a wastewater treatment system, a stormwater
36 management system, or a water supply or distribution facility, as
37 the case may be, for any term of not more than ten years.

38 For the purposes of this subsection, "wastewater treatment
39 system" refers to facilities operated or maintained for the storage,
40 collection, reduction, disposal, or other treatment of wastewater or
41 sewage sludge, remediation of groundwater contamination,
42 stormwater runoff, or the final disposal of residues resulting from
43 the treatment of wastewater; "stormwater management system"
44 means the same as that term is defined in section 3 of P.L.2019,
45 c.42 (C.40A:26B-3); and "water supply or distribution facility"
46 refers to facilities operated or maintained for augmenting the
47 natural water resources of the State, increasing the supply of water,
48 conserving existing water resources, or distributing water to users;

- 1 (38) Municipal solid waste collection from facilities owned by a
2 contracting unit, for any term of not more than three years;
- 3 (39) Fuel for heating purposes, for any term of not more than
4 three years;
- 5 (40) Fuel or oil for use in motor vehicles for any term of not
6 more than three years;
- 7 (41) Plowing and removal of snow and ice for any term of not
8 more than three years;
- 9 (42) Purchases made under a contract awarded by the Director of
10 the Division of Purchase and Property in the Department of the
11 Treasury for use by counties, municipalities, or other contracting
12 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
13 term not to exceed the term of that contract;
- 14 (43) A contract between the governing body of a city of the first
15 class and a duly incorporated nonprofit association for the provision
16 of water supply services as defined in subsection (16) of this
17 section, or wastewater treatment services as defined in subsection
18 (19) of this section, may be entered into for a period not to exceed
19 40 years;
- 20 (44) The purchase of electricity generated through Class I
21 renewable energy or from a power production facility that is fueled
22 by methane gas extracted from a landfill in the county of the
23 contacting unit for any term not exceeding 25 years;
- 24 (45) The provision or performance of goods or services for the
25 purpose of producing Class I renewable energy or Class II
26 renewable energy, as those terms are defined in section 3 of
27 P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by,
28 or operations conducted by, the contracting unit, the entire price of
29 which is to be established as a percentage of the resultant savings in
30 energy costs, for a term not to exceed 15 years; provided, however,
31 that a contract shall be entered into only subject to and in
32 accordance with guidelines promulgated by the Board of Public
33 Utilities establishing a methodology for computing energy cost
34 savings and energy generation costs;
- 35 (46) A power supply contract, as defined pursuant to section 3 of
36 P.L.2015, c.129 (C.40A:66-3), between a member municipality as
37 defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3), and
38 the municipal shared services energy authority established pursuant
39 to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to meet the
40 electric power needs of its members, for the lease, operation, or
41 management of electric generation within a member municipality's
42 corporate limits and franchise area or the purchase of electricity, or
43 the purchase of fuel for generating units for a term not to exceed 40
44 years;
- 45 (47) A contract entered into pursuant to paragraph (2) of
46 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
47 a county hospital authority and a manager for the management,
48 operation, and maintenance of a hospital owned by the authority or

1 the county for a term not to exceed 20 years, provided, however,
2 that a contract entered into pursuant to paragraph (2) of subsection
3 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
4 two additional periods, not to exceed five years each; **[and]**

5 (48) (a) A lease agreement that provides for the use, lease, lease-
6 back, acquisition, operation, or maintenance of ferry boats and
7 related facilities and services, for a period not to exceed 20 years,
8 except as provided by paragraph (b) of this subsection. For the
9 purposes of this subsection, "related facilities and services"
10 includes, but is not limited to, docks and terminals, parking
11 facilities, intermodal facilities, ingress and egress to the parking and
12 terminal facilities, and the provision of goods and services to the
13 public, provided that a contract for the provision or performance of
14 such goods or services is related to ferry services and requires:

15 (1) a total capital expenditure exceeding \$300,000, as certified
16 by the chief financial officer of the contracting unit, including but
17 not limited to capital expenditures made by the lessee; or

18 (2) a capital improvement that has a life expectancy upon
19 completion exceeding 20 years, as certified by the chief financial
20 officer of the contracting unit.

21 (b) A lease agreement for a capital improvement under
22 subparagraph (2) of paragraph (a) of this subsection may be
23 awarded for a period not to exceed 50 years.

24 (c) Each worker employed in a construction project under a
25 contract executed pursuant to this subsection shall be paid not less
26 than the prevailing wage rate for the worker's craft or trade as
27 determined by the Commissioner of Labor and Workforce
28 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
29 **[.] ; and**

30 (49) The sale of electricity or thermal energy, or both, produced
31 by a combined heat and power facility, cogeneration facility, or on-
32 site generation facility, as those terms are defined pursuant to
33 section 3 of P.L.1999, c.23 (C.48:3-51), a district energy system, or
34 a distributed electric generation resource, for a period not to exceed
35 25 years, which period shall commence after construction of the
36 facility has been completed and commercial operation of the facility
37 has commenced.

38 Any contract for services other than professional services, the
39 statutory length of which contract is for three years or less, may
40 include provisions for no more than one two-year, or two one-year,
41 extensions, subject to the following limitations: a. The contract
42 shall be awarded by resolution of the governing body upon a
43 finding by the governing body that the services are being performed
44 in an effective and efficient manner; b. No contract shall be
45 extended so that it runs for more than a total of five consecutive
46 years; c. Any price change included as part of an extension shall be
47 based upon the price of the original contract as cumulatively
48 adjusted pursuant to any previous adjustment or extension and shall

1 not exceed the change in the index rate for the 12 months preceding
2 the most recent quarterly calculation available at the time the
3 contract is renewed; and d. The terms and conditions of the contract
4 remain substantially the same.

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

36 The Division of Local Government Services in the Department
37 of Community Affairs shall adopt and promulgate rules and
38 regulations concerning the methods of accounting for all contracts
39 that do not coincide with the fiscal year.

40 All contracts shall cease to have effect at the end of the
41 contracted period and shall not be extended by any mechanism or
42 provision, unless in conformance with the "Local Public Contracts
43 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
44 may be extended by mutual agreement of the parties to the contract
45 when a contracting unit has commenced rebidding prior to the time
46 the contract expires or when the awarding of a contract is pending
47 at the time the contract expires.²

48 (cf: P.L.2019, c.79, s.1)

1 ¹[22.] ²[25.¹] 24.² N.J.S.18A:18A-42 is amended to read as
2 follows:

3 18A:18A-42. All contracts for the provision or performance of
4 goods or services shall be awarded for a period not to exceed 24
5 consecutive months, except that contracts for professional services
6 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
7 be awarded for a period not to exceed 12 consecutive months. Any
8 board of education may award a contract for longer periods of time
9 as follows:

10 a. Supplying of:

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

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

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

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

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

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

28 e. Insurance, including the purchase of insurance coverages,
29 insurance consultant or administrative services, and including
30 participation in a joint self-insurance fund, risk management
31 program or related services provided by a school board insurance
32 group, or participation in an insurance fund established by a county
33 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
34 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
35 not more than three years; or

36 f. Leasing or servicing of automobiles, motor vehicles,
37 electronic communications equipment, machinery and equipment of
38 every nature and kind and textbooks and non-consumable
39 instructional materials, for any term not exceeding in the aggregate,
40 five years; except that contracts for the leasing of school buses may
41 be awarded for any term not exceeding in the aggregate ten years.
42 Contracts awarded pursuant to this subsection shall be awarded only
43 subject to and in accordance with rules and regulations promulgated
44 by the State Board of Education; or

45 g. Supplying of any product or the rendering of any service by
46 a company providing voice, data, transmission or switching
47 services, for a term not exceeding five years; or

48 h. (Deleted by amendment, P.L.1999, c.440.)

- 1 i. Driver education instruction conducted by private, licensed
2 driver education schools, for any term not exceeding in the
3 aggregate, three years; or
- 4 j. (Deleted by amendment, P.L.2009, c.4.)**[.]**
- 5 k. Any single project for the construction, reconstruction or
6 rehabilitation of any public building, structure or facility, or any
7 public works project, including the retention of the services of any
8 architect or engineer in connection therewith, for the length of time
9 authorized and necessary for the completion of the actual
10 construction; or
- 11 l. Laundry service and the rental, supply and cleaning of
12 uniforms for any term of not more than three years; or
- 13 m. Food supplies and food services for any term of not more
14 than three years; or
- 15 n. Purchases made under a contract awarded by the Director of
16 the Division of Purchase and Property in the Department of the
17 Treasury for use by counties, municipalities or other contracting
18 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
19 term not to exceed the term of that contract; or
- 20 o. The provision or performance of goods or services for the
21 purpose of producing class I renewable energy, as that term is
22 defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent
23 to, buildings owned by any local board of education, the entire price
24 of which is to be established as a percentage of the resultant savings
25 in energy costs, for a term not to exceed 15 years; provided,
26 however, that these contracts shall be entered into only subject to
27 and in accordance with guidelines promulgated by the Board of
28 Public Utilities establishing a methodology for computing energy
29 cost savings and energy generation costs.
- 30 p. The sale of electricity or thermal energy, or both, produced
31 by a combined heat and power facility, cogeneration facility, or on-
32 site generation facility, as those terms are defined pursuant to
33 section 3 of P.L.1999, c.23 (C.48:3-51) ²[, a microgrid, as that term
34 is defined in section 3 of P.L. , c. (C.) (now pending before
35 the Legislature as this bill)]², a district energy system, or a
36 distributed ²[energy] electric generation² resource, for a period not
37 to exceed 25 years, which period shall commence after construction
38 of such facility has been completed and commercial operation of the
39 facility has commenced.
- 40 Any contract for services other than professional services, the
41 statutory length of which contract is for three years or less, may
42 include provisions for no more than one two-year, or two one-year,
43 extensions, subject to the following limitations: a. the contract shall
44 be awarded by resolution of the board of education upon a finding
45 by the board of education that the services are being performed in
46 an effective and efficient manner; b. no such contract shall be
47 extended so that it runs for more than a total of five consecutive
48 years; c. any price change included as part of an extension shall be

1 based upon the price of the original contract as cumulatively
2 adjusted pursuant to any previous adjustment or extension and shall
3 not exceed the change in the index rate for the 12 months preceding
4 the most recent quarterly calculation available at the time the
5 contract is renewed; and d. the terms and conditions of the contract
6 remain substantially the same.

7 All multiyear leases and contracts entered into pursuant to this
8 section, including any two-year or one-year extensions, except
9 contracts for insurance coverages, insurance consultant or
10 administrative services, participation or membership in a joint self-
11 insurance fund, risk management programs or related services of a
12 school board insurance group, participation in an insurance fund
13 established by a county pursuant to N.J.S.40A:10-6 or contracts for
14 thermal energy authorized pursuant to subsection a. above, and
15 contracts for the provision or performance of goods or services to
16 promote energy conservation through the production of class I
17 renewable energy, authorized pursuant to subsection o. of this
18 section, shall contain a clause making them subject to the
19 availability and appropriation annually of sufficient funds as may
20 be required to meet the extended obligation, or contain an annual
21 cancellation clause. All contracts shall cease to have effect at the
22 end of the contracted period and shall not be extended by any
23 mechanism or provision, unless in conformance with the "Public
24 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
25 contract may be extended by mutual agreement of the parties to the
26 contract when a board of education has commenced rebidding prior
27 to the time the contract expires or when the awarding of a contract
28 is pending at the time the contract expires.

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

30

31 ¹[23.] ²[26.1] ^{25.2} This act shall take effect immediately.