

40A:11-23

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:11-23

(Local Contracts Law—revisions to specifications must be 5 days prior to bid acceptance)

LAWS OF: 1983

CHAPTER: 174

Bill No: S553

Sponsor(s): Paolella

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County and Municipal Government; Labor, Industry and Professions

Amended during passage: Yes // Substituted for A2127 (not attached since identical to S553)

Date of Passage: Assembly: March 14, 1983

Senate: Oct. 25, 1982

Date of Approval: May 9, 1983

Following statements are attached if available:

Sponsor statement:		Yes	// Also attached: Assembly committee amendments, adopted 2-14-83 (with statement)
Committee statement:	Assembly	Yes	//
	Senate	Yes	// 6-28-82 & 9-23-82
Fiscal Note:		///	No
Veto Message:		///	No
Message on Signing:		///	No
Following were printed:			
Reports:		///	No
Hearings:		///	No

See *Impac, Inc. v. City of Paterson*, 178 N.J. Super. 195 (1978)

5-9-83

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 553

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Senator PAOLELLA

AN ACT to amend the "Local Public Contracts Law," approved
June 9, 1971 (P. L. 1971, c. 198).

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

1 1. Section 23 of P. L. 1971, c. 198 (C. 40A:11-23) is amended
2 to read as follows:

3 23. Advertisements for bids; bids; general requirements. All
4 advertisements for bids shall be published in a legal newspaper
5 sufficiently in advance of the date fixed for receiving the bids to
6 promote competitive bidding, but in no event less than 10 days
7 prior to such date. The advertisement shall designate the manner
8 of submitting and the method of receiving the bids and the time
9 and place at which the bids will be received. If the published
10 specifications provide for receipt of bids by mail, those bids which
11 are mailed to the contracting unit shall be sealed and shall only
12 be opened for examination at such time and place as all bids
13 received are unsealed and announced. At such time and place
14 the contracting agent of the contracting unit shall publicly receive
15 the bids, and thereupon immediately proceed to unseal them and
16 publicly announce the contents, which announcement shall be made
17 in the presence of any parties bidding or their agents, who are
18 then and there present, and shall also make proper record of the
19 prices and terms, upon the minutes of the governing body, if the
20 award is to be made by the governing body of the contracting unit,
21 or in a book kept for that purpose, if the award is to be made by
22 other than the governing body, and in such latter case it shall be

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

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted June 23, 1982.

**—Assembly committee amendments adopted February 14, 1983.

23 reported to the governing body of the contracting unit for its action
24 thereon, when such action thereon is required. No bids shall be
25 received after the time designated in the advertisement.

26 ****[Revisions]**** ***Notice of revisions** or addenda to adver-*
27 *tisements or bid documents relating to bids shall be **published in*
28 *a legal newspaper and** made available to **[the bidders]** *any*
29 *person who has submitted a bid* by notification *in writing by*
30 *certified mail* no later than five days, Saturdays, Sundays and*
31 *holidays excepted, prior to the date for acceptance of bids.*

32 ***Failure of the contracting unit to advertise for the receipt of*
33 *bids or to provide proper notification of revisions or addenda to*
34 *advertisements or bid documents related to bids as prescribed by*
35 *this section shall prevent the contracting unit from accepting the*
36 *bids and require the readvertisement for bids.***

1 2. This act shall take effect 30 days after enactment.

STATEMENT

Recent court decisions have interpreted addenda as being a form of public advertisement for bid. This has led to confusion for municipalities, engineers and bidders as it indicates that municipalities and other public bidding units may notify bidders of addenda 5 days before the scheduled bid date. The present provision regarding advertisement does not provide for addenda. This bill requires notices of addenda to be given no later than 5 days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

A553 (1982)

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 553

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 1983

Senate Bill No. 553 (OCR) amends section 23 of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-23) to require that a local contracting unit provide notice of any revisions or addenda to advertisements or other bid documents related to public bids. The amendment provides that the notification of revision or addenda shall be made in writing and sent by certified mail to any person who has submitted a bid at least five days—Saturdays, Sundays and holidays excepted—prior to the date fixed for the submission of bids.

The committee, at the sponsor's request, amended the bill to provide that in addition to notifying persons who have submitted bids by certified mail, the contracting unit must also publish notice of such revisions and addenda in a legal newspaper. The committee also amended the bill to specify that a failure to advertise properly or to provide proper notification of revisions or addenda to advertisements shall prohibit the contracting unit from accepting any bids and require the contracting unit to readvertise for bids.

The committee notes that the provisions of Senate Bill No. 553 OCR, as amended by the committee, are identical to the provisions of Assembly Bill No. 2127 Aca.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 553

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1982

Senate Bill No. 553 would require that a local contracting unit under the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) provide notice of revisions or addenda to advertisements or bid documents related to public bids. The notification shall be no later than five days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

Under the current law, advertisements for bids are required to be published at least 10 days prior to the date fixed for receiving bids. The current law does not exclude Saturdays, Sundays and holidays from the 10 days. It does not mention revisions or addenda to advertisements or bid documents.

The Senate committee amendments clarify that notice of revisions or addenda shall be made in writing by certified mail to persons having submitted a bid.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 553

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 1982

This bill requires that a local contracting unit under the "Local Public Contracts Law" must provide, in writing by certified mail to persons having submitted a bid, notice of revisions or addenda to advertisements or bid documents related to public bids. The notification must be made no later than five days, Saturdays, Sundays and holidays excepted, prior to the date for acceptance of bids.

Assembly Committee Amendments

to

ADOPTED

Senate Bill No. 553 OCR

FEB 14 1983

Sec	Line
:	26
:	27
:	After
:	30

Omit "Revisions" insert "Notice of revisions"

After "be" insert "published in a legal newspaper and"

After Insert new paragraph as follows:

30

"Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting ^{the} such bids and require the readvertisement for bids."

Statement

(These amendments bring S-553 OCR into conformity with A-2127 Aca.)