

[First Reprint]

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".  
3
- 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,

**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> Senate SCO committee amendments adopted March 20, 1997.

1       **BE IT RESOLVED** *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

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

6       b. The commission shall consist of 13 members to be appointed as  
7 follows: two members of the Senate who shall not be of the same  
8 political party, to be appointed by the President of the Senate and to  
9 serve during the two-year legislative session in which the appointment  
10 is made; two members of the General Assembly who shall not be of the  
11 same political party, to be appointed by the Speaker of the General  
12 Assembly and to serve during the two-year legislative session in which  
13 the appointment is made; the Commissioner of Community Affairs, ex  
14 officio, or the commissioner's designee; <sup>1</sup>[three] two<sup>1</sup> elected local  
15 government officials or their designees, to serve during the term of  
16 their elected office, one to be appointed by <sup>1</sup>[the Governor, one by]<sup>1</sup>  
17 the President of the Senate <sup>1</sup>[,]<sup>1</sup> and one by the Speaker of the General  
18 Assembly; the President of the New Jersey State League of  
19 Municipalities or a designated representative; the President of the New  
20 Jersey Association of Counties or a designated representative; two  
21 citizens and residents of this State with expert knowledge of local  
22 government contracting practices, procedures and requirements, one  
23 to be appointed by the President of the Senate and one by the Speaker  
24 of the General Assembly; and <sup>1</sup>[one citizen and resident] two citizens  
25 and residents<sup>1</sup> of this State<sup>1</sup>, one<sup>1</sup> who is a member of a union  
26 representing the construction trades, <sup>1</sup>and one who is a member of a  
27 union representing State public employees.<sup>1</sup> to be appointed by the  
28 Governor.

29       c. The members of the commission shall serve without  
30 compensation, but shall be reimbursed for necessary and reasonable  
31 expenses actually incurred in the performance of their duties, within  
32 the limits of funds appropriated or otherwise made available to the  
33 commission for this purpose.

34       Vacancies in the membership of the commission shall be filled in the  
35 same manner as the original appointments.

36  
37       2. a. The commission shall organize within 30 days after the  
38 appointment of its authorized membership and shall select a  
39 chairperson and vice-chairperson from among the members. The  
40 chairperson shall appoint a secretary who need not be a member of the  
41 commission.

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

44       c. The commission shall be entitled to call to its assistance and  
45 avail itself of the services of the employees of any State, county, or  
46 municipal department, board, bureau, commission or agency, as it may

1 require and as may be available to it for its purposes. The commission  
2 shall further be entitled to use the services of the employees and  
3 resources of the Office of Legislative Services for administrative,  
4 stenographic or clerical assistance. It may incur traveling and other  
5 miscellaneous expenses as it may deem necessary to perform its duties,  
6 within the limits of funds appropriated or otherwise made available to  
7 the commission for this purpose.  
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9 3. It shall be the duty of the commission to study the ways in which  
10 structural changes might be made in the "Local Public Contracts Law,"  
11 P.L.1971, c.198 (C.40A:11-1 et seq.) to encourage vendor  
12 participation in the local contracting process and improve local  
13 government flexibility to evaluate proposals made by vendors. It shall  
14 also be the duty of the commission to study ways in which the "Local  
15 Public Contracts Law" could be changed to encourage creative service  
16 alternatives that would result in increased savings to local taxpayers.  
17 The commission shall consider alternatives such as extending the  
18 maximum duration of local public contracts, permitting the use of  
19 "design-build" specifications, permitting the use of performance  
20 specifications and competitive requests for proposals, improving the  
21 use of the prequalification of vendors, and increasing the ability of  
22 local contracting units to use privatization, public-private partnerships,  
23 competitive contracting and joint services agreements. In the course  
24 of its inquiry, the commission shall draw upon the knowledge of a  
25 wide variety of sources, including local officials, experts in local  
26 contracting, organized labor, local contract vendors, other states, and  
27 the federal government. In making its recommendations, the  
28 commission shall include safeguards against favoritism and corruption  
29 which are so necessary to honesty, efficiency and cost-effectiveness in  
30 local procurement.  
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32 4. The commission shall report its findings to the Governor and the  
33 Legislature, along with any legislative bills it desires to recommend for  
34 adoption by the Legislature, no later than 18 months after the date on  
35 which the commission organizes pursuant to subsection a. of section  
36 2 of this joint resolution.  
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38 5. This joint resolution shall take effect immediately and shall  
39 expire upon the submission of the commission's report pursuant to  
40 section 4 of this joint resolution.  
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45 Creates "Local Public Contracts Law Study Commission."