SENATE, No. 1636

STATE OF NEW JERSEY

INTRODUCED OCTOBER 28, 1996

By Senators PALAIA and CIESLA

AN ACT concerning certain notifications relating to bidding on local public contracts and amending P.L.1971, c.198.

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

1. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to read as follows:

23. Advertisements for bids; bids; general requirements. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date; except that all advertisements for bids on contracts for the collection and disposal of municipal solid waste shall be published in a legal newspaper circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but not less than 60 days prior to that date.

The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the

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 <u>thus</u> is new matter.

governing body of the contracting unit for its action thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

Except as provided below, notice of revisions or addenda to advertisements or bid documents relating to bids shall, no later than five days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids, be published in a legal newspaper and be made available by notification in writing by certified mail to any person who has submitted a bid or who has received a bid package; except that notice of revisions or addenda to advertisements or bid documents relating to bids on contracts for the collection and disposal of municipal solid waste shall be published in a legal newspaper circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, no later than five days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

Notice of revisions or addenda to advertisements or bid documents relating to construction bids shall be sent to any person who has submitted a bid or who has received a bid package or who has filed a notification request with the governing body of the contracting unit, no later than [five] seven days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids[, be published in a legal newspaper and be made available by notification in writing by certified mail to any person who has submitted a bid or who has received a bid package; except that notice of revisions or addenda to advertisements or bid documents relating to bids on contracts for the collection and disposal of municipal solid waste shall be published in a legal newspaper circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, no later than 5 days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids]. Such notification shall be made in writing by certified mail, return receipt requested, by facsimile transmission with return facsimile receipt, or by next day delivery carrier. Such revisions or addenda to advertisements or bid documents shall not increase the total cost of the contract.

Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids.

(cf: P.L.1991, c.381, s.50)

2. This act shall take effect on the first day of the fourth month next following enactment.

STATEMENT

This bill requires that notification of revisions or addenda to advertisements or bid documents relating to construction bids, be made in writing by certified mail, return receipt requested, by facsimile transmission with return facsimile receipt, or by next day delivery carrier. The bill also requires that such notification be sent to any person who has submitted a bid, received a bid package, or filed a notification request, not later than seven days prior to the date for acceptance of bids, Saturdays, Sundays and holidays excepted. Current law does not distinguish between construction bids and non-construction bids and requires that, no later than five days prior to the date for acceptance of bids, such notification be published in a legal newspaper and be made available in writing by certified mail to any person who has submitted a bid or who has received a bid package.

The bill removes the publication requirement only for construction bids and requires that notice be sent to interested parties at least seven work days prior to the date for acceptance of bids. The bill also requires that notices of revisions or addenda to advertisements or bid documents relating to construction bids shall not increase the total cost of the contract.

The effective date of the bill provides that it shall not take effect until the first day of the fourth month next following enactment, in order to permit time for local contracting units and contractors to be made aware of the new procedure.

Changes notice requirements for revisions or addenda to advertisements relating to bids or bid documents under "Local Public Contracts Law."