

[First Reprint]  
ASSEMBLY, No. 1219

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman AUGUSTINE

1 AN ACT concerning the duration of local public contracts and  
2 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 3 of P.L.1971, c.198 (C.40A:11-3) is amended to read  
8 as follows:

9 3. a. Any purchase, contract or agreement for the performance of  
10 any work or the furnishing or hiring of materials or supplies, the cost  
11 or price of which, together with any other sums expended or to be  
12 expended for the performance of any work or services in connection  
13 with the same immediate program, undertaking, activity or project or  
14 the furnishing of similar materials or supplies during the same fiscal  
15 year paid with or out of public funds, does not exceed in the fiscal year  
16 the total sum of \$7,500.00 or the amount determined pursuant to  
17 subsection b. of this section, may be made, negotiated or awarded by  
18 a contracting agent when so authorized by resolution of the governing  
19 body of the contracting unit without public advertising for bids. Such  
20 authorization may be granted for each purchase, contract or agreement  
21 or by a general delegation of the power to make, negotiate or award  
22 such purchases, contracts or agreements pursuant to this section.

23 Any purchase, contract or agreement made pursuant to this section  
24 may be awarded for a period of [12] 24 consecutive months  
25 notwithstanding that such [12-month] <sup>1</sup>[24] 24-month<sup>1</sup> period does  
26 not coincide with the fiscal year <sup>1</sup>, except that contracts for  
27 professional services pursuant to subparagraph (i) of paragraph (a) of  
28 subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) may be  
29 awarded for a period not exceeding 12 consecutive months<sup>1</sup>. The  
30 Division of Local Government Services shall adopt and promulgate  
31 rules and regulations concerning the methods of accounting for all

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and 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> Assembly floor amendments adopted May 6, 1996.

1 contracts that do not coincide with the fiscal year.

2 b. The Governor, in consultation with the Department of the  
3 Treasury, shall, no later than March 1 of each odd-numbered year,  
4 adjust the threshold amount set forth in subsection a. of this section,  
5 or subsequent to 1985 the threshold amount resulting from any  
6 adjustment under this subsection or section 17 of P.L.1985, c.469, in  
7 direct proportion to the rise or fall of the Consumer Price Index for all  
8 urban consumers in the New York City and the Philadelphia areas as  
9 reported by the United States Department of Labor. The Governor  
10 shall, no later than June 1 of each odd-numbered year, notify each  
11 governing body of the adjustment. The adjustment shall become  
12 effective on July 1 of each odd-numbered year.

13 (cf: P.L.1991, c.143, s.1)

14

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

17 15. All purchases, contracts or agreements for the performing of  
18 work or the furnishing of materials, supplies or services shall be made  
19 for a period not to exceed [12] 24 consecutive months, except that  
20 contracts <sup>1</sup>for professional services pursuant to subparagraph (i) of  
21 paragraph (a) of subsection (1) of section 5 of P.L.1971, c.198  
22 (C.40A:11-5) shall be made for a period not to exceed 12 consecutive  
23 months. Contracts<sup>1</sup> or agreements may be entered into for longer  
24 periods of time as follows:

25 (1) Supplying of:

26 (a) [Fuel for heating purposes, for any term not exceeding in the  
27 aggregate, two years;] (Deleted by amendment, P.L. , c. ) (now  
28 pending before the Legislature as this bill)

29 (b) [Fuel or oil for use of airplanes, automobiles, motor vehicles or  
30 equipment for any term not exceeding in the aggregate, two  
31 years;] (Deleted by amendment, P.L. , c. ) (now pending before the  
32 Legislature as this bill)

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

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

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

43 (4) The collection and recycling of methane gas from a sanitary  
44 landfill facility, for any term not exceeding 25 years, when such  
45 contract is in conformance with a district solid waste management plan  
46 approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and with the

1 approval of the Division of Local Government Services in the  
2 Department of Community Affairs and the Department of  
3 Environmental Protection. The contracting unit shall award the  
4 contract to the highest responsible bidder, notwithstanding that the  
5 contract price may be in excess of the amount of any necessarily  
6 related administrative expenses; except that if the contract requires the  
7 contracting unit to expend funds only, the contracting unit shall award  
8 the contract to the lowest responsible bidder. The approval by the  
9 Division of Local Government Services of public bidding requirements  
10 shall not be required for those contracts exempted therefrom pursuant  
11 to section 5 of P.L.1971, c.198 (C.40A:11-5);

12 (5) Data processing service, for any term of not more than three  
13 years;

14 (6) Insurance, for any term of not more than three years;

15 (7) Leasing or servicing of automobiles, motor vehicles, machinery  
16 and equipment of every nature and kind, for a period not to exceed  
17 three years; provided, however, such contracts shall be entered into  
18 only subject to and in accordance with the rules and regulations  
19 promulgated by the Director of the Division of Local Government  
20 Services of the Department of Community Affairs;

21 (8) The supplying of any product or the rendering of any service  
22 by a telephone company which is subject to the jurisdiction of the  
23 Board of Public Utilities for a term not exceeding five years;

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

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

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

34 (12) The performance of work or services or the furnishing of  
35 materials or supplies for the purpose of conserving energy in buildings  
36 owned by, or operations conducted by, the contracting unit, the entire  
37 price of which to be established as a percentage of the resultant  
38 savings in energy costs, for a term not to exceed 10 years; provided,  
39 however, that such contracts shall be entered into only subject to and  
40 in accordance with rules and regulations promulgated by the  
41 Department of Environmental Protection establishing a methodology  
42 for computing energy cost savings;

43 (13) The performance of work or services or the furnishing of  
44 materials or supplies for the purpose of elevator maintenance for any  
45 term not exceeding three years;

46 (14) Leasing or servicing of electronic communications equipment

1 for a period not to exceed five years; provided, however, such contract  
2 shall be entered into only subject to and in accordance with the rules  
3 and regulations promulgated by the Director of the Division of Local  
4 Government Services of the Department of Community Affairs;

5 (15) Leasing of motor vehicles, machinery and other equipment  
6 primarily used to fight fires, for a term not to exceed seven years,  
7 when the contract includes an option to purchase, subject to and in  
8 accordance with rules and regulations promulgated by the Director of  
9 the Division of Local Government Services of the Department of  
10 Community Affairs;

11 (16) The provision of water supply services or the designing,  
12 financing, construction, operation, or maintenance, or any combination  
13 thereof, of a water supply facility, or any component part or parts  
14 thereof, including a water filtration system, for a period not to exceed  
15 40 years, when the contract for these services is approved by the  
16 Division of Local Government Services in the Department of  
17 Community Affairs, the Board of Public Utilities, and the Department  
18 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et  
19 al.), except for those contracts otherwise exempted pursuant to  
20 subsections (30), (31), (34) or (35) of this section. For the purposes  
21 of this subsection, "water supply services" means any service provided  
22 by a water supply facility; "water filtration system" means any  
23 equipment, plants, structures, machinery, apparatus, or land, or any  
24 combination thereof, acquired, used, constructed, rehabilitated, or  
25 operated for the collection, impoundment, storage, improvement,  
26 filtration, or other treatment of drinking water for the purposes of  
27 purifying and enhancing water quality and insuring its potability prior  
28 to the distribution of the drinking water to the general public for  
29 human consumption, including plants and works, and other personal  
30 property and appurtenances necessary for their use or operation; and  
31 "water supply facility" means and refers to the real property and the  
32 plants, structures, interconnections between existing water supply  
33 facilities, machinery and equipment and other property, real, personal  
34 and mixed, acquired, constructed or operated, or to be acquired,  
35 constructed or operated, in whole or in part by or on behalf of a  
36 political subdivision of the State or any agency thereof, for the  
37 purpose of augmenting the natural water resources of the State and  
38 making available an increased supply of water for all uses, or of  
39 conserving existing water resources, and any and all appurtenances  
40 necessary, useful or convenient for the collecting, impounding, storing,  
41 improving, treating, filtering, conserving or transmitting of water and  
42 for the preservation and protection of these resources and facilities and  
43 providing for the conservation and development of future water supply  
44 resources;

45 (17) The provision of <sup>1</sup>[solid waste disposal] resource recovery<sup>1</sup>  
46 services by a <sup>1</sup>[resource recovery facility] qualified vendor<sup>1</sup>, the

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

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

35 (19) The provision of wastewater treatment services or the  
36 designing, financing, construction, operation, or maintenance, or any  
37 combination thereof, of a wastewater treatment system, or any  
38 component part or parts thereof, for a period not to exceed 40 years,  
39 when the contract for these services is approved by the Division of  
40 Local Government Services in the Department of Community Affairs  
41 and the Department of Environmental Protection pursuant to  
42 P.L.1985, c.72 (C.58:27-1 et al.), except for those contracts otherwise  
43 exempted pursuant to subsection (36) of this section. For the  
44 purposes of this subsection, "wastewater treatment services" means  
45 any services provided by a wastewater treatment system, and  
46 "wastewater treatment system" means equipment, plants, structures,

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

9 (20) The supplying of materials or services for the purpose of  
10 lighting public streets, for a term not to exceed five years, provided  
11 that the rates, fares, tariffs or charges for the supplying of electricity  
12 for that purpose are approved by the Board of Public Utilities;

13 (21) In the case of a contracting unit which is a county or  
14 municipality, the provision of emergency medical services by a hospital  
15 to residents of a municipality or county as appropriate for a term not  
16 to exceed five years;

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

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

22 (24) The purchase of electricity or administrative or dispatching  
23 services related to the transmission of such electricity, from a public  
24 utility company subject to the jurisdiction of the Board of Public  
25 Utilities, a similar regulatory body of another state, or a federal  
26 regulatory agency, or from a qualifying small power producing facility  
27 or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by  
28 a contracting unit engaged in the generation of electricity for retail  
29 sale, as of <sup>1</sup>[the date of P.L.1991, c.407] May 24, 1991<sup>1</sup>, for a term  
30 not to exceed 40 years;

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

37 (26) Claims administration services, for any term not to exceed  
38 three years;

39 (27) The provision of transportation services to elderly, disabled  
40 or indigent persons for any term of not more than three years. For the  
41 purposes of this subsection, "elderly persons" means persons who are  
42 60 years of age or older. "Disabled persons" means persons of any age  
43 who, by reason of illness, injury, age, congenital malfunction, or other  
44 permanent or temporary incapacity or disability, are unable, without  
45 special facilities or special planning or design to utilize mass  
46 transportation facilities and services as effectively as persons who are

1 not so affected. "Indigent persons" means persons of any age whose  
2 income does not exceed 100 percent of the poverty level, adjusted for  
3 family size, established and adjusted under section 673(2) of subtitle  
4 B, the "Community Services Block Grant Act," Pub.L.97-35 (42  
5 U.S.C.§9902 (2));

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

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

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

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

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

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

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

36 (35) An agreement for the purchase of a supply of water from a  
37 public utility company subject to the jurisdiction of the Board of Public  
38 Utilities in accordance with tariffs and schedules of charges made,  
39 charged or exacted or contracts filed with the Board of Public  
40 Utilities, for any term of not more than 40 years; <sup>1</sup>[and]<sup>1</sup>

41 (36) A contract between a public <sup>1</sup>[utility] entity<sup>1</sup> and a private  
42 firm or public authority pursuant to P.L.1995, c.216 (C.58:27-19 et  
43 al.) for the provision of wastewater treatment services may be entered  
44 into for any term of not more than 40 years, including all optional  
45 extension periods <sup>1</sup>; and

46 (37) The operation and management of a facility under a license

1 issued or permit approved by the Department of Environmental  
2 Protection, including a wastewater treatment system or a water supply  
3 or distribution facility, as the case may be, for any term of not more  
4 than seven years. For the purposes of this subsection, "wastewater  
5 treatment system" refers to facilities operated or maintained for the  
6 storage, collection, reduction, disposal, or other treatment of  
7 wastewater or sewage sludge, remediation of groundwater  
8 contamination, stormwater runoff, or the final disposal of residues  
9 resulting from the treatment of wastewater; and "water supply or  
10 distribution facility" refers to facilities operated or maintained for  
11 augmenting the natural water resources of the State, increasing the  
12 supply of water, conserving existing water resources, or distributing  
13 water to users<sup>1</sup>.

14 All multiyear leases and contracts entered into pursuant to this  
15 section, except contracts for the leasing or servicing of equipment  
16 supplied by a telephone company which is subject to the jurisdiction  
17 of the Board of Public Utilities, contracts involving the supplying of  
18 electricity for the purpose of lighting public streets and contracts for  
19 thermal energy authorized pursuant to subsection (1) above,  
20 construction contracts authorized pursuant to subsection (9) above,  
21 contracts and agreements for the provision of work or the supplying  
22 of equipment to promote energy conservation authorized pursuant to  
23 subsection (12) above, contracts for water supply services or for a  
24 water supply facility, or any component part or parts thereof  
25 authorized pursuant to subsections (16), <sup>1</sup>(30), (31),<sup>1</sup> (34) <sup>1</sup>[or] <sup>1</sup>  
26 (35) <sup>1</sup>or (37)<sup>1</sup> above, contracts for resource recovery services or a  
27 resource recovery facility authorized pursuant to subsection (17)  
28 above, contracts for the sale of energy produced by a resource  
29 recovery facility authorized pursuant to subsection (18) above,  
30 contracts for wastewater treatment services or for a wastewater  
31 treatment system or any component part or parts thereof authorized  
32 pursuant to <sup>1</sup>[subsection]subsections<sup>1</sup> (19) <sup>1</sup>, (36) or (37)<sup>1</sup> above,  
33 and contracts for the purchase of electricity or administrative or  
34 dispatching services related to the transmission of such electricity  
35 authorized pursuant to subsection (24) above, shall contain a clause  
36 making them subject to the availability and appropriation annually of  
37 sufficient funds as may be required to meet the extended obligation, or  
38 contain an annual cancellation clause.

39 The Division of Local Government Services shall adopt and  
40 promulgate rules and regulations concerning the methods of  
41 accounting for all contracts that do not coincide with the fiscal year.  
42 (cf: P.L.1995, c.371, s.1)

1       3. This act shall take effect immediately.

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6       Increases to 24 months maximum allowable period for contracts under

7       "Local Public Contracts Law."