

[First Reprint]

**SENATE, No. 3456**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED FEBRUARY 7, 2019

**Sponsored by:**

**Senator DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**SYNOPSIS**

Permits 20 year ferry boat local public contracts; permits 50 year local public contracts for certain capital improvements and extends prevailing wage requirements to certain work performed under those contracts.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on March 4, 2019, with amendments.



**(Sponsorship Updated As Of: 2/8/2019)**

1 AN ACT concerning the duration and prevailing wage requirements  
2 of certain local public contracts and amending P.L.1971, c.198.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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

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

16 (1) Supplying of:

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

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

19 (c) Thermal energy produced by a cogeneration facility, for use  
20 for heating or air conditioning or both, for any term not exceeding  
21 40 years, when the contract is approved by the Board of Public  
22 Utilities.

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

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

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

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

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted March 4, 2019.

- 1       (5) Data processing service, for any term of not more than seven  
2 years;
- 3       (6) Insurance, including the purchase of insurance coverages,  
4 insurance consulting or administrative services, claims  
5 administration services **[and]**, including participation in a joint  
6 self-insurance fund, risk management program or related services  
7 provided by a contracting unit insurance group, or participation in  
8 an insurance fund established by a local unit pursuant to  
9 N.J.S.40A:10-6, or a joint insurance fund established pursuant to  
10 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more  
11 than three years;
- 12       (7) Leasing or servicing of (a) automobiles, motor vehicles,  
13 machinery, and equipment of every nature and kind, for a period not  
14 to exceed five years, or (b) machinery and equipment used in the  
15 generation of electricity by a municipal shared services energy  
16 authority established pursuant to section 4 of P.L.2015, c.129  
17 (C.40A:66-4), or a contracting unit engaged in the generation of  
18 electricity, for a period not to exceed 20 years; provided, however, a  
19 contract shall be awarded only subject to and in accordance with the  
20 rules and regulations promulgated by the Director of the Division of  
21 Local Government Services in the Department of Community  
22 Affairs;
- 23       (8) The supplying of any product or the rendering of any service  
24 by a company providing voice, data, transmission, or switching  
25 services for a term not exceeding five years;
- 26       (9) Any single project for the construction, reconstruction, or  
27 rehabilitation of any public building, structure, or facility, or any  
28 public works project, including the retention of the services of any  
29 architect or engineer in connection therewith, for the length of time  
30 authorized and necessary for the completion of the actual  
31 construction;
- 32       (10) The providing of food services for any term not exceeding  
33 three years;
- 34       (11) On-site inspections and plan review services undertaken by  
35 private agencies pursuant to the "State Uniform Construction Code  
36 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not  
37 more than three years;
- 38       (12) (Deleted by amendment, P.L.2009, c.4).
- 39       (13) (Deleted by amendment, P.L.1999, c.440.)
- 40       (14) (Deleted by amendment, P.L.1999, c.440.)
- 41       (15) Leasing of motor vehicles, machinery, and other  
42 equipment primarily used to fight fires, for a term not to exceed ten  
43 years, when the contract includes an option to purchase, subject to  
44 and in accordance with rules and regulations promulgated by the  
45 Director of the Division of Local Government Services in the  
46 Department of Community Affairs;
- 47       (16) The provision of water supply services or the designing,  
48 financing, construction, operation, or maintenance, or any

1 combination thereof, of a water supply facility, or any component  
2 part or parts thereof, including a water filtration system, for a period  
3 not to exceed 40 years, when the contract for these services is  
4 approved by the Division of Local Government Services in the  
5 Department of Community Affairs, the Board of Public Utilities,  
6 and the Department of Environmental Protection pursuant to  
7 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be  
8 required for those contracts otherwise exempted pursuant to  
9 subsection (30), (31), (34), (35) or (43) of this section.

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

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

1 For the purposes of this subsection, "resource recovery facility"  
2 means a solid waste facility constructed and operated for the  
3 incineration of solid waste for energy production and the recovery  
4 of metals and other materials for reuse[;] , or a mechanized  
5 composting facility, or any other facility constructed or operated for  
6 the collection, separation, recycling, and recovery of metals, glass,  
7 paper, and other materials for reuse or for energy production; and  
8 "residual ash" means the bottom ash, fly ash, or any combination  
9 thereof, resulting from the combustion of solid waste at a resource  
10 recovery facility;

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

17 For the purposes of this subsection, "resource recovery facility"  
18 means a solid waste facility constructed and operated for the  
19 incineration of solid waste for energy production and the recovery  
20 of metals and other materials for reuse[;] , or a mechanized  
21 composting facility, or any other facility constructed or operated for  
22 the collection, separation, recycling, and recovery of metals, glass,  
23 paper, and other materials for reuse or for energy production;

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

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

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

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

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

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

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

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

27       For the purposes of this subsection, "basic life support" means a  
28 basic level of prehospital care, which includes but need not be  
29 limited to patient stabilization, airway clearance, cardiopulmonary  
30 resuscitation, hemorrhage control, initial wound care, and fracture  
31 stabilization;

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

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

36       For the purposes of this subsection, "elderly person " means a  
37 person who is 60 years of age or older. "Individual with a  
38 disability" means a person of any age who, by reason of illness,  
39 injury, age, congenital malfunction, or other permanent or  
40 temporary incapacity or disability, ~~[are]~~ is unable, without special  
41 facilities or special planning or design to utilize mass transportation  
42 facilities and services as effectively as persons who are not so  
43 affected. "Indigent person " means a person of any age whose  
44 income does not exceed 100 percent of the poverty ~~[level]~~ line,  
45 adjusted for family size, established and adjusted under section  
46 ~~【673(2)】~~ 2 of ~~【subtitle B,】~~ the "Community Services Block Grant  
47 Act," ~~【Pub.L.97-35】~~ (42 U.S.C. s.9902 ~~【(2)】~~);

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

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

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

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

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

22       (33) The supplying of any product or the rendering of any  
23 service, including consulting services, by a cemetery management  
24 company for the maintenance and preservation of a municipal  
25 cemetery operating pursuant to the "New Jersey Cemetery Act,  
26 2003," [N.J.S.8A:1-1 et seq.] P.L.2003, c.261 '[(C.54:27-1 et  
27 seq.)] (C.45:27-1 et seq.)<sup>1</sup>, for a term not exceeding 15 years;

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

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

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

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

47       For the purposes of this subsection, "wastewater treatment  
48 system" refers to facilities operated or maintained for the storage,

1 collection, reduction, disposal, or other treatment of wastewater or  
2 sewage sludge, remediation of groundwater contamination,  
3 stormwater runoff, or the final disposal of residues resulting from  
4 the treatment of wastewater; and "water supply or distribution  
5 facility" refers to facilities operated or maintained for augmenting  
6 the natural water resources of the State, increasing the supply of  
7 water, conserving existing water resources, or distributing water to  
8 users;

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

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

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

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

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

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

28 (44) The purchase of electricity generated through **[class]**  
29 Class I renewable energy or from a power production facility that is  
30 fueled by methane gas extracted from a landfill in the county of the  
31 contacting unit for any term not exceeding 25 years;

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

43 (46) A power supply contract, as defined pursuant to section 3  
44 of P.L.2015, c.129 (C.40A:66-3), between a member municipality  
45 as defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3),  
46 and the municipal shared services energy authority established  
47 pursuant to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to  
48 meet the electric power needs of its members, for the lease,



operation, or management of electric generation within a member municipality's corporate limits and franchise area or the purchase of electricity, or the purchase of fuel for generating units for a term not to exceed 40 years; **and**

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

(48) <sup>1</sup>(a) A lease agreement that provides for the use, lease, lease-back, acquisition, operation, <sup>1</sup>**and** or<sup>1</sup> maintenance of ferry boats and related facilities <sup>1</sup>and services<sup>1</sup>, for a period not to exceed 20 years <sup>1</sup>, except as provided by paragraph (b) of this subsection<sup>1</sup>. For the purposes of this subsection, “related <sup>1</sup>**facilities**” facilities and services<sup>1</sup> includes, but is not limited to, docks and terminals, parking facilities, intermodal facilities, ingress and egress to the parking and terminal facilities, and the provision of goods and services to the public <sup>1</sup>**;** and

(49) **A** , provided that a<sup>1</sup> contract for the provision or performance of <sup>1</sup>such<sup>1</sup> goods or services <sup>1</sup>**that** is related to ferry services and<sup>1</sup> requires:

<sup>1</sup>**[(a)]** (1) <sup>1</sup>a total capital expenditure exceeding \$300,000, <sup>1</sup>as certified by the chief financial officer of the contracting unit,<sup>1</sup> including but not limited to capital expenditures made by the lessee; or

<sup>1</sup>**[(b)]** (2) <sup>1</sup>a capital improvement that has a life expectancy upon completion exceeding 20 years, as certified by the chief financial officer of the contracting unit <sup>1</sup>**;**

(b) A lease agreement for a capital improvement under subparagraph (2) of paragraph (a) of this subsection may be awarded<sup>1</sup> for a period not to exceed 50 years.

<sup>1</sup>(c) <sup>1</sup>Each worker employed in a construction project under a contract executed pursuant to this subsection shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

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

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

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

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

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

1 the contract expires or when the awarding of a contract is pending  
2 at the time the contract expires.  
3 (cf: P.L.2016, c.55, s.10)

4

5 2. This act shall take effect immediately and shall apply to  
6 contracts executed on or after the date of enactment.