

[Second 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:

¹ Senate SCO committee amendments adopted March 20, 1997.

² Senate floor amendments adopted June 5, 1997.

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

3
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 ²[13] ¹⁵² members to be
7 appointed as follows: two members of the Senate who shall not be of
8 the same political party, to be appointed by the President of the Senate
9 and to serve during the two-year legislative session in which the
10 appointment is made; two members of the General Assembly who shall
11 not be of the same political party, to be appointed by the Speaker of
12 the General Assembly and to serve during the two-year legislative
13 session in which the appointment is made; the Commissioner of
14 Community Affairs, ex officio, or the commissioner's designee;
15 ¹[three] ²[two] ¹ ^{three}² elected local government officials or their
16 designees, to serve during the term of their elected office, one to be
17 appointed by ¹[the Governor, one by] ¹ ²the Governor, one by² the
18 President of the Senate ¹[,] ¹ ²,² and one by the Speaker of the General
19 Assembly; the President of the New Jersey State League of
20 Municipalities or a designated representative; the President of the New
21 Jersey Association of Counties or a designated representative; ²the
22 President of the Utility and Transportation Contractors Association of
23 New Jersey or a designated representative;² two citizens and residents
24 of this State with expert knowledge of local government contracting
25 practices, procedures and requirements, one to be appointed by the
26 President of the Senate and one by the Speaker of the General
27 Assembly; and ¹[one citizen and resident] two citizens and residents¹
28 of this State¹, one¹ who is a member of a union representing the
29 construction trades, ¹and one who is a member of a union representing
30 State public employees,¹ to be appointed by the Governor.

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

36 Vacancies in the membership of the commission shall be filled in the
37 same manner as the original appointments.

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

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

46 c. The commission shall be entitled to call to its assistance and

1 avail itself of the services of the employees of any State, county, or
2 municipal department, board, bureau, commission or agency, as it may
3 require and as may be available to it for its purposes. The commission
4 shall further be entitled to use the services of the employees and
5 resources of the Office of Legislative Services for administrative,
6 stenographic or clerical assistance. It may incur traveling and other
7 miscellaneous expenses as it may deem necessary to perform its duties,
8 within the limits of funds appropriated or otherwise made available to
9 the commission for this purpose.

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

33
34 4. The commission shall report its findings to the Governor and the
35 Legislature, along with any legislative bills it desires to recommend for
36 adoption by the Legislature, no later than 18 months after the date on
37 which the commission organizes pursuant to subsection a. of section
38 2 of this joint resolution.

39
40 5. This joint resolution shall take effect immediately and shall
41 expire upon the submission of the commission's report pursuant to
42 section 4 of this joint resolution.

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46 _____
Creates "Local Public Contracts Law Study Commission."