

40A:11-3 et al

LEGISLATIVE HISTORY CHECKLIST

HJSA 40A:11-3 et al. (Public contracts--increase to \$4500 - amount that requires advertising)

LAWS OF 1979 CHAPTER 350

Bill No. S403

Sponsor(s) Hagedorn and Cafiero

Date Introduced Pre-filed

Committee: Assembly -----

Senate County and Municipal Government

Amended during passage Yes ~~xxx~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Jan. 5, 1980

Senate Dec. 10, 1979

Date of approval Jan. 24, 1980

Following statements are attached if available:

Sponsor statement Yes ~~xxx~~ Also attached: Senate amendments to Assembly amendments--1-7-80 (with statement)

Committee Statement: Assembly ~~Yes~~ No

Senate Yes ~~xxx~~

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

9/1/78

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 403

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators HAGEDORN, CAFIERO and RODGERS

AN ACT ****[to amend]**** *****[**concerning public contracts, amend-
ing**]** ***** to amend***** the "Local Public Contracts Law,"
approved June 9, 1971 (P. L. 1971, c. 198) *****[**and R. S.
58:14-22**]** *****.**

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

1 1. Section 3 of P. L. 1971, c. 198 (C. 40A:11-3) is amended to
2 read as follows:

3 3. Purchases, contracts or agreements not required to be adver-
3A tised. Any purchase, contract or agreement for the performance
4 of any work or the furnishing or hiring of materials or supplies,
5 the cost or price of which, together with any other sums expended
6 or to be expended for the performance of any work or services in
7 connection with the same immediate program, undertaking, activity
8 or project or the furnishing of similar materials or supplies during
9 the same fiscal year paid with or out of public funds, does not exceed
10 the total sum of **[\$2,500.00]** ***[\$5,000.00]*** ***\$4,500.00*** in the fiscal
11 year, may be made, negotiated or awarded by a contracting agent
12 when so authorized by resolution of the governing body of the con-
13 tracting unit without public advertising for bids. Such authoriza-
14 tion may be granted for each purchase, contract or agreement or by
15 a general delegation of the power to make, negotiate or award such
16 purchases, contracts or agreements pursuant to this section.

17 Any purchase, contract or agreement made pursuant to this
18 section may be awarded for a period of 12 consecutive months,
19 notwithstanding that such 12-month period does not coincide with
20 the fiscal year. The Division of Local Government Services shall
21 adopt and promulgate rules and regulations concerning the methods
22 of accounting for all contracts that do not coincide with the fiscal
23 year.

1 2. Section 4 of P. L. 1971, c. 198 (C. 40A:11-4) is amended to
2 read as follows:

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

3 4. Contracts and agreements required to be advertised **[for]**.
4 Every contract or agreement, for the performance of any work or
5 the furnishing or hiring of any materials or supplies, the cost or the
6 contract price whereof is to be paid with or out of public funds, not
7 included within the terms of section 3 of this act, shall be made or
8 awarded only by the governing body of the contracting unit after
9 public advertising for bids and bidding therefor, except as is pro-
10 vided otherwise in this act or specifically by any other law. No
11 work, materials or supplies shall be undertaken, acquired or
12 furnished for a sum exceeding in the aggregate **[\$2,500.00]**
13 **[\$5,000.00]** *\$4,500.00*, except by contract or agreement.

1 3. Section 6 of P. L. 1971, c. 198 (C. 40A:11-6) is amended to
2 read as follows:

3 6. Emergency purchases and contracts. Any purchase, contract
4 or agreement may be made, negotiated or awarded for a contracting
5 unit without public advertising for bids and bidding therefor not-
6 withstanding that the cost or contract price will exceed **[\$2,500.00]**
7 **[\$5,000.00]** *\$4,500.00*, when an emergency affecting the public
8 health, safety or welfare requires the immediate delivery of the
9 articles or the performance of the service, provided that the award-
10 ing or making of such purchases, contracts or agreements are made
11 in the following manner:

12 a. A written requisition for the performance of such work or
13 labor, or the furnishing of materials, supplies or services is filed
14 with the contracting agent or his deputy in charge describing the
15 nature of the emergency, the time of its occurrence and the need
16 for invoking this section, certified by the officer or director in charge
17 of the department wherein the emergency occurred, or such other
18 officer or employee as may be authorized to act in place of said
19 officer or director, and the contracting agent or his deputy in charge,
20 being satisfied that the emergency exists, is hereby authorized to
21 award a contract for said work or labor, materials, supplies or
22 services.

23 b. Upon the furnishing of such work or labor, materials, sup-
24 plies or services, in accordance with the terms of the contract or
25 agreement, the contractor furnishing such work or labor, materials,
26 supplies or services, shall be entitled to be paid therefor and the
27 contracting unit shall be obligated for said payment. The govern-
28 ing body of the contracting unit shall take such action as shall be
29 required to provide for the payment of the contract price.

30 c. The governing body of the contracting unit may prescribe
31 additional rules and procedures to implement the requirements of
32 this section.

1 4. Section 7 of P. L. 1971, c. 198 (C. 40A:11-7) is amended to
2 read as follows:

3 7. Contracts not to be divided. No purchase, contract or agree-
4 ment, which is single in character or which necessarily or by reason
5 of the quantities required to effectuate the purpose of the purchase,
6 contract or agreement, includes the furnishing of additional services
7 or buying or hiring of materials or supplies or the doing of addi-
8 tional work, shall be subdivided, so as to bring it or any of the parts
9 thereof under the maximum price or cost limitation of ~~[\$2,500.00]~~
10 *~~[\$5,000.00]~~* *\$4,500.00* thus dispensing with the requirement of
11 public advertising and bidding therefor, and in purchasing or con-
12 tracting for, or agreeing for the furnishing of, any services, the
13 doing of any work or the supplying of any materials or the supply-
14 ing or hiring of any materials or supplies, included in or incident to
15 the performance or completion of any project, program, activity or
16 undertaking which is single in character or inclusive of the furnish-
17 ing of additional services or buying or hiring of materials or sup-
18 plies or the doing of additional work, or which requires the furnish-
19 ing of more than one article of equipment or buying or hiring of
20 materials or supplies, all of the services, materials or property
21 requisite for the completion of such project shall be included in one
22 purchase, contract or agreement.

1 5. Section 16 of P. L. 1971, c. 198 (C. 40A:11-16) is amended to
2 read as follows:

3 16. Separate plans for various types of work; bids; contracts.
4 In the preparation of plans and specifications for the erection,
5 alteration or repair of any public building by any contracting unit,
6 when the entire cost of the work will exceed ~~[\$2,500.00]~~
7 *~~[\$5,000.00]~~* *\$4,500.00* in amount, the architect, engineer or other
8 person preparing the plans and specifications, may prepare sepa-
9 rate plans and specifications for

- 10 (1) The plumbing and gas fitting and all kindred work;
- 11 (2) Steam power plants, steam and hot water heating and
12 ventilating apparatus and all kindred work;
- 13 (3) Electrical work;
- 14 (4) Structural steel and ornamental iron work; and
- 15 (5) All other work required for the completion of the project.

16 The contracting unit or its contracting agent shall advertise for
17 and receive, in the manner provided by law, either (a) separate
18 bids for each of said branches of work, or (b) bids for all the work
19 and materials required to complete the building to be included in a
20 single overall contract, or (c) both. There will be set forth in the

21 bid the name or names of, and evidence of performance security
 22 from, all subcontractors to whom the bidder will subcontract the
 23 furnishing of plumbing and gas fitting, and all kindred work, and
 24 of the steam and hot water heating and ventilating apparatus,
 25 steam power plants and kindred work, and electrical work, struc-
 26 tural steel and ornamental iron work, each of which subcontractors
 27 shall be qualified in accordance with this act.

28 Contracts shall be awarded to the lowest responsible bidder. In
 29 the event that a contract is advertised in accordance with (c) above
 30 said contract shall be awarded in the following manner: If the sum
 31 total of the amounts bid by the lowest responsible bidder for each
 32 branch is less than the amount bid by the lowest responsible bidder
 33 for all the work and materials, the contracting unit shall award
 34 separate contracts for each of such branches to the lowest re-
 35 sponsible bidder therefor, but if the sum total of the amount bid
 36 by the lowest responsible bidder for each branch is not less than the
 37 amount bid by the lowest responsible bidder for all the work and
 38 materials, the contracting unit shall award a single overall con-
 39 tract to the lowest responsible bidder for all of such work and
 40 materials. In every case in which a contract is awarded under (b)
 41 above, all payments required to be made under such contract for
 42 work and materials supplied by a subcontractor shall, upon the
 43 certification of the contractor of the amount due to the subcontrac-
 44 tor, be paid directly to the subcontractor.

1 ***[**6. R. S. 58:14-22 is amended to read as follows:
 2 58:14-22. Whenever any work to be performed or any material
 3 to be furnished shall involve an expenditure of money exceeding
 4 the sum of [two thousand dollars] \$4,500.00, the commissioners
 5 shall designate the time when they will meet at their usual place of
 6 meeting to receive proposals in writing for doing the work and
 7 furnishing the material, and the commissioners shall order their
 8 clerk to give notice by advertisement, inserted in at least two
 9 newspapers printed and circulating, respectively, in two of the
 10 counties of the district, at least 10 days before the time of such
 11 meeting, of the work to be done and the material to be furnished,
 12 particular specifications of which they shall cause to be filed in
 13 their office at the time of such order. All proposals received shall be
 14 publicly opened by the commissioners and they shall award the
 15 contract to the lowest responsible bidder. All contractors shall be
 16 required to give bond satisfactory in amount and security to the
 17 commissioners.**]****

1 **[6.]** ***[**7.**]**** **6.** This act shall take effect
 2 immediately.

FOR
 JANU

Loc:
 gov

sim
 imm
 \$4,

and
 con

fo

pe
 te
 pe

c

SENATE, No. 403

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators HAGEDORN and CAFIERO

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 3 of P. L. 1971, c. 198 (C. 40A:11-3) is amended to
2 read as follows:

3 3. Purchases, contracts or agreements not required to be adver-
3A tised. Any purchase, contract or agreement for the performance
4 of any work or the furnishing or hiring of materials or supplies,
5 the cost or price of which, together with any other sums expended
6 or to be expended for the performance of any work or services in
7 connection with the same immediate program, undertaking, activity
8 or project or the furnishing of similar materials or supplies during
9 the same fiscal year paid with or out of public funds, does not exceed
10 the total sum of **[\$2,500.00]** \$5,000.00 in the fiscal year, may be
11 made, negotiated or awarded by a contracting agent when so au-
12 thorized by resolution of the governing body of the contracting
13 unit without public advertising for bids. Such authorization may
14 be granted for each purchase, contract or agreement or by a general
15 delegation of the power to make, negotiate or award such pur-
16 chases, contracts or agreements pursuant to this section.

17 Any purchase, contract or agreement made pursuant to this
18 section may be awarded for a period of 12 consecutive months,
19 notwithstanding that such 12-month period does not coincide with
20 the fiscal year. The Division of Local Government Services shall
21 adopt and promulgate rules and regulations concerning the methods
22 of accounting for all contracts that do not coincide with the fiscal
23 year.

1 2. Section 4 of P. L. 1971, c. 198 (C. 40A:11-4) is amended to
2 read as follows:

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

3 4. Contracts and agreements required to be advertised **[for]**
4 Every contract or agreement, for the performance of any work or
5 the furnishing or hiring of any materials or supplies, the cost or the
6 contract price whereof is to be paid with or out of public funds, not
7 included within the terms of section 3 of this act, shall be made or
8 awarded only by the governing body of the contracting unit after
9 public advertising for bids and bidding therefor, except as is pro-
10 vided otherwise in this act or specifically by any other law. No
11 work, materials or supplies shall be undertaken, acquired or
12 furnished for a sum exceeding in the aggregate **[\$2,500.00]**
13 *\$5,000.00*, except by contract or agreement.

1 3. Section 6 of P. L. 1971, c. 198 (C. 40A:11-6) is amended to
2 read as follows:

3 6. Emergency purchases and contracts. Any purchase, contract
4 or agreement may be made, negotiated or awarded for a contracting
5 unit without public advertising for bids and bidding therefor not-
6 withstanding that the cost or contract price will exceed **[\$2,500.00]**
7 *\$5,000.00*, when an emergency affecting the public health, safety or
8 welfare requires the immediate delivery of the articles or the per-
9 formance of the service, provided that the awarding or making of
10 such purchases, contracts or agreements are made in the following
11 manner:

12 a. A written requisition for the performance of such work or
13 labor, or the furnishing of materials, supplies or services is filed
14 with the contracting agent or his deputy in charge describing the
15 nature of the emergency, the time of its occurrence and the need
16 for invoking this section, certified by the officer or director in charge
17 of the department wherein the emergency occurred, or such other
18 officer or employee as may be authorized to act in place of said
19 officer or director, and the contracting agent or his deputy in charge,
20 being satisfied that the emergency exists, is hereby authorized to
21 award a contract for said work or labor, materials, supplies or
22 services.

23 b. Upon the furnishing of such work or labor, materials, sup-
24 plies or services, in accordance with the terms of the contract or
25 agreement, the contractor furnishing such work or labor, materials,
26 supplies or services, shall be entitled to be paid therefor and the
27 contracting unit shall be obligated for said payment. The govern-
28 ing body of the contracting unit shall take such action as shall be
29 required to provide for the payment of the contract price.

30 c. The governing body of the contracting unit may prescribe
 31 additional rules and procedures to implement the requirements of
 32 this section.

1 4. Section 7 of P. L. 1971, c. 198 (C. 40A:11-7) is amended to
 2 read as follows:

3 7. Contracts not to be divided. No purchase, contract or agree-
 4 ment, which is single in character or which necessarily or by reason
 5 of the quantities required to effectuate the purpose of the purchase,
 6 contract or agreement, includes the furnishing of additional services
 7 or buying or hiring of materials or supplies or the doing of addi-
 8 tional work, shall be subdivided, so as to bring it or any of the parts
 9 thereof under the maximum price or cost limitation of ~~[\$2,500.00]~~
 10 \$5,000.00 thus dispensing with the requirement of public advertis-
 11 ing and bidding therefor, and in purchasing or contracting for, or
 12 agreeing for the furnishing of, any services, the doing of any work
 13 or the supplying of any materials or the supplying or hiring of any
 14 materials or supplies, included in or incident to the performance or
 15 completion of any project, program, activity or undertakng which
 16 is single in character or inclusive of the furnishing of additional
 17 services or buying or hiring of materials or supplies or the doing
 18 of additional work, or which requires the furnishing of more than
 19 one article of equipment or buying or hiring of materials or
 20 supplies, all of the services, materials or property requisite for the
 21 completion of such project shall be included in one purchase, con-
 22 tract or agreement.

1 5. Section 16 of P. L. 1971, c. 198 (C. 40A:11-16) is amended to
 2 read as follows:

3 16. Separate plans for various types of work; bids; contracts.
 4 In the preparation of plans and specifications for the erection,
 5 alteration or repair of any public building by any contracting unit,
 6 when the entire cost of the work will exceed ~~[\$2,500.00]~~ \$5,000.00
 7 in amount, the architect, engineer or other person preparing the
 8 plans and specifications, may prepare separate plans and specifica-
 9 tions for

- 10 (1) The plumbing and gas fitting and all kindred work;
- 11 (2) Steam power plants, steam and hot water heating and
- 12 ventilating apparatus and all kindred work;
- 13 (3) Electrical work;
- 14 (4) Structural steel and ornamental iron work; and
- 15 (5) All other work required for the completion of the project.

16 The contracting unit or its contracting agent shall advertise for
 17 and receive, in the manner provided by law, either (a) separate

18 bids for each of said branches of work, or (b) bids for all the work
19 and materials required to complete the building to be included in a
20 single overall contract, or (c) both. There will be set forth in the
21 bid the name or names of, and evidence of performance security
22 from, all subcontractors to whom the bidder will subcontract the
23 furnishing of plumbing and gas fitting, and all kindred work, and
24 of the steam and hot water heating and ventilating apparatus,
25 steam power plants and kindred work, and electrical work, struc-
26 tural steel and ornamental iron work, each of which subcontractors
27 shall be qualified in accordance with this act.

28 Contracts shall be awarded to the lowest responsible bidder. In
29 the event that a contract is advertised in accordance with (c) above
30 said contract shall be awarded in the following manner: If the sum
31 total of the amounts bid by the lowest responsible bidder for each
32 branch is less than the amount bid by the lowest responsible bidder
33 for all the work and materials, the contracting unit shall award
34 separate contracts for each of such branches to the lowest re-
35 sponsible bidder therefor, but if the sum total of the amount bid
36 by the lowest responsible bidder for each branch is not less than the
37 amount bid by the lowest responsible bidder for all the work and
38 materials, the contracting unit shall award a single overall con-
39 tract to the lowest responsible bidder for all of such work and
40 materials. In every case in which a contract is awarded under (b)
41 above, all payments required to be made under such contract for
42 work and materials supplied by a subcontractor shall, upon the
43 certification of the contractor of the amount due to the subcontrac-
44 tor, be paid directly to the subcontractor.

1 6. This act shall take effect immediately.

STATEMENT

This bill amends sections 3 and 4 of the Local Public Contracts Law so as to raise from \$2,500.00 to \$5,000.00 the aggregate value of any purchase, contract or agreement by a local unit on which public advertisement for bids shall be required.

Section 3 of the bill applies the new limit to emergency contracts, while section 4 extends it to the provisions for nondivisible contracts, and section 5 to contracts which may be treated as a single unit or subdivided into separate contracts, at the discretion of the local unit.

[OFFICIAL COPY REPRINT]

SENATE, No. 403

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senators HAGEDORN and CAFIERO

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 3 of P. L. 1971, c. 198 (C. 40A:11-3) is amended to
2 read as follows:

3 3. Purchases, contracts or agreements not required to be adver-
3A tised. Any purchase, contract or agreement for the performance
4 of any work or the furnishing or hiring of materials or supplies,
5 the cost or price of which, together with any other sums expended
6 or to be expended for the performance of any work or services in
7 connection with the same immediate program, undertaking, activity
8 or project or the furnishing of similar materials or supplies during
9 the same fiscal year paid with or out of public funds, does not exceed
10 the total sum of **[\$2,500.00]** ***[\$5,000.00]*** *\$4,500.00* in the fiscal
11 year, may be made, negotiated or awarded by a contracting agent
12 when so authorized by resolution of the governing body of the con-
13 tracting unit without public advertising for bids. Such authoriza-
14 tion may be granted for each purchase, contract or agreement or by
15 a general delegation of the power to make, negotiate or award such
16 purchases, contracts or agreements pursuant to this section.

17 Any purchase, contract or agreement made pursuant to this
18 section may be awarded for a period of 12 consecutive months,
19 notwithstanding that such 12-month period does not coincide with
20 the fiscal year. The Division of Local Government Services shall
21 adopt and promulgate rules and regulations concerning the methods
22 of accounting for all contracts that do not coincide with the fiscal
23 year.

1 2. Section 4 of P. L. 1971, c. 198 (C. 40A:11-4) is amended to
2 read as follows:

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

3 4. Contracts and agreements required to be advertised ~~for~~.*.*
4 Every contract or agreement, for the performance of any work or
5 the furnishing or hiring of any materials or supplies, the cost or the
6 contract price whereof is to be paid with or out of public funds, not
7 included within the terms of section 3 of this act, shall be made or
8 awarded only by the governing body of the contracting unit after
9 public advertising for bids and bidding therefor, except as is pro-
10 vided otherwise in this act or specifically by any other law. No
11 work, materials or supplies shall be undertaken, acquired or
12 furnished for a sum exceeding in the aggregate ~~[\$2,500.00]~~
13 ~~[\$5,000.00]~~* ~~\$4,500.00~~*, except by contract or agreement.

1 3. Section 6 of P. L. 1971, c. 198 (C. 40A :11-6) is amended to
2 read as follows:

3 6. Emergency purchases and contracts. Any purchase, contract
4 or agreement may be made, negotiated or awarded for a contracting
5 unit without public advertising for bids and bidding therefor not-
6 withstanding that the cost or contract price will exceed ~~[\$2,500.00]~~
7 ~~[\$5,000.00]~~* ~~\$4,500.00~~*, when an emergency affecting the public
8 health, safety or welfare requires the immediate delivery of the
9 articles or the performance of the service, provided that the award-
10 ing or making of such purchases, contracts or agreements are made
11 in the following manner:

12 a. A written requisition for the performance of such work or
13 labor, or the furnishing of materials, supplies or services is filed
14 with the contracting agent or his deputy in charge describing the
15 nature of the emergency, the time of its occurrence and the need
16 for invoking this section, certified by the officer or director in charge
17 of the department wherein the emergency occurred, or such other
18 officer or employee as may be authorized to act in place of said
19 officer or director, and the contracting agent or his deputy in charge,
20 being satisfied that the emergency exists, is hereby authorized to
21 award a contract for said work or labor, materials, supplies or
22 services.

23 b. Upon the furnishing of such work or labor, materials, sup-
24 plies or services, in accordance with the terms of the contract or
25 agreement, the contractor furnishing such work or labor, materials,
26 supplies or services, shall be entitled to be paid therefor and the
27 contracting unit shall be obligated for said payment. The govern-
28 ing body of the contracting unit shall take such action as shall be
29 required to provide for the payment of the contract price.

30 c. The governing body of the contracting unit may prescribe
31 additional rules and procedures to implement the requirements of
32 this section.

1 4. Section 7 of P. L. 1971, c. 198 (C. 40A:11-7) is amended to
2 read as follows:

3 7. Contracts not to be divided. No purchase, contract or agree-
4 ment, which is single in character or which necessarily or by reason
5 of the quantities required to effectuate the purpose of the purchase,
6 contract or agreement, includes the furnishing of additional services
7 or buying or hiring of materials or supplies or the doing of addi-
8 tional work, shall be subdivided, so as to bring it or any of the parts
9 thereof under the maximum price or cost limitation of **[\$2,500.00]**
10 ***[\$5,000.00]*** ***\$4,500.00*** thus dispensing with the requirement of
11 public advertising and bidding therefor, and in purchasing or con-
12 tracting for, or agreeing for the furnishing of, any services, the
13 doing of any work or the supplying of any materials or the supply-
14 ing or hiring of any materials or supplies, included in or incident to
15 the performance or completion of any project, program, activity or
16 undertaking which is single in character or inclusive of the furnish-
17 ing of additional services or buying or hiring of materials or sup-
18 plies or the doing of additional work, or which requires the furnish-
19 ing of more than one article of equipment or buying or hiring of
20 materials or supplies, all of the services, materials or property
21 requisite for the completion of such project shall be included in one
22 purchase, contract or agreement.

1 5. Section 16 of P. L. 1971, c. 198 (C. 40A:11-16) is amended to
2 read as follows:

3 16. Separate plans for various types of work; bids; contracts.
4 In the preparation of plans and specifications for the erection,
5 alteration or repair of any public building by any contracting unit,
6 when the entire cost of the work will exceed **[\$2,500.00]**
7 ***[\$5,000.00]*** ***\$4,500.00*** in amount, the architect, engineer or other
8 person preparing the plans and specifications, may prepare sepa-
9 rate plans and specifications for

- 10 (1) The plumbing and gas fitting and all kindred work;
- 11 (2) Steam power plants, steam and hot water heating and
12 ventilating apparatus and all kindred work;
- 13 (3) Electrical work;
- 14 (4) Structural steel and ornamental iron work; and
- 15 (5) All other work required for the completion of the project.

16 The contracting unit or its contracting agent shall advertise for
17 and receive, in the manner provided by law, either (a) separate

18 bids for each of said branches of work, or (b) bids for all the work
19 and materials required to complete the building to be included in a
20 single overall contract, or (c) both. There will be set forth in the
21 bid the name or names of, and evidence of performance security
22 from, all subcontractors to whom the bidder will subcontract the
23 furnishing of plumbing and gas fitting, and all kindred work, and
24 of the steam and hot water heating and ventilating apparatus,
25 steam power plants and kindred work, and electrical work, struc-
26 tural steel and ornamental iron work, each of which subcontractors
27 shall be qualified in accordance with this act.

28 Contracts shall be awarded to the lowest responsible bidder. In
29 the event that a contract is advertised in accordance with (c) above
30 said contract shall be awarded in the following manner: If the sum
31 total of the amounts bid by the lowest responsible bidder for each
32 branch is less than the amount bid by the lowest responsible bidder
33 for all the work and materials, the contracting unit shall award
34 separate contracts for each of such branches to the lowest re-
35 sponsible bidder therefor, but if the sum total of the amount bid
36 by the lowest responsible bidder for each branch is not less than the
37 amount bid by the lowest responsible bidder for all the work and
38 materials, the contracting unit shall award a single overall con-
39 tract to the lowest responsible bidder for all of such work and
40 materials. In every case in which a contract is awarded under (b)
41 above, all payments required to be made under such contract for
42 work and materials supplied by a subcontractor shall, upon the
43 certification of the contractor of the amount due to the subcontrac-
44 tor, be paid directly to the subcontractor.

1 6. This act shall take effect immediately.

[ASSEMBLY REPRINT]
SENATE, No. 403
[OFFICIAL COPY REPRINT]

with Assembly amendments adopted December 17, 1979

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senators HAGEDORN, CAFIERO and RODGERS

AN ACT ****[to amend]**** ***concerning public contracts, amending***
the "Local Public Contracts Law," approved June 9, 1971 (P. L.
1971, c. 198) ***and R. S. 58:14-22***.

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

1 1. Section 3 of P. L. 1971, c. 198 (C. 40A:11-3) is amended to
2 read as follows:

3 3. Purchases, contracts or agreements not required to be adver-
3A tised. Any purchase, contract or agreement for the performance
4 of any work or the furnishing or hiring of materials or supplies,
5 the cost or price of which, together with any other sums expended
6 or to be expended for the performance of any work or services in
7 connection with the same immediate program, undertaking, activity
8 or project or the furnishing of similar materials or supplies during
9 the same fiscal year paid with or out of public funds, does not exceed
10 the total sum of **[\$2,500.00]** ***[\$5,000.00]*** **\$4,500.00** in the fiscal
11 year, may be made, negotiated or awarded by a contracting agent
12 when so authorized by resolution of the governing body of the con-
13 tracting unit without public advertising for bids. Such authoriza-
14 tion may be granted for each purchase, contract or agreement or by
15 a general delegation of the power to make, negotiate or award such
16 purchases, contracts or agreements pursuant to this section.

17 Any purchase, contract or agreement made pursuant to this
18 section may be awarded for a period of 12 consecutive months,
19 notwithstanding that such 12-month period does not coincide with
20 the fiscal year. The Division of Local Government Services shall
21 adopt and promulgate rules and regulations concerning the methods
22 of accounting for all contracts that do not coincide with the fiscal
23 year.

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

1 2. Section 4 of P. L. 1971, c. 198 (C. 40A:11-4) is amended to
2 read as follows:

3 4. Contracts and agreements required to be advertised ~~for~~.
4 Every contract or agreement, for the performance of any work or
5 the furnishing or hiring of any materials or supplies, the cost or the
6 contract price whereof is to be paid with or out of public funds, not
7 included within the terms of section 3 of this act, shall be made or
8 awarded only by the governing body of the contracting unit after
9 public advertising for bids and bidding therefor, except as is pro-
10 vided otherwise in this act or specifically by any other law. No
11 work, materials or supplies shall be undertaken, acquired or
12 furnished for a sum exceeding in the aggregate ~~[\$2,500.00]~~
13 *~~[\$5,000.00]~~* *\$4,500.00*, except by contract or agreement.

1 3. Section 6 of P. L. 1971, c. 198 (C. 40A:11-6) is amended to
2 read as follows:

3 6. Emergency purchases and contracts. Any purchase, contract
4 or agreement may be made, negotiated or awarded for a contracting
5 unit without public advertising for bids and bidding therefor not-
6 withstanding that the cost or contract price will exceed ~~[\$2,500.00]~~
7 *~~[\$5,000.00]~~* *\$4,500.00*, when an emergency affecting the public
8 health, safety or welfare requires the immediate delivery of the
9 articles or the performance of the service, provided that the award-
10 ing or making of such purchases, contracts or agreements are made
11 in the following manner:

12 a. A written requisition for the performance of such work or
13 labor, or the furnishing of materials, supplies or services is filed
14 with the contracting agent or his deputy in charge describing the
15 nature of the emergency, the time of its occurrence and the need
16 for invoking this section, certified by the officer or director in charge
17 of the department wherein the emergency occurred, or such other
18 officer or employee as may be authorized to act in place of said
19 officer or director, and the contracting agent or his deputy in charge,
20 being satisfied that the emergency exists, is hereby authorized to
21 award a contract for said work or labor, materials, supplies or
22 services.

23 b. Upon the furnishing of such work or labor, materials, sup-
24 plies or services, in accordance with the terms of the contract or
25 agreement, the contractor furnishing such work or labor, materials,
26 supplies or services, shall be entitled to be paid therefor and the
27 contracting unit shall be obligated for said payment. The govern-
28 ing body of the contracting unit shall take such action as shall be
29 required to provide for the payment of the contract price.

30 c. The governing body of the contracting unit may prescribe
31 additional rules and procedures to implement the requirements of
32 this section.

1 4. Section 7 of P. L. 1971, c. 198 (C. 40A:11-7) is amended to
2 read as follows:

3 7. Contracts not to be divided. No purchase, contract or agree-
4 ment, which is single in character or which necessarily or by reason
5 of the quantities required to effectuate the purpose of the purchase,
6 contract or agreement, includes the furnishing of additional services
7 or buying or hiring of materials or supplies or the doing of addi-
8 tional work, shall be subdivided, so as to bring it or any of the parts
9 thereof under the maximum price or cost limitation of **[\$2,500.00]**
10 ***[\$5,000.00]*** ***\$4,500.00*** thus dispensing with the requirement of
11 public advertising and bidding therefor, and in purchasing or con-
12 tracting for, or agreeing for the furnishing of, any services, the
13 doing of any work or the supplying of any materials or the supply-
14 ing or hiring of any materials or supplies, included in or incident to
15 the performance or completion of any project, program, activity or
16 undertaking which is single in character or inclusive of the furnish-
17 ing of additional services or buying or hiring of materials or sup-
18 plies or the doing of additional work, or which requires the furnish-
19 ing of more than one article of equipment or buying or hiring of
20 materials or supplies, all of the services, materials or property
21 requisite for the completion of such project shall be included in one
22 purchase, contract or agreement.

1 5. Section 16 of P. L. 1971, c. 198 (C. 40A:11-16) is amended to
2 read as follows:

3 16. Separate plans for various types of work; bids; contracts.
4 In the preparation of plans and specifications for the erection,
5 alteration or repair of any public building by any contracting unit,
6 when the entire cost of the work will exceed **[\$2,500.00]**
7 ***[\$5,000.00]*** ***\$4,500.00*** in amount, the architect, engineer or other
8 person preparing the plans and specifications, may prepare sepa-
9 rate plans and specifications for

- 10 (1) The plumbing and gas fitting and all kindred work;
11 (2) Steam power plants, steam and hot water heating and
12 ventilating apparatus and all kindred work;
13 (3) Electrical work;
14 (4) Structural steel and ornamental iron work; and
15 (5) All other work required for the completion of the project.

16 The contracting unit or its contracting agent shall advertise for
17 and receive, in the manner provided by law, either (a) separate
18 bids for each of said branches of work, or (b) bids for all the work
19 and materials required to complete the building to be included in a

20 single overall contract, or (c) both. There will be set forth in the
 21 bid the name or names of, and evidence of performance security
 22 from, all subcontractors to whom the bidder will subcontract the
 23 furnishing of plumbing and gas fitting, and all kindred work, and
 24 of the steam and hot water heating and ventilating apparatus,
 25 steam power plants and kindred work, and electrical work, struc-
 26 tural steel and ornamental iron work, each of which subcontractors
 27 shall be qualified in accordance with this act.

28 Contracts shall be awarded to the lowest responsible bidder. In
 29 the event that a contract is advertised in accordance with (c) above
 30 said contract shall be awarded in the following manner: If the sum
 31 total of the amounts bid by the lowest responsible bidder for each
 32 branch is less than the amount bid by the lowest responsible bidder
 33 for all the work and materials, the contracting unit shall award
 34 separate contracts for each of such branches to the lowest re-
 35 sponsible bidder therefor, but if the sum total of the amount bid
 36 by the lowest responsible bidder for each branch is not less than the
 37 amount bid by the lowest responsible bidder for all the work and
 38 materials, the contracting unit shall award a single overall con-
 39 tract to the lowest responsible bidder for all of such work and
 40 materials. In every case in which a contract is awarded under (b)
 41 above, all payments required to be made under such contract for
 42 work and materials supplied by a subcontractor shall, upon the
 43 certification of the contractor of the amount due to the subcontrac-
 44 tor, be paid directly to the subcontractor.

1 **6. R. S. 58:14-22 is amended to read as follows:

2 58:14-22. Whenever any work to be performed or any material
 3 to be furnished shall involve an expenditure of money exceeding
 4 the sum of [two thousand dollars] \$4,500.00, the commissioners
 5 shall designate the time when they will meet at their usual place of
 6 meeting to receive proposals in writing for doing the work and
 7 furnishing the material, and the commissioners shall order their
 8 clerk to give notice by advertisement, inserted in at least two
 9 newspapers printed and circulating, respectively, in two of the
 10 counties of the district, at least 10 days before the time of such
 11 meeting, of the work to be done and the material to be furnished,
 12 particular specifications of which they shall cause to be filed in
 13 their office at the time of such order. All proposals received shall be
 14 publicly opened by the commissioners and they shall award the
 15 contract to the lowest responsible bidder. All contractors shall be
 16 required to give bond satisfactory in amount and security to the
 17 commissioners.**

1 **[6.]** **7.** This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO
SENATE, No. 403
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 17, 1979

Amend page 1, title, line 1, omit "to amend", insert "concerning public contracts, amending".

Amend page 1, title, line 2, after "(198)", insert "and R. S. 58:14-22".

Amend page 4, section 5, after line 44, insert new section as follows:

"6. R. S. 58:14-22 is amended to read as follows:

58:14-22. Whenever any work to be performed or any material to be furnished shall involve an expenditure of money exceeding the sum of **[two thousand dollars]** \$4,500.00, the commissioners shall designate the time when they will meet at their usual place of meeting to receive proposals in writing for doing the work and furnishing the material, and the commissioners shall order their clerk to give notice by advertisement, inserted in at least two newspapers printed and circulating, respectively, in two of the counties of the district, at least 10 days before the time of such meeting, of the work to be done and the material to be furnished, particular specifications of which they shall cause to be filed in their office at the time of such order. All proposals received shall be publicly opened by the commissioners and they shall award the contract to the lowest responsible bidder. All contractors shall be required to give bond satisfactory in amount and security to the commissioners."

Amend page 4, section 6, line 1, omit "6.", insert "7."

STATEMENT

This amendment increases the required bidding threshold for Passaic Valley Sewerage Commission contracts to \$4,500.00 to conform to the proposed increase for other public contracts.

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

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO
SENATE, No. 403
with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1979

Senate Bill No. 403 would amend the Local Public Contracts Law to raise the threshold above which a local unit is required to seek bids for purchases, contracts or agreements.

Under current law, that threshold is \$2,500.00 aggregate value. The bill as received by the committee proposed to increase it to \$5,000.00. The committee amendments place the threshold at \$4,500.00 aggregate value.

Under the bill, the new threshold would also be applied to emergency contracts, nondivisible contracts, and contracts which may be treated as a single unit or subdivided into separate contracts, at the discretion of the local unit.

History: The bidding threshold requirement was last raised from \$1,000.00 to \$2,500.00 for counties in 1956 (P. L. 1956, c. 80), and for municipalities in 1957 (P. L. 1957, c. 30).

The \$2,500.00 threshold has remained the same through the revision and consolidation of the various county and municipal contracts provisions into the "Local Public Contracts Law" in 1971, and through two major rewritings of the pertinent sections of the "Local Public Contracts Law" in 1975 and 1977.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 403

STATE OF NEW JERSEY

ADOPTED DECEMBER 6, 1979

Amend page 1, section 1, line 10, omit "\$5,000.00", insert "\$4,500.00".

Amend page 2, section 2, line 3, after "[for]", insert ".".

Amend page 2, section 2, line 13, omit "\$5,000.00", insert "\$4,500.00".

Amend page 2, section 3, line 7, omit "\$5,000.00", insert "\$4,500.00".

Amend page 3, section 4, line 10, omit "\$5,000.00", insert "\$4,500.00".

Amend page 3, section 5, line 6, omit "\$5,000.00", insert "\$4,500.00".

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

SENATE AMENDMENTS TO
ASSEMBLY AMENDMENTS TO
SENATE, No. 403

[OFFICIAL COPY REPRINT]

[ASSEMBLY REPRINT]

STATE OF NEW JERSEY

ADOPTED JANUARY 7, 1980

Amend page 1, title, line 1, omit "concerning public contracts, amending", reinsert "to amend".

Amend page 1, title, line 3, omit "and R. S. 58:14-22".

Amend page 4, section 6, lines 1-17, omit.

Amend page 4, section 7, line 1, omit "7."; reinsert "6.".

STATEMENT

This amendment cures a defect in Assembly Floor amendments which added a new section amending an entirely separate chapter of law to an act concerning counties and municipalities (Title 40A).

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 24, 1980

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills into law:

S-403, sponsored by Senator Garrett W. Hegedorn (R-Bergen), which amends the Local Public Contracts law to raise the monetary threshold above which a local government is required to seek bids for purchases, contracts or agreements.

The bill raises the threshold from \$2,500 aggregate value of the same or similar materials and supplies, work or services in connection with the same immediate program, undertaking activity or project during any one fiscal-year to \$4,500 aggregate value.

The threshold will be applied to emergency contracts, non-divisible contracts and contracts which should be treated as a single unit or subdivided into separate contracts at the discretion of the local government.

The threshold was last raised from \$1,000 to \$2,500 for counties in 1956 and for municipalities in 1957.

S-1220, sponsored by Senator Frank Rodgers (D-Hudson), which permits a county pension commission in a county of the first class (Essex, Bergen and Hudson) to grant tenure to the secretary of the commission if the secretary has been elected to that position for five consecutive terms.

The secretaries of such pension commissions are elected annually by the commissions and are not members of the commissions.

#