

January 23, 1969

LEGISLATIVE HISTORY OF R.S. 40:50-1
(For work or materials exceeding \$2,500. Advertisements, bids; awards, exceptions)

COPY NO. 2

L. 1917, Chapter 152

Introduced as Assembly 592 by Mr. Oliphant, March 12, 1917. "An Act concerning municipalities". This was a long general bill revising much of the law concerning municipal government. It was recommended by

New Jersey Commission to Revise and Codify the Statutes of this State Relating to Cities and Other Municipalities. Report 1917.

974.90
M966
1917

This report consists mainly of the proposed text of the bill. There is an introduction explaining some parts of it, but this section is not treated in the introduction. The 2nd OCR, the form in which the bill was passed, does not change this section (section XI - Contracts). However, this section does differ from the form of the bill recommended by the above commission in that the one the commission drafted did not include the word "supplies" in the first sentence after the word "materials".

1920, Chapter 319 See page # 3

L. 1925, Chapter 137

Introduced as Assembly 291 by Mr. Siracura, February 9, 1925. This bill was not amended. It had the following statement.

The purpose of this act is to increase from \$500 to \$1,000, of expenditures which a municipality can make without first publicly advertising for bids. Since one thousand nine hundred and seventeen, the general cost of labor and materials have increased to such an extent that under this proposed act the various governing bodies would have no more latitude than they did at the time of the passage of the original act in one thousand hundred and seventeen.

L. 1957, Chapter 30

Introduced as Assembly 197 by Mr. Deamer, Jan. 24, 1957. This bill was not amended and had no statement. It changes the amount of "\$1,000" to "\$2,500".

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L. 1963, Chapter 67 - A185
Introduced January 21 by Keith.
Bill had statement (copy enclosed).
Amended by Senate (copy enclosed).
Concerns vote by municipal bodies.

RSL/PC

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L. 1920, Chapter 319 - A312

Introduced by Hyland; amended by Assembly committee (deleted section 2, lines 1 thru 49). Copy of original bill with statement attached.

L. 1957, Chapter 209 - A407

March 18 - Introduced by Salsburg & Glenn.

May 27 - Passed in Assembly.

June 17 - Passed in Senate, amended.

June 17 - Senate amendment passed in Assembly under emergency resolution.

December 2 - Returned by Governor with recommended amendment.

December 9 - Amended as recommended, passed in Assembly.

December 16 - Re-enacted in Senate.

December 23 - Approved, Chapter 209.

Copies of statement, amendments and Governor's message attached.

No hearings, reports or newspaper clippings were located.

JH/PC

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ASSEMBLY, No. 312

(Amends Chap. 152, P. L. 1917, page 319.)

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1920.

By Mr. HYLAND.

Referred to Committee on Revision of Laws.

AN ACT to amend an act entitled "An act concerning municipalities," approved March twenty-seventh, one thousand nine hundred and seventeen.

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

1 1. Section one of Article XI of the act to which this act is an amendment be
2 and the same is hereby amended to read as follows:

3 1. No municipality shall enter into any contract for the doing of any work or
4 for the furnishing of any materials, supplies or labor, the hiring of teams or vehi-
5 cles, where the sum to be expended exceeds the sum of five hundred dollars, unless
6 the governing body shall first publicly advertise for bids therefor, and shall award
7 the said contract for the doing of said work or the furnishing of such materials, sup-
8 plies or labor to the lowest responsible bidder; *provided*, this section shall not pre-
9 vent any municipality having any work done by its own employees; *and provided*,
10 *further*, that nothing herein contained shall apply to repairs when the safety or pro-
11 tection of public property or the public convenience require, and provided also when
12 the exigency of the public service will not admit of such advertisement, said work
13 or the furnishing of materials, supplies or labor, the hiring of teams or vehicles may
14 be done forthwith; *provided*, the board shall, by resolution, passed by the affirma-
15 tive vote of four-fifths of the members of said board or body having charge

16 thereof, declare said exigency or emergency to exist and setting forth the nature
17 thereof and stating the approximate amount to be so expended, then in such case the
18 necessity for advertising and receiving proposals provided for in this section shall
19 not apply.

1 2. Article XX of the act to which this act is an amendment be and the same is
2 hereby amended by adding thereto four new section, to be known as fifty-six, fifty-
3 seven, fifty-eight and fifty-nine, which sections shall read as follows:

4 56. In any municipality of this State now or hereafter owning an asphalt repair
5 plant, the board or body having charge of such plant may use the same and the
6 appurtenances thereto for resurfacing streets and for paving and repaving work, and
7 may cause the benefits from such work, not in excess of the cost of doing the same, to
8 be assessed by the board or body having charge of the assessments for local im-
9 provements in any such municipality in the manner now provided by law for the
10 making of such assessments; *provided, however,* that whenever it shall be deter-
11 mined by the board or body having charge of the pavements in any such municipality,
12 that the benefit to be derived from the work proposed to be done be assessed upon the
13 property benefited, said board or body shall publish in the manner now provided by
14 law notice of the intention of the doing of said work, and shall authorize said im-
15 provement by ordinance in the manner now required by law.

16 57. Whenever it shall be decided to assess the benefits for the doing of any such
17 work, as hereinabove provided, in order to raise the necessary funds for the doing
18 of such resurfacing, paving or repaving work, the board having charge of the
19 finances in any such municipality may provide by the issuance of temporary loan
20 bonds the amount of money needed to pay the cost of operation of said plant and
21 appurtenances in connection with the doing of such work and the moneys received
22 from assessments for such work shall be applied to the retirement of such tempo-
23 rary loan bonds, and any deficiency in such receipts and the portion of such assess-
24 ments as may be placed upon the municipality at large shall be included in the
25 moneys to be raised by taxes in any such municipality as now provided by law for
26 the carrying out and doing of public improvements in any such municipality.

27 58. In order to ascertain the amount of money to be charged against any im-
28 provement made in accordance with this act for which an assessment is to be levied
29 upon the property specially benefited, the board or body having charge of such paving,
30 repaving or resurfacing shall keep accurate records of the cost of the materials and
31 labor entering into such work, and may add a reasonable amount for depreciation,
32 overhead charges and engineering expenses, in connection with the operation of
33 such plant for each specific improvement made, and the total of such cost of ma-
34 terials and labor, depreciation, overhead charges and engineering expenses shall,
35 together with such other items of expense as may properly be chargeable against
36 any such improvement, be used by the board or body having charge of assessments
37 for local improvements in any such municipality, as the basis for determining the cost
38 of such improvement.

39 59. Any board, body or department having charge of such asphalt repair plant
40 in any municipality may authorize and designate some official or employee of said
41 board, body or department to submit a bid for doing the work of any public im-
42 provement, in accordance with the advertisement and specifications therefor, which
43 bid may be considered by said board, body or department in competition with other
44 bids received at any public letting for such work, and said board, body or depart-
45 ment, if such bid for the doing of such work by its own plant, be the lowest bid
46 therefor, may award the work to its own department, or to the next lowest bidder,
47 on the basis of such bids, and the proceeding subsequent thereto, including the pay-
48 ment of the cost of said improvement, shall be the same as though said contract had
49 been let to an independent contractor.

1 3. Section eleven of Article XVIII of the act to which this act is an amend-
2 ment be and the same is hereby amended to read as follows:

3 11. No land or any right or interest therein shall be sold by any municipality
4 except at public sale and to the highest bidder, after public advertisement given in a
5 newspaper circulating in the municipality, at least once a week for two weeks prior
6 to such sale; provided, that the requirement herein for public sale to the highest
7 bidder shall not apply to any sale of land or any right or interest therein by any

8 municipality to the United States of America, the State of New Jersey, or any
 9 political subdivision of said State, and that any deed or deeds heretofore given by
 10 any municipality for the sale of any land or any right or interest therein, without
 11 public sale to the highest bidder, to the United States of America, the State of
 12 New Jersey, or any political subdivision of said State, shall be valid and effectual.

1 4. Section nineteen of Article XXXVII of the act to which this act is an
 2 amendment be and the same is hereby amended to read as follows:

3 19. Wherever duties are imposed by law upon any officer or employee of a mu-
 4 nicipality, and no person is now by law authorized to perform such duties when
 5 such officer or employee is temporarily absent, [or] disabled or disqualified, it shall
 6 be lawful for the officer or board having the authority to fill any vacancy in any
 7 such office to designate some person to act in lieu and place of any such officer or
 8 employee during his temporary absence, [or] disability or disqualification; in case
 9 the officer or employee so temporarily absent, [or] disabled or disqualified is one
 10 who was elected by the voters of the municipality, in municipalities governed by a
 11 board of commissioners, the person to act in his place and stead shall be designated
 12 by the board of commissioners, and in all other municipalities by the mayor or other
 13 chief executive officer of the municipality. The acts of any person so designated
 14 shall in all cases be legal and binding as if done and performed by the officer or
 15 employee for whom such designated person is acting.

1 5. All acts and parts of acts inconsistent with the provisions of this act be and
 2 the same are hereby repealed.

1 6. This act shall take effect immediately.

STATEMENT.

Section 1 of this act amends Section 1 of Article XI of the Home Rule Act, and is intended to give the governing board authority, without advertising for bids, to do work in emergency cases. This had always been the law, as will be found in Comp. Stat. 1015, Section 1540, and was probably left out of the Home Rule Act by

page 5 is missing

last page

[OFFICIAL COPY REPRINT.]

ASSEMBLY, NO. 312

(Amends Chap. 152, P. L. 1917, page 319.)

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1920.

By Mr. HYLAND.

Referred to Committee on Revision of Laws.

AN ACT to amend an act entitled "An act concerning municipalities," approved March twenty-seventh, one thousand nine hundred and seventeen.

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

1 1. Section one of Article XI of the act to which this act is an amendment be
2 and the same is hereby amended to read as follows:

3 1. No municipality shall enter into any contract for the doing of any work or
4 for the furnishing of any materials, supplies or labor, the hiring of teams or vehi-
5 cles, where the sum to be expended exceeds the sum of five hundred dollars, unless
6 the governing body shall first publicly advertise for bids therefor, and shall award
7 the said contract for the doing of said work or the furnishing of such materials, sup-
8 plies or labor to the lowest responsible bidder; *provided*, this section shall not pre-
9 vent any municipality having any work done by its own employees; *and provided*,
10 *further*, that nothing herein contained shall apply to repairs when the safety or pro-
11 tection of public property or the public convenience require, and provided also when
12 the exigency of the public service will not admit of such advertisement, said work
13 or the furnishing of materials, supplies or labor, the hiring of teams or vehicles may
14 be done forthwith; *provided*, the board shall, by resolution, passed by the affirma-
15 tive vote of four-fifths of the members of said board or body having charge

16 thereof, declare said exigency or emergency to exist and setting forth the nature
17 thereof and stating the approximate amount to be so expended, then in such case the
18 necessity for advertising and receiving proposals provided for in this section shall
19 not apply.

1 2. Section eleven of Article XVIII of the act to which this act is an amend-
2 ment be and the same is hereby amended to read as follows:

3 11. No land or any right or interest therein shall be sold by any municipality
4 except at public sale and to the highest bidder, after public advertisement given in a
5 newspaper circulating in the municipality, at least once a week for two weeks prior
6 to such sale; *provided*, that the requirement herein for public sale to the highest
7 bidder shall not apply to any sale of land or any right or interest therein by any
8 municipality to the United States of America, the State of New Jersey, or any
9 political subdivision of said State, and that any deed or deeds heretofore given by
10 any municipality for the sale of any land or any right or interest therein, without
11 public sale to the highest bidder, to the United States of America, the State of
12 New Jersey, or any political subdivision of said State, shall be valid and effectual.

1 3. Section nineteen of Article XXXVII of the act to which this act is an
2 amendment be and the same is hereby amended to read as follows:

3 19. Wherever duties are imposed by law upon any officer or employee of a mu-
4 nicipality, and no person is now by law authorized to perform such duties when
5 such officer or employee is temporarily absent, disabled or disqualified, it shall
6 be lawful for the officer or board having the authority to fill any vacancy in any
7 such office to designate some person to act in lieu and place of any such officer or
8 employee during his temporary absence, disability or disqualification; in case
9 the officer or employee so temporarily absent, disabled or disqualified is one
10 who was elected by the voters of the municipality, in municipalities governed by a
11 board of commissioners, the person to act in his place and stead shall be designated
12 by the board of commissioners, and in all other municipalities by the mayor or other
13 chief executive officer of the municipality. The acts of any person so designated

14 shall in all cases be legal and binding as if done and performed by the officer or
15 employee for whom such designated person is acting.

1 4. All acts and parts of acts inconsistent with the provisions of this act be and
2 the same are hereby repealed.

1 5. This act shall take effect immediately.

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 407

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1957

By Assemblymen SALSBURG and GLENN

Referred to Committee on State, County and Municipal Government

AN ACT concerning municipalities, and amending section 40:50-1 of the Revised Statutes.

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

1 1. Section 40:50-1 of the Revised Statutes is amended to read as fol-
2 lows:

3 40:50-1. No municipality shall enter into any contract for the doing of
4 any work, or for the furnishing of any materials, supplies or labor, or the
5 hiring of teams or vehicles, where the sum to be expended exceeds the sum of
6 **[\$1,000.00]** \$2,500.00, unless the governing body shall first publicly advertise
7 for bids therefor, and shall award the contract to the lowest responsible bid-
8 der, *provided, however, that such advertising shall not be required where the*
9 *contract to be entered into is one [with] for the supplying of any product or*
9A *the rendering of any service by a public utility subject to the jurisdiction*
9B *of the Board of Public Utility Commissioners of this State and tariffs and*
9C *schedules of the charges, made, charged, or exacted by the public utility for*
10 *any such products to be supplied or services to be rendered are filed with the*
10A *said board.*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

11 This section shall not prevent any municipality from having any work
12 done by its own employees, nor shall it apply to repairs, or to the furnishing
13 of materials, supplies or labor, or the hiring of teams or vehicles, when the
14 safety or protection of public property or the public convenience require,
15 or the exigency of the public service will not admit of such advertisement.
16 In such case, however, the board shall, by resolution, passed by the affirma-
17 tive vote of $\frac{4}{5}$ of all the members of the board or body having charge
18 thereof, declare the exigency or emergency to exist, and set forth in the
19 resolution the nature thereof and the approximate amount to be so ex-
20 pended.

1 2. This act shall take effect immediately.

ASSEMBLY, No. 407

STATE OF NEW JERSEY

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2 lows:

3 40:50-1. No municipality shall enter into any contract for the doing of
4 any work, or for the furnishing of any materials, supplies or labor, or the
5 hiring of teams or vehicles, where the sum to be expended exceeds the sum of
6 \$1,000.00, unless the governing body shall first publicly advertise for bids
7 therefor, and shall award the contract to the lowest responsible bidder, *pro-*
8 *vided, however, that such advertising shall not be required where the con-*
9 *tract to be entered into is one with a public utility subject to the jurisdiction*
10 *of the Board of Public Utility Commissioners of this State.*

11 This section shall not prevent any municipality from having any work
12 done by its own employees, nor shall it apply to repairs, or to the furnishing
13 of materials, supplies or labor, or the hiring of teams or vehicles, when the
14 safety or protection of public property or the public convenience require,
15 or the exigency of the public service will not admit of such advertisement.
16 In such case, however, the board shall, by resolution, passed by the affirma-
17 tive vote of $\frac{2}{3}$ of all the members of the board or body having charge

18 thereof, declare the exigency or emergency to exist, and set forth in the
19 resolution the nature thereof and the approximate amount to be so ex-
20 pended.

1 2. This act shall take effect immediately.

STATEMENT

The object of this bill is to eliminate the requirement of advertising for bids by municipalities as a prerequisite to contracts with public utilities subject to the jurisdiction of the Board of Public Utility Commissioners. As to such utilities, the possibility of competitive bidding does not generally exist; furthermore, their rates and charges are subject to regulation by the Board of Public Utility Commissioners. Therefore, the requirement of advertising for bids in such cases is meaningless and causes needless formality and expense.

SENATE COMMITTEE AMENDMENT TO

ASSEMBLY, No. 407

STATE OF NEW JERSEY

ADOPTED JUNE 3, 1957

Amend page 1, section 1, line 6, omit "\$1,000.00", insert "\$2,500.00".

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ASSEMBLY, No. 407

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1957

By Assemblymen SALSBURG and GLENN

Referred to Committee on State, County and Municipal Government

AN ACT concerning municipalities, and amending section 40:50-1 of the Revised Statutes.

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

1 1. Section 40:50-1 of the Revised Statutes is amended to read as fol-
2 lows:

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4 any work, or for the furnishing of any materials, supplies or labor, or the
5 hiring of teams or vehicles, where the sum to be expended exceeds the sum of
6 **[\$1,000.00]** \$2,500.00, unless the governing body shall first publicly advertise
7 for bids therefor, and shall award the contract to the lowest responsible bid-
8 der, *provided, however, that such advertising shall not be required where the*
9 *contract to be entered into is one with a public utility subject to the juris-*
10 *diction of the Board of Public Utility Commissioners of this State.*

11 This section shall not prevent any municipality from having any work
12 done by its own employees, nor shall it apply to repairs, or to the furnishing
13 of materials, supplies or labor, or the hiring of teams or vehicles, when the
14 safety or protection of public property or the public convenience require,
15 or the exigency of the public service will not admit of such advertisement.
16 In such case, however, the board shall, by resolution, passed by the affirma-
17 tive vote of $\frac{2}{3}$ of all the members of the board or body having charge

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

18 thereof, declare the exigency or emergency to exist, and set forth in the
19 resolution the nature thereof and the approximate amount to be so ex-
20 pended.

1 2. This act shall take effect immediately.

AMENDMENTS TO
ASSEMBLY, No. 407
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 2, 1957

Amend page 1, section 1, line 9, delete the word "with" and insert in lieu thereof the words "for the supplying of any product or the rendering of any service by".

Amend page 1, section 1, line 10, after the word "State" insert the following: "and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be rendered are filed with the said board".

(CORRECTED COPY)

AMENDMENTS TO

ASSEMBLY, No. 407

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 2, 1957

Amend page 1, section 1, line 9, delete the word "with" and insert in lieu thereof the words "for the supplying of any product or the rendering of any service by".

Amend page 1, section 1, line 10, after the word "State" insert the following: "and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board".

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 407

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1957

By Assemblymen SALSBURG and GLENN

Referred to Committee on State, County and Municipal Government

AN ACT concerning municipalities, and amending section 40:50-1 of the Revised Statutes.

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

1 1. Section 40:50-1 of the Revised Statutes is amended to read as fol-
2 lows:

3 40:50-1. No municipality shall enter into any contract for the doing of
4 any work, or for the furnishing of any materials, supplies or labor, or the
5 hiring of teams or vehicles, where the sum to be expended exceeds the sum of
6 **[\$1,000.00]** \$2,500.00, unless the governing body shall first publicly advertise
7 for bids therefor, and shall award the contract to the lowest responsible bid-
8 der, *provided, however, that such advertising shall not be required where the*
9 *contract to be entered into is one [with] for the supplying of any product or*
9A *the rendering of any service by a public utility subject to the jurisdiction*
9B *of the Board of Public Utility Commissioners of this State and tariffs and*
9C *schedules of the charges, made, charged, or exacted by the public utility for*
10 *any such products to be rendered are filed with the said board.*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

11 This section shall not prevent any municipality from having any work
 12 done by its own employees, nor shall it apply to repairs, or to the furnishing
 13 of materials, supplies or labor, or the hiring of teams or vehicles, when the
 14 safety or protection of public property or the public convenience require,
 15 or the exigency of the public service will not admit of such advertisement.
 16 In such case, however, the board shall, by resolution, passed by the affirma-
 17 tive vote of $\frac{2}{3}$ of all the members of the board or body having charge
 18 thereof, declare the exigency or emergency to exist, and set forth in the
 19 resolution the nature thereof and the approximate amount to be so ex-
 20 pended.

1 2. This act shall take effect immediately.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
December 2, 1957. }

ASSEMBLY BILL No. 407

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I am returning Assembly Bill No. 407 herewith, with my objections, for reconsideration.

This bill is a companion measure to Assembly Bill No. 406 and would amend Section 40:50-1 of the Revised Statutes which prohibits a municipality from entering into a contract for the doing of work or the furnishing of materials, supplies or labor, where the sum to be expended exceeds \$2,500.00, without first publicly advertising for bids therefor, and which requires that the contract be awarded to the lowest responsible bidder. The proposed amendment would add a proviso to eliminate the requirement for such advertising "where the contract to be entered into is one with a public utility subject to the jurisdiction of the Board of Public Utility Commissioners of this State."

I am advised that the purpose of the sponsors of this bill was to clarify the advertising requirement where the service to be contracted for is the furnishing of electric, gas or similar service by a public utility authorized to furnish such service in the area, because in such case, since the rates charged are filed with the Board of Public Utility Commissioners, advertising for bids serves no useful purpose and causes needless expense.

But the amendatory language in the bill would have a scope and effect beyond that intended. It would eliminate the advertising requirement in cases where the articles to be furnished or the service to be rendered are properly the subject of competitive bidding, merely because the contract is entered into with a public utility. So, for example, various public utilities which furnish electric and gas service also engage in the business of selling articles and appliances of various kinds in competition with companies which are not public utilities. Yet, under the terms of this bill, advertising could be eliminated with respect to those items if they were purchased from a public utility. Competing merchants would thus be barred from the opportunity of submitting bids.

The objective of the sponsors of the bill can be accomplished and the objectionable features eliminated by the amendments hereinafter recommended.

Accordingly, I am returning Assembly Bill No. 407 herewith for reconsideration, with the recommendation that amendments be made to the bill as follows:

On page 1, section 1, line 9, delete the word "with" and insert in lieu thereof the words "for the supplying of any product or the rendering of any service by".

On page 1, section 1, line 10, after the word "State" insert the following: "and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said Board".

Respectfully,

[SEAL]
Attest:

ROBERT B. MEYNER,
Governor.

BRENDAN T. BYRNE,
Acting Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 14, 1958. }

ASSEMBLY BILL NO. 413

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I am returning herewith, for reconsideration and with my objections, Assembly Bill No. 413.

This bill amends the law dealing with municipal shade tree commissions (R. S. 40:64-1 *et seq.*). It endeavors to clarify the existing law and to bring the provisions of the statute into accord with current practices in this area.

I am in accord with the basic objectives of this bill. However, I am obliged to return the measure because of objections to certain of the amendatory provisions.

One amendment would specifically except state highways from the jurisdiction of municipal shade tree commissions.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

December 2, 1957

ASSEMBLY BILL NO. 407

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I am returning Assembly Bill No. 407 herewith, with my objections, for reconsideration.

This bill is a companion measure to Assembly Bill No. 406 and would amend Section 40:50-1 of the Revised Statutes which prohibits a municipality from entering into a contract for the doing of work or the furnishing of materials, supplies or labor, where the sum to be expended exceeds \$2,500.00, without first publicly advertising for bids therefor, and which requires that the contract be awarded to the lowest responsible bidder. The proposed amendment would add a proviso to eliminate the requirement for such advertising "where the contract to be entered into is one with a public utility subject to the jurisdiction of the Board of Public Utility Commissioners of this State."

I am advised that the purpose of the sponsors of this bill was to clarify the advertising requirement where the service to be contracted for is the furnishing of electric, gas or similar service by a public utility authorized to furnish such service in the area, because in such case, since the rates charged are filed with the Board of Public Utility Commissioners, advertising for bids serves no useful purpose and causes needless expense.

But the amendatory language in the bill would have a scope and effect beyond that intended. It would eliminate the advertising requirement in cases where the articles to be furnished or the service to be rendered are properly the subject of competitive bidding, merely because the contract is entered into with a public utility. So, for example, various public utilities which furnish electric and gas service also engage in the business of selling articles and appliances of various kinds in

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Assembly Bill No. 407

- 2 -

competition with companies which are not public utilities. Yet, under the terms of this bill, advertising could be eliminated with respect to those items if they were purchased from a public utility. Competing merchants would thus be barred from the opportunity of submitting bids.

The objective of the sponsors of the bill can be accomplished and the objectionable features eliminated by the amendments hereinafter recommended.

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On page 1, section 1, line 10, after the word "State" insert the following: "and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said Board".

Respectfully,

ROBERT B. MEYNER

GOVERNOR

[SEAL]

Attest:

BRENDAN T. BYRNE

Acting Secretary to the Governor

ASSEMBLY, No. 185

STATE OF NEW JERSEY

INTRODUCED JANUARY 21, 1963

By Assemblyman KEITH

Referred to Committee on State, County and Municipal Government

AN ACT concerning municipalities, and amending section 40:50-1 of the Revised Statutes.

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

1 1. Section 40:50-1 of the Revised Statutes is amended to read as follows:

2 40:50-1. No municipality shall enter into any contract for the doing of
3 any work, or for the furnishing of any materials, supplies or labor, or the
4 hiring of teams or vehicles, where the sum to be expended exceeds the sum of
5 \$2,500.00, unless the governing body shall first publicly advertise for bids
6 therefor, and shall award the contract to the lowest responsible bidder, pro-
7 vided, however, that such advertising shall not be required where the contract
8 to be entered into is one for the supplying of any product or the rendering
9 of any service by a public utility subject to the jurisdiction of the Board of
10 Public Utility Commissioners of this State and tariffs and schedules of the
11 charges, made, charged, or exacted by the public utility for any such prod-
12 ucts to be supplied or services to be rendered are filed with the said board.

13 This section shall not prevent any municipality from having any work
14 done by its own employees, nor shall it apply to repairs, or to the furnish-
15 ing of materials, supplies or labor, or the hiring of teams or vehicles, when
16 the safety or protection of public property or the public convenience require,
17 or the exigency of the public service will not admit of such advertisement.

18 In such case, however, the board shall, by resolution, passed by the affirma-
19 tive vote of $4/5$ of all the members of the board or body having charge
20 thereof, *or of $2/3$ of all the members of such board or body, if the full mem-*
21 *bership thereof shall be 3 members*, declare the exigency or emergency to exist,
22 and set forth in the resolution the nature thereof and the approximate amount
23 to be so expended.

1 2. This act shall take effect immediately.

STATEMENT

The section of the statute to be amended by this bill was evidently drawn to cover the needs of a municipality with a governing body of 5 or more members. It does not meet the requirements of a governing body of 3 members, because if one member is unavailable because of absence on vacation or hospitalized outside the municipality, any exigency resolution cannot be legally adopted, no matter how dire the emergency. The requirement of affirmative votes will be changed from $4/5$ to $2/3$ in such case.

SENATE COMMITTEE AMENDMENT TO

ASSEMBLY, No. 185

STATE OF NEW JERSEY

ADOPTED APRIL 22, 1963

Amend page 2, section 1, line 20, after "thereof," insert "or of $\frac{3}{4}$ of all the members of such board or body if the full membership thereof shall be 4 members,"