

SENATE, No. 932

STATE OF NEW JERSEY

INTRODUCED MARCH 14, 1996

By Senator INVERSO

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] 24 period does not coincide  
26 with the fiscal year. The Division of Local Government Services shall  
27 adopt and promulgate rules and regulations concerning the methods of  
28 accounting for all contracts that do not coincide with the fiscal year.

29 b. The Governor, in consultation with the Department of the  
30 Treasury, shall, no later than March 1 of each odd-numbered year,  
31 adjust the threshold amount set forth in subsection a. of this section,  
32 or subsequent to 1985 the threshold amount resulting from any  
33 adjustment under this subsection or section 17 of P.L.1985, c.469, in  
34 direct proportion to the rise or fall of the Consumer Price Index 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.**

1 urban consumers in the New York City and the Philadelphia areas as  
2 reported by the United States Department of Labor. The Governor  
3 shall, no later than June 1 of each odd-numbered year, notify each  
4 governing body of the adjustment. The adjustment shall become  
5 effective on July 1 of each odd-numbered year.

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

7

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

10 15. All purchases, contracts or agreements for the performing of  
11 work or the furnishing of materials, supplies or services shall be made  
12 for a period not to exceed [12] 24 consecutive months, except that  
13 contracts or agreements may be entered into for longer periods of time  
14 as follows:

15 (1) Supplying of:

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

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

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

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

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

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

- 1 to section 5 of P.L.1971, c.198 (C.40A:11-5);
- 2 (5) Data processing service, for any term of not more than three  
3 years;
- 4 (6) Insurance, for any term of not more than three years;
- 5 (7) Leasing or servicing of automobiles, motor vehicles, machinery  
6 and equipment of every nature and kind, for a period not to exceed  
7 three years; provided, however, such contracts shall be entered into  
8 only subject to and in accordance with the rules and regulations  
9 promulgated by the Director of the Division of Local Government  
10 Services of the Department of Community Affairs;
- 11 (8) The supplying of any product or the rendering of any service  
12 by a telephone company which is subject to the jurisdiction of the  
13 Board of Public Utilities 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 public  
16 works project, including the retention of the services of any architect  
17 or engineer in connection therewith, for the length of time authorized  
18 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 undertaken by private agencies pursuant  
22 to the "State Uniform Construction Code Act," P.L.1975, c.217  
23 (C.52:27D-119 et seq.) for any term of not more than three years;
- 24 (12) The performance of work or services or the furnishing of  
25 materials or supplies for the purpose of conserving energy in buildings  
26 owned by, or operations conducted by, the contracting unit, the entire  
27 price of which to be established as a percentage of the resultant  
28 savings in energy costs, for a term not to exceed 10 years; provided,  
29 however, that such contracts shall be entered into only subject to and  
30 in accordance with rules and regulations promulgated by the  
31 Department of Environmental Protection establishing a methodology  
32 for computing energy cost savings;
- 33 (13) The performance of work or services or the furnishing of  
34 materials or supplies for the purpose of elevator maintenance for any  
35 term not exceeding three years;
- 36 (14) Leasing or servicing of electronic communications equipment  
37 for a period not to exceed five years; provided, however, such contract  
38 shall be entered into only subject to and in accordance with the rules  
39 and regulations promulgated by the Director of the Division of Local  
40 Government Services of the Department of Community Affairs;
- 41 (15) Leasing of motor vehicles, machinery and other equipment  
42 primarily used to fight fires, for a term not to exceed seven years,  
43 when the contract includes an option to purchase, subject to and in  
44 accordance with rules and regulations promulgated by the Director of  
45 the Division of Local Government Services of the Department of  
46 Community Affairs;

1 (16) The provision of water supply services or the designing,  
2 financing, construction, operation, or maintenance, or any combination  
3 thereof, of a water supply facility, or any component part or parts  
4 thereof, including a water filtration system, for a period not to exceed  
5 40 years, when the contract for these services is approved by the  
6 Division of Local Government Services in the Department of  
7 Community Affairs, the Board of Public Utilities, and the Department  
8 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et  
9 al.), except for those contracts otherwise exempted pursuant to  
10 subsection (30), (31), (34) or (35) of this section. For the purposes  
11 of this subsection, "water supply services" means any service provided  
12 by a water supply facility; "water filtration system" means any  
13 equipment, plants, structures, machinery, apparatus, or land, or any  
14 combination thereof, acquired, used, constructed, rehabilitated, or  
15 operated for the collection, impoundment, storage, improvement,  
16 filtration, or other treatment of drinking water for the purposes of  
17 purifying and enhancing water quality and insuring its potability prior  
18 to the distribution of the drinking water to the general public for  
19 human 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, interconnections between existing water supply  
23 facilities, machinery and equipment and other property, real, personal  
24 and mixed, acquired, constructed or operated, or to be acquired,  
25 constructed or operated, in whole or in part by or on behalf of a  
26 political subdivision of the State or any agency thereof, for the  
27 purpose of augmenting the natural water resources of the State and  
28 making available an increased supply of water for all uses, or of  
29 conserving existing water resources, and any and all appurtenances  
30 necessary, useful or convenient for the collecting, impounding, storing,  
31 improving, treating, filtering, conserving or transmitting of water and  
32 for the preservation and protection of these resources and facilities and  
33 providing for the conservation and development of future water supply  
34 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 ash  
38 generated at a resource recovery facility, including hazardous waste  
39 and recovered metals and other materials for reuse, or the design,  
40 financing, construction, operation or maintenance of a resource  
41 recovery facility for a period not to exceed 40 years when the contract  
42 is approved by the Division of Local Government Services in the  
43 Department of Community Affairs, and the Department of  
44 Environmental Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et  
45 al.); and when the resource recovery facility is in conformance with a  
46 district solid waste management plan approved pursuant to P.L.1970,

1 c.39 (C.13:1E-1 et seq.). For the purposes of this subsection,  
2 "resource recovery facility" means a solid waste facility constructed  
3 and operated for the incineration of solid waste for energy production  
4 and the recovery of metals and other materials for reuse; or a  
5 mechanized composting facility, or any other facility constructed or  
6 operated for the collection, separation, recycling, and recovery of  
7 metals, glass, paper, and other materials for reuse or for energy  
8 production; and "residual ash" means the bottom ash, fly ash, or any  
9 combination thereof, resulting from the combustion of solid waste at  
10 a resource recovery facility;

11 (18) The sale of electricity or thermal energy, or both, produced by  
12 a resource recovery facility for a period not to exceed 40 years when  
13 the contract is approved by the Board of Public Utilities, and when the  
14 resource recovery facility is in conformance with a district solid waste  
15 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et  
16 seq.). For the purposes of this subsection, "resource recovery facility"  
17 means a solid waste facility constructed and operated for the  
18 incineration of solid waste for energy production and the recovery of  
19 metals and other materials for reuse; or a mechanized composting  
20 facility, or any other facility constructed or operated for the  
21 collection, separation, recycling, and recovery of metals, glass, paper,  
22 and other materials for reuse or for energy production;

23 (19) The provision of wastewater treatment services or the  
24 designing, financing, construction, operation, or maintenance, or any  
25 combination thereof, of a wastewater treatment system, or any  
26 component part or parts thereof, for a period not to exceed 40 years,  
27 when the contract for these services is approved by the Division of  
28 Local Government Services in the Department of Community Affairs  
29 and the Department of Environmental Protection pursuant to  
30 P.L.1985, c.72 (C.58:27-1 et al.), except for those contracts otherwise  
31 exempted pursuant to subsection (36) of this section. For the  
32 purposes of this subsection, "wastewater treatment services" means  
33 any services provided by a wastewater treatment system, and  
34 "wastewater treatment system" means equipment, plants, structures,  
35 machinery, apparatus, or land, or any combination thereof, acquired,  
36 used, constructed, or operated for the storage, collection, reduction,  
37 recycling, reclamation, disposal, separation, or other treatment of  
38 wastewater or sewage sludge, or for the final disposal of residues  
39 resulting from the treatment of wastewater, including, but not limited  
40 to, pumping and ventilating stations, facilities, plants and works,  
41 connections, outfall sewers, interceptors, trunk lines, and other  
42 personal property and appurtenances necessary for their operation;

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

- 1       (21) In the case of a contracting unit which is a county or  
2 municipality, the provision of emergency medical services by a hospital  
3 to residents of a municipality or county as appropriate for a term not  
4 to exceed five years;
- 5       (22) Towing and storage contracts, awarded pursuant to paragraph  
6 u. of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) for  
7 any term not exceeding three years;
- 8       (23) Fuel for the purpose of generating electricity for a term not to  
9 exceed eight years;
- 10       (24) The purchase of electricity or administrative or dispatching  
11 services related to the transmission of such electricity, from a public  
12 utility company subject to the jurisdiction of the Board of Public  
13 Utilities, a similar regulatory body of another state, or a federal  
14 regulatory agency, or from a qualifying small power producing facility  
15 or qualifying cogeneration facility, as defined by 16 U.S.C. 796, by a  
16 contracting unit engaged in the generation of electricity for retail sale,  
17 as of May 24,1991, for a term not to exceed 40 years;
- 18       (25) Basic life support services, for a period not to exceed five  
19 years. For the purposes of this subsection, "basic life support" means  
20 a basic level of prehospital care, which includes but need not be limited  
21 to patient stabilization, airway clearance, cardiopulmonary  
22 resuscitation, hemorrhage control, initial wound care and fracture  
23 stabilization;
- 24       (26) Claims administration services, for any term not to exceed  
25 three years;
- 26       (27) The provision of transportation services to elderly, disabled  
27 or indigent persons for any term of not more than three years. For the  
28 purposes of this subsection, "elderly persons" means persons who are  
29 60 years of age or older. "Disabled persons" means persons of any age  
30 who, by reason of illness, injury, age, congenital malfunction, or other  
31 permanent or temporary incapacity or disability, are unable, without  
32 special facilities or special planning or design to utilize mass  
33 transportation facilities and services as effectively as persons who are  
34 not so affected. "Indigent persons" means persons of any age whose  
35 income does not exceed 100 percent of the poverty level, adjusted for  
36 family size, established and adjusted under section 673(2) of subtitle  
37 B, the "Community Services Block Grant Act," Pub.L.97-35 (42  
38 U.S.C.9902 (2));
- 39       (28) The supplying of liquid oxygen or other chemicals, for a term  
40 not to exceed five years, when the contract includes the installation of  
41 tanks or other storage facilities by the supplier, on or near the  
42 premises of the contracting unit;
- 43       (29) The performance of patient care services by contracted  
44 medical staff at county hospitals, correction facilities and long term  
45 care facilities, for any term of not more than three years;
- 46       (30) The acquisition of an equitable interest in a water supply

1 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an  
2 agreement entered into pursuant to the "County and Municipal Water  
3 Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into  
4 no later than January 7, 1995, for any term of not more than forty  
5 years;

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

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

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

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

23 (35) An agreement for the purchase of a supply of water from a  
24 public utility company subject to the jurisdiction of the Board of Public  
25 Utilities in accordance with tariffs and schedules of charges made,  
26 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 public  
29 authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for the  
30 provision of wastewater treatment services may be entered into for any  
31 term of not more than 40 years, including all optional extension  
32 periods; and

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 or a water supply  
36 or distribution facility, as the case may be, for any term of not more  
37 than seven years. For the purposes of this subsection, "wastewater  
38 treatment system" refers to facilities operated or maintained for the  
39 storage, collection, reduction, disposal, or other treatment of  
40 wastewater or sewage sludge, remediation of groundwater  
41 contamination, stormwater runoff, or the final disposal of residues  
42 resulting from the treatment of wastewater; and "water supply or  
43 distribution facility" refers to facilities operated or maintained for  
44 augmenting the natural water resources of the State, increasing the  
45 supply of water, conserving existing water resources, or distributing  
46 water to users.

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

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

29

30 3. This act shall take effect immediately.

31

### 32 STATEMENT

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34 This bill changes the maximum allowable period for contracts under  
35 the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et  
36 seq.) from 12 consecutive months to 24 consecutive months. It is  
37 anticipated that this change will provide local contracting units with  
38 greater cost savings resulting from longer contracts and a reduction in  
39 the frequency of bid solicitations.

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45 Increases to 24 months maximum allowable period for contracts under  
"Local Public Contracts Law."