

SENATE JOINT RESOLUTION No. 54

STATE OF NEW JERSEY

INTRODUCED JUNE 23, 1997

By Senator DiFRANCESCO

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 15 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; the President of the Utility
14 and Transportation Contractors Association of New Jersey or a
15 designated representative; two citizens and residents of this State with
16 expert knowledge of local government contracting practices,
17 procedures and requirements, one to be appointed by the President of
18 the Senate and one by the Speaker of the General Assembly; and two
19 citizens and residents of this State, one who is a member of a union
20 representing the construction trades, and one who is a member of a
21 union representing State public employees, to be appointed by the
22 Governor.

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

28 Vacancies in the membership of the commission shall be filled in the
29 same manner as the original appointments.

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

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

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

1 the commission for this purpose.

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

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26 4. The commission shall report its findings to the Governor and the
27 Legislature, along with any legislative bills it desires to recommend for
28 adoption by the Legislature, no later than 18 months after the date on
29 which the commission organizes pursuant to subsection a. of section
30 2 of this joint resolution.

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

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STATEMENT

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39 This joint resolution would establish the "Local Public Contracts
40 Law Study Commission."

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

1 local taxpayers.

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

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

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32 Creates "Local Public Contracts Law Study Commission."