

SENATE JOINT RESOLUTION No. 40

STATE OF NEW JERSEY

INTRODUCED DECEMBER 19, 1996

By Senator CONNORS

1 A **JOINT RESOLUTION** creating a commission to study the "Local  
2 Public Contracts Law".

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4 **WHEREAS**, Local government spending exceeds State government  
5 spending, making local government a logical focus of efforts to  
6 bring about more efficient, less costly government; and

7 **WHEREAS**, The New Jersey Advisory Commission on Privatization,  
8 established by Executive Order No. 17 of Governor Whitman,  
9 stated in its 1995 report that work needs to be done on how local  
10 governments and authorities can take advantage of the savings that  
11 can be realized through competitive contracting; and

12 **WHEREAS**, The New Jersey Policy Research Organization has stated  
13 in a recent publication that "local government contract law needs  
14 reform to encourage creative service alternatives that maximize  
15 savings"; and

16 **WHEREAS**, The "Local Public Contracts Law" contains impediments  
17 to more widespread cost savings in areas such as the duration of  
18 contracts; restrictions on privatization, public-private partnerships,  
19 outsourcing and competitive contracting; cumbersome  
20 prequalification procedures; and restrictions on the use of design-  
21 build specifications, performance specifications and competitive  
22 requests for proposals; and

23 **WHEREAS**, New Jersey has much to learn from the experience of  
24 other States that have updated their local procurement laws and  
25 from experts on public contracting, local contract vendors,  
26 organized labor, and local officials about how local contracting  
27 laws can be changed to bring about improvements while at the same  
28 time maintaining adequate safeguards against corruption which  
29 local contracting laws are intended to prevent; now, therefore,

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31 **BE IT RESOLVED** by the Senate and General Assembly of the State  
32 of New Jersey:

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34 1. a. There is established a commission, to be known as the "Local  
35 Public Contracts Law Study Commission."

36 b. The commission shall consist of 13 members to be appointed as  
37 follows: two members of the Senate who shall not be of the same

1 political party, to be appointed by the President of the Senate and to  
2 serve during the two-year legislative session in which the appointment  
3 is made; two members of the General Assembly who shall not be of the  
4 same political party, to be appointed by the Speaker of the General  
5 Assembly and to serve during the two-year legislative session in which  
6 the appointment is made; the Commissioner of Community Affairs, ex  
7 officio, or the commissioner's designee; three elected local government  
8 officials or their designees, to serve during the term of their elected  
9 office, one to be appointed by the Governor, one by the President of  
10 the Senate, and one by the Speaker of the General Assembly; the  
11 President of the New Jersey State League of Municipalities or a  
12 designated representative; the President of the New Jersey Association  
13 of Counties or a designated representative; two citizens and residents  
14 of this State with expert knowledge of local government contracting  
15 practices, procedures and requirements, one to be appointed by the  
16 President of the Senate and one by the Speaker of the General  
17 Assembly; and one citizen and resident of this State who is a member  
18 of a union representing the construction trades, to be appointed by the  
19 Governor.

20 c. The members of the commission shall serve without  
21 compensation, but shall be reimbursed for necessary and reasonable  
22 expenses actually incurred in the performance of their duties, within  
23 the limits of funds appropriated or otherwise made available to the  
24 commission for this purpose.

25 Vacancies in the membership of the commission shall be filled in the  
26 same manner as the original appointments.

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28 2. a. The commission shall organize within 30 days after the  
29 appointment of its authorized membership and shall select a  
30 chairperson and vice-chairperson from among the members. The  
31 chairperson shall appoint a secretary who need not be a member of the  
32 commission.

33 b. The commission may meet and hold hearings at such places as  
34 it shall designate during the sessions and recesses of the Legislature.

35 c. The commission shall be entitled to call to its assistance and  
36 avail itself of the services of the employees of any State, county, or  
37 municipal department, board, bureau, commission or agency, as it may  
38 require and as may be available to it for its purposes. The commission  
39 shall further be entitled to use the services of the employees and  
40 resources of the Office of Legislative Services for administrative,  
41 stenographic or clerical assistance. It may incur traveling and other  
42 miscellaneous expenses as it may deem necessary to perform its duties,  
43 within the limits of funds appropriated or otherwise made available to  
44 the commission for this purpose.

1       3. It shall be the duty of the commission to study the ways in which  
2 structural changes might be made in the "Local Public Contracts Law,"  
3 P.L.1971, c.198 (C.40A:11-1 et seq.) to encourage vendor  
4 participation in the local contracting process and improve local  
5 government flexibility to evaluate proposals made by vendors. It shall  
6 also be the duty of the commission to study ways in which the "Local  
7 Public Contracts Law" could be changed to encourage creative service  
8 alternatives that would result in increased savings to local taxpayers.  
9 The commission shall consider alternatives such as extending the  
10 maximum duration of local public contracts, permitting the use of  
11 "design-build" specifications, permitting the use of performance  
12 specifications and competitive requests for proposals, improving the  
13 use of the prequalification of vendors, and increasing the ability of  
14 local contracting units to use privatization, public-private partnerships,  
15 competitive contracting and joint services agreements. In the course  
16 of its inquiry, the commission shall draw upon the knowledge of a  
17 wide variety of sources, including local officials, experts in local  
18 contracting, organized labor, local contract vendors, other states, and  
19 the federal government. In making its recommendations, the  
20 commission shall include safeguards against favoritism and corruption  
21 which are so necessary to honesty, efficiency and cost-effectiveness in  
22 local procurement.

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24       4. The commission shall report its findings to the Governor and the  
25 Legislature, along with any legislative bills it desires to recommend for  
26 adoption by the Legislature, no later than 18 months after the date on  
27 which the commission organizes pursuant to subsection a. of section  
28 2 of this joint resolution.

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30       5. This joint resolution shall take effect immediately and shall  
31 expire upon the submission of the commission's report pursuant to  
32 section 4 of this joint resolution.

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#### STATEMENT

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37       This joint resolution would establish the "Local Public Contracts  
38 Law Study Commission."

39       The commission's purpose would be to study ways in which  
40 structural changes could be made to the "Local Public Contracts Law,"  
41 P.L.1971, c.198 (C.40A:11-1 et seq.) to improve vendor participation  
42 in the local contracting process and improve local government  
43 flexibility to evaluate proposals made by vendors, and to encourage  
44 creative service alternatives that would result in increased savings to  
45 local taxpayers.

1 The commission would consist of 13 members: two members of the  
2 Senate who would not be of the same political party, to be appointed  
3 by the Senate President; two members of the General Assembly who  
4 would not be of the same political party, to be appointed by the  
5 Speaker of the General Assembly; the Commissioner of Community  
6 Affairs; three elected local government officials, one each to be  
7 appointed by the Governor, the Senate President, and the Speaker of  
8 the General Assembly; the President of the New Jersey State League  
9 of Municipalities or a designated representative; the President of the  
10 New Jersey Association of Counties or a designated representative;  
11 two citizens and residents of this State with expert knowledge of local  
12 government contracting procedures, practices and requirements, one  
13 to be appointed by the Senate President and one by the Speaker of the  
14 General Assembly; and one citizen and resident of this State who is a  
15 member of a union representing the construction trades, to be  
16 appointed by the Governor.

17 The commission would organize within 30 days after the  
18 appointment of its members and would report its findings to the  
19 Governor and the Legislature, with any bills it recommends for  
20 adoption by the Legislature, no later than 18 months after the date on  
21 which it organized. The joint resolution requires the commission, in  
22 making its recommendations, to be mindful to include safeguards  
23 against favoritism and corruption, which are necessary to honesty,  
24 efficiency, and cost-efficiency in local procurement.

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Creates "Local Public Contracts Law Study Commission."

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