

STATEMENT TO
SENATE, No. 913

with Senate Floor Amendments
(Proposed By Senator KYRILLOS)

ADOPTED: DECEMBER 1, 1997

This amendment would require the parties to a construction contract being entered into pursuant to the "Local Public Contracts Law," P.L.1971, c.198, (C.40A:11-1 et seq.), to include a provision in the contract requiring that any disputes arising under or related to the contract be submitted to mediation pursuant to the American Arbitration Association, or to another mediation procedure as agreed to by the contracting parties. If the dispute is not resolved by mediation, then the dispute shall either be submitted to arbitration pursuant to the Construction Industry Arbitration Rules of the American Arbitration Association or be submitted to another binding alternate dispute resolution procedure as agreed to by the contracting parties. Under current law, no such provision is mandatory. Without these amendments, the bill would require parties to submit disputes to arbitration pursuant to the Construction Industry Arbitration Rules of the American Arbitration Association.

The amendment would expand the types of contracts that would be required to contain a dispute resolution clause by expanding upon the commonly understood meaning of construction contract to include contracts concerning architecture, engineering and construction management.

The amendment would also allow a contracting party to compel the joinder of other interested parties into a dispute resolution procedure, subject to the approval of the person appointed to resolve the dispute. Similarly, the amendment would allow a contracting party to compel the joinder of similar disputes into a single dispute resolution procedure, subject to the approval of the person appointed to resolve the dispute.

The amendment would provide that once a binding decision is rendered in connection to a dispute, either party may move to have the award vacated or modified by the court in accordance with N.J.S.2A:24-1 et seq.