

40A:11-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40A:11-5 (Historic preservation sites — contracts for restaurant services)

LAWS OF: 1983

CHAPTER: 209

Bill No: A3185

Sponsor(s): Pelly and others

Date Introduced: Feb. 28, 1983

Committee: Assembly: _____

Senate: County and Municipal Government

Amended during passage: /// No

Date of Passage: Assembly: Feb. 28, 1983

Senate: April 25, 1983

Date of Approval: June 10, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly /// No

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// NO

Following were printed:

Reports: /// No

Hearings: /// No

ASSEMBLY, No. 3185
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 28, 1983

By Assemblymen PELLY, PATERNITI, KARCHER and OTLOWSKI

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 5 of P. L. 1971, c. 198 (C. 40A:11-5) is amended to
2 read as follows:

3 5. Exceptions. Any purchase, contract or agreement of the
4 character described in section 4 of this act may be made, negotiated
5 or awarded by the governing body without public advertising for
6 bids and bidding therefor if

7 (1) The subject matter thereof consists of

8 (a) (i) Professional services. The governing body shall in each
9 instance state supporting reasons for its action in the resolution
10 awarding each contract and shall forthwith cause to be printed once,
11 in a newspaper authorized by law to publish its legal advertise-
12 ments, a brief notice stating the nature, duration, service and
13 amount of the contract, and that the resolution and contract are
14 on file and available for public inspection in the office of the clerk
15 of the county or municipality, or, in the case of a contracting unit
16 created by more than one county or municipality, of the counties
17 or municipalities creating such contracting unit; or, (ii) Extra-
18 ordinary, unspecifiable services. The application of this exception
19 shall be construed narrowly in favor of open competitive bidding,
20 where possible, and the Division of Local Government Services is
21 authorized to adopt and promulgate rules and regulations limiting
22 the use of this exception in accordance with the intention herein

23 expressed. The governing body shall in each instance state sup-
24 porting reasons for its action in the resolution awarding each
25 contract and shall forthwith cause to be printed, in the manner
26 set forth in subsection (1)(a)(i) of this section, a brief notice of
27 the award of such contract.

28 (b) The doing of any work by employees of the contracting unit;

29 (c) The printing of legal briefs, records and appendices to be
30 used in any legal proceeding in which the contracting party may
31 be a party;

32 (d) The furnishing of a tax map or maps for the contracting
33 party;

34 (e) The purchase of perishable foods as a subsistence supply;

35 (f) The supplying of any product or the rendering of any service
36 by a public utility, which is subject to the jurisdiction of the Board
37 of Public Utilities, in accordance with tariffs and schedules of
38 charges made, charged or exacted, filed with said board;

39 (g) The acquisition, subject to prior approval of the Attorney
40 General, of special equipment for confidential investigation;

41 (h) The printing of bonds and documents necessary to the
42 issuance and sale thereof by a contracting unit;

43 (i) Equipment repair service if in the nature of an extraordinary,
44 unspecifiable service and necessary parts furnished in connection
45 with such service, which exception shall be in accordance with the
46 requirements for extraordinary, unspecifiable services;

47 (j) The publishing of legal notices in newspapers as required
48 by law;

49 (k) The acquisition of artifacts or other items of unique, intrin-
50 sic, artistic or historical character;

51 (l) Election expenses;

52 (m) Insurance, including the purchase of insurance coverage and
53 consultant services, which exception shall be in accordance with the
54 requirements for extraordinary, unspecifiable services; or

55 (n) The doing of any work by handicapped persons employed
56 by a sheltered workshop; or

57 (o) *The provisions of any service or the furnishing of materials*
58 *including those of a commercial nature, attendant upon the opera-*
59 *tion of a restaurant by any nonprofit, duly incorporated, historical*
60 *society at or on any historical preservation site.*

61 (2) It is to be made or entered into with the United States of
62 America, the State of New Jersey, county or municipality or any
63 board, body, officer, agency or authority thereof and any other
64 state or subdivision thereof.

65 (3) The contracting agent has advertised for bids pursuant to

66 section 4 on two occasions and (a) has received no bids on both
67 occasions in response to its advertisement, or (b) the governing
68 body has rejected such bids on two occasions because the contract-
69 ing agent has determined that they are not reasonable as to price,
70 on the basis of cost estimates prepared for or by the contracting
71 agent prior to the advertising therefor, or have not been inde-
72 pendently arrived at in open competition, or (c) on one occasion
73 no bids were received pursuant to (a) and on one occasion all bids
74 were rejected pursuant to (b), in whatever sequence; any such
75 contract or agreement may then be negotiated and may be awarded
76 upon adoption of a resolution by a two-thirds affirmative vote of
77 the authorized membership of the governing body authorizing such
78 contract or agreement; provided, however, that:

79 (i) A reasonable effort is first made by the contracting agent
80 to determine that the same or equivalent materials or supplies,
81 at a cost which is lower than the negotiated price, are not
82 available from an agency or authority of the United States,
83 the State of New Jersey or of the county in which the contract-
84 ing unit is located, or any municipality in close proximity to
85 the contracting unit;

86 (ii) The terms, conditions, restrictions and specifications
87 set forth in the negotiated contract or agreement are not
88 substantially different from those which were the subject of
89 competitive bidding pursuant to section 4 (C. 40A:11-4) of
90 this act; and,

91 (iii) Any minor amendment or modification of any of the
92 terms, conditions, restrictions and specifications, which were
93 the subject of competitive bidding pursuant to section 4 of this
94 act, shall be stated in the resolution awarding such contract
95 or agreement;

96 provided, further, however, that if on the second occasion the bids
97 received are rejected as unreasonable as to price, the contracting
98 agent shall notify each responsible bidder, submitting bids on the
99 second occasion of its intention to negotiate, and afford each such
100 bidder a reasonable opportunity to negotiate, but the governing
101 body shall not award such contract or agreement unless the negoti-
102 ated price is lower than the lowest rejected bid price submitted
103 on the second occasion by a responsible bidder, is the lowest
104 negotiated price offered by any responsible supplier, and is a
105 reasonable price for such work, materials, supplies or services.

106 Whenever a contracting unit shall determine that a bid was not
107 arrived at independently in open competition pursuant to sub-
108 section (3) of this section it shall thereupon notify the county

109 prosecutor of the county in which the contracting unit is located
110 and the Attorney General of the facts upon which its determination
111 is based, and when appropriate, it may institute appropriate pro-
112 ceedings in any State or federal court of competent jurisdiction for
113 a violation of any State or federal antitrust law or laws relating
114 to the unlawful restraint of trade.

1 2. This act shall take effect immediately.

STATEMENT

This bill would allow contracting units to enter into contracts, without prior public bidding, with nonprofit, duly incorporated, historical societies for the operation of restaurants at historical preservation sites. One such site is located in Johnson Park Extension, New Brunswick, and is operated by the East Jersey Olde Towne, Inc. historical society.

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A3185 (1983)

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3185

STATE OF NEW JERSEY

DATED: MARCH 7, 1983

Assembly Bill No. 3185 would permit local governments to enter into contracts, without prior public bidding, with nonprofit, duly incorporated, historical societies for the operation of restaurants at historic preservation sites. One such site is located in Johnson Park Extension, New Brunswick, and is operated by the East Jersey Olde Towne, Inc. historical society.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

FRIDAY, JUNE 10, 1983

Governor Thomas H. Kean has signed the following bills:

A-258, sponsored by Assemblyman Garabed Haytaian, R-Warren, which permits the use of school buses for 12 years if they were built after April 1, 1977, and undergo annual inspections when they reach ten years of age. Prior to enactment of this law, school buses were limited to ten years of use for safety reasons. However, improved federal safety standards for school buses went into effect in April, 1977. Combined with this factor is the increasing use of diesel engines, which have a longer life span, but are more expensive. This bill will allow for two more years of service from school buses, provided that after the tenth year they undergo annual inspection by the Division of Motor Vehicles.

A-3185, sponsored by Assemblyman Frank M. Pelly, which exempts from the Local Public Contracts Law, non-profit historical societies which are under contract to operate restaurants at historical preservation sites.

A-1763, sponsored by Assemblyman Harry A. McEnroe, D-Essex, which permits municipalities to hire collection agencies to collect parking violation fines.

A-1618, sponsored by Assemblyman Robert C. Janiszewski, D-Hudson, which expands the jurisdiction of the Jersey City Housing Court.

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