

52:27D-124

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 212

NJSA: 52:27D-124 (Requires contracts between local governments and private inspection agencies to comply with "Local Public Contracts Law")

BILL NO: S2101 (Substituted for A387)

SPONSOR(S): Adler and others

DATE INTRODUCED: December 6, 2004

COMMITTEE: **ASSEMBLY:** Housing and Local Government
SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 20, 2005

SENATE: February 14, 2005

DATE OF APPROVAL: August 29, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

S2101

[SPONSOR'S STATEMENT](#): (Begins on page 10 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A387

[SPONSOR'S STATEMENT](#): (Begins on page 10 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

IS 10/12/07

§3 - C.52:27D-124.3
& Note to 40A:11-1
§4 - T&E
§5 - Note to §§1-4

P.L. 2005, CHAPTER 212, *approved August 29, 2005*
Senate, No. 2101

1 **AN ACT** concerning construction code inspection, amending and
2 supplementing P.L.1975, c.217 (C.52:27D-119 et seq.), and
3 amending P.L.1971, c.198.

4

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

7

8 1. Section 6 of P.L.1975, c.217 (C.52:27D-124) is amended to
9 read as follows:

10 6. The commissioner shall have all the powers necessary or
11 convenient to effectuate the purposes of this act, including, but not
12 limited to, the following powers in addition to all others granted by
13 this act:

14 a. To adopt, amend and repeal, after consultation with the code
15 advisory board, rules: (1) relating to the administration and
16 enforcement of this act and (2) the qualifications or licensing, or both,
17 of all persons employed by enforcing agencies of the State to enforce
18 this act or the code, except that, plumbing inspectors shall be subject
19 to the rules adopted by the commissioner only insofar as such rules are
20 compatible with such rules and regulations, regarding health and
21 plumbing for public and private buildings, as may be promulgated by
22 the Public Health Council in accordance with Title 26 of the Revised
23 Statutes.

24 b. To enter into agreements with federal and State of New Jersey
25 agencies, after consultation with the code advisory board, to provide
26 insofar as practicable (1) single-agency review of construction plans
27 and inspection of construction and (2) intergovernmental acceptance
28 of such review and inspection to avoid unnecessary duplication of
29 effort and fees. The commissioner shall have the power to enter into
30 such agreements although the federal standards are not identical with
31 State standards; provided that the same basic objectives are met. The
32 commissioner shall have the power through such agreements to bind
33 the State of New Jersey and all governmental entities deriving
34 authority therefrom.

35 c. To take testimony and hold hearings relating to any aspect of or
36 matter relating to the administration or enforcement of this act,
37 including but not limited to prospective interpretation of the code so
38 as to resolve inconsistent or conflicting code interpretations, and, in
39 connection therewith, issue subpoena to compel the attendance of

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

Matter underlined thus is new matter.

1 witnesses and the production of evidence. The commissioner may
2 designate one or more hearing examiners to hold public hearings and
3 report on such hearings to the commissioner.

4 d. To encourage, support or conduct, after consultation with the
5 code advisory board, educational and training programs for employees,
6 agents and inspectors of enforcing agencies, either through the
7 Department of Community Affairs or in cooperation with other
8 departments of State government, enforcing agencies, educational
9 institutions, or associations of code officials.

10 e. To study the effect of this act and the code to ascertain their
11 effect upon the cost of building construction and maintenance, and the
12 effectiveness of their provisions for insuring the health, safety, and
13 welfare of the people of the State of New Jersey.

14 f. To make, establish and amend, after consultation with the code
15 advisory board, such rules as may be necessary, desirable or proper to
16 carry out his powers and duties under this act.

17 g. To adopt, amend, and repeal rules and regulations providing for
18 the charging of and setting the amount of fees for the following code
19 enforcement services, licenses or approvals performed or issued by the
20 department, pursuant to the "State Uniform Construction Code Act:"

21 (1) Plan review, construction permits, certificates of occupancy,
22 demolition permits, moving of building permits, elevator permits and
23 sign permits; and

24 (2) Review of applications for and the issuance of licenses
25 certifying an individual's qualifications to act as a construction code
26 official, subcode official or assistant under this act.

27 (3) (Deleted by amendment, P.L.1983, c.338).

28 h. To adopt, amend and repeal rules and regulations providing for
29 the charging of and setting the amount of construction permit
30 surcharge fees to be collected by the enforcing agency and remitted to
31 the department to support those activities which may be undertaken
32 with moneys credited to the Uniform Construction Code Revolving
33 Fund.

34 i. To adopt, amend and repeal rules and regulations providing for:

35 (1) Setting the amount of and the charging of fees to be paid to the
36 department by a private agency for the review of applications for and
37 the issuance of approvals authorizing a private agency to act as an
38 on-site inspection and plan review agency or an in-plant inspection
39 agency;

40 (2) **[**The setting of the amounts of fees to be charged by a private
41 agency for inspection and plan review services; provided, however,
42 that such fees shall not be more than those adopted and charged by the
43 department when it serves as a local enforcement agency pursuant to
44 section 10 of P.L.1975, c.217 (C.52:27D-128); and] (Deleted by
45 amendment, P.L. , c.)(now before the Legislature as this bill).

46 (3) **[**The formulation of standards to be observed by a municipality

1 in the evaluation of a proposal submitted by a private agency to
2 provide inspection or plan review services within a municipality.]
3 (Deleted by amendment, P.L. , c.)(now before the Legislature as
4 this bill).

5 j. To enforce and administer the provisions of the "State Uniform
6 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
7 the code promulgated thereunder, and to prosecute or cause to be
8 prosecuted violators of the provisions of that act or the code
9 promulgated thereunder in administrative hearings and in civil
10 proceedings in State and local courts.

11 k. To monitor the compliance of local enforcing agencies with the
12 provisions of the "State Uniform Construction Code Act," P.L.1975,
13 c.217 (C.52:27D-119 et seq.), to order corrective action as may be
14 necessary where a local enforcing agency is found to be failing to carry
15 out its responsibilities under that act, to supplant or replace the local
16 enforcing agency for a specific project, and to order it dissolved and
17 replaced by the department where the local enforcing agency
18 repeatedly or habitually fails to enforce the provisions of the "State
19 Uniform Construction Code Act."

20 l. To adopt, amend and repeal rules and regulations concerning the
21 installation and maintenance of carbon monoxide sensors.

22 (cf: P.L.1999, c.15, s.4)

23

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

26 5. Exceptions. Any contract the amount of which exceeds the bid
27 threshold, may be negotiated and awarded by the governing body
28 without public advertising for bids and bidding therefor and shall be
29 awarded by resolution of the governing body if:

30 (1) The subject matter thereof consists of:

31 (a) (i) Professional services. The governing body shall in each
32 instance state supporting reasons for its action in the resolution
33 awarding each contract and shall forthwith cause to be printed once,
34 in the official newspaper, a brief notice stating the nature, duration,
35 service and amount of the contract, and that the resolution and
36 contract are on file and available for public inspection in the office of
37 the clerk of the county or municipality, or, in the case of a contracting
38 unit created by more than one county or municipality, of the counties
39 or municipalities creating such contracting unit; or (ii) Extraordinary
40 unspecifiable services. The application of this exception shall be
41 construed narrowly in favor of open competitive bidding, whenever
42 possible, and the Division of Local Government Services is authorized
43 to adopt and promulgate rules and regulations after consultation with
44 the Commissioner of Education limiting the use of this exception in
45 accordance with the intention herein expressed. The governing body
46 shall in each instance state supporting reasons for its action in the

- 1 resolution awarding each contract and shall forthwith cause to be
2 printed, in the manner set forth in subsection (1) (a) (i) of this section,
3 a brief notice of the award of such contract;
- 4 (b) The doing of any work by employees of the contracting unit;
- 5 (c) The printing of legal briefs, records and appendices to be used
6 in any legal proceeding in which the contracting unit may be a party;
- 7 (d) The furnishing of a tax map or maps for the contracting unit;
- 8 (e) The purchase of perishable foods as a subsistence supply;
- 9 (f) The supplying of any product or the rendering of any service by
10 a public utility, which is subject to the jurisdiction of the Board of
11 Public Utilities or the Federal Energy Regulatory Commission or its
12 successor, in accordance with tariffs and schedules of charges made,
13 charged or exacted, filed with the board or commission;
- 14 (g) The acquisition, subject to prior approval of the Attorney
15 General, of special equipment for confidential investigation;
- 16 (h) The printing of bonds and documents necessary to the issuance
17 and sale thereof by a contracting unit;
- 18 (i) Equipment repair service if in the nature of an extraordinary
19 unspecifiable service and necessary parts furnished in connection with
20 such service, which exception shall be in accordance with the
21 requirements for extraordinary unspecifiable services;
- 22 (j) The publishing of legal notices in newspapers as required by
23 law;
- 24 (k) The acquisition of artifacts or other items of unique intrinsic,
25 artistic or historical character;
- 26 (l) Those goods and services necessary or required to prepare and
27 conduct an election;
- 28 (m) Insurance, including the purchase of insurance coverage and
29 consultant services, which exception shall be in accordance with the
30 requirements for extraordinary unspecifiable services;
- 31 (n) The doing of any work by handicapped persons employed by a
32 sheltered workshop;
- 33 (o) The provision of any goods or services including those of a
34 commercial nature, attendant upon the operation of a restaurant by any
35 nonprofit, duly incorporated, historical society at or on any historical
36 preservation site;
- 37 (p) (Deleted by amendment, P.L.1999, c.440.)
- 38 (q) Library and educational goods and services;
- 39 (r) **[On-site inspections undertaken by private agencies pursuant
40 to the "State Uniform Construction Code Act," P.L.1975, c.217
41 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;]
42 (Deleted by amendment, P.L. , c.) (pending before the Legislature
43 as this bill).**
- 44 (s) The marketing of recyclable materials recovered through a
45 recycling program, or the marketing of any product intentionally
46 produced or derived from solid waste received at a resource recovery

1 facility or recovered through a resource recovery program, including,
2 but not limited to, refuse-derived fuel, compost materials, methane
3 gas, and other similar products;

4 (t) (Deleted by amendment, P.L.1999, c.440.)

5 (u) Contracting unit towing and storage contracts, provided that
6 all such contracts shall be pursuant to reasonable non-exclusionary and
7 non-discriminatory terms and conditions, which may include the
8 provision of such services on a rotating basis, at the rates and charges
9 set by the municipality pursuant to section 1 of P.L.1979, c.101
10 (C.40:48-2.49). All contracting unit towing and storage contracts for
11 services to be provided at rates and charges other than those
12 established pursuant to the terms of this paragraph shall only be
13 awarded to the lowest responsible bidder in accordance with the
14 provisions of the "Local Public Contracts Law" and without regard for
15 the value of the contract therefor;

16 (v) The purchase of steam or electricity from, or the rendering of
17 services directly related to the purchase of such steam or electricity
18 from a qualifying small power production facility or a qualifying
19 cogeneration facility as defined pursuant to 16 U.S.C.s.796;

20 (w) The purchase of electricity or administrative or dispatching
21 services directly related to the transmission of such purchased
22 electricity by a contracting unit engaged in the generation of
23 electricity;

24 (x) The printing of municipal ordinances or other services
25 necessarily incurred in connection with the revision and codification
26 of municipal ordinances;

27 (y) An agreement for the purchase of an equitable interest in a
28 water supply facility or for the provision of water supply services
29 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
30 an agreement entered into pursuant to P.L.1989, c.109
31 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
32 later than six months after the effective date of P.L.1993, c.381;

33 (z) A contract for the provision of water supply services entered
34 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

35 (aa) The cooperative marketing of recyclable materials recovered
36 through a recycling program;

37 (bb) A contract for the provision of wastewater treatment services
38 entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

39 (cc) Expenses for travel and conferences;

40 (dd) The provision or performance of goods or services for the
41 support or maintenance of proprietary computer hardware and
42 software, except that this provision shall not be utilized to acquire or
43 upgrade non-proprietary hardware or to acquire or update
44 non-proprietary software;

45 (ee) The management or operation of an airport owned by the
46 contracting unit pursuant to R.S.40:8-1 et seq.;

1 (ff) Purchases of goods and services at rates set by the Universal
2 Service Fund administered by the Federal Communications
3 Commission.

4 (gg) A contract for the provision of water supply services or
5 wastewater treatment services entered into pursuant to section 2 of
6 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
7 construction, operation, or maintenance, or any combination thereof,
8 of a water supply facility as defined in subsection (16) of section 15 of
9 P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as
10 defined in subsection (19) of section 15 of P.L.1971, c.198
11 (C.40A:11-15), or any component part or parts thereof, including a
12 water filtration system as defined in subsection (16) of section 15 of
13 P.L.1971, c.198 (C.40A:11-15);

14 (hh) The purchase of electricity generated from a power production
15 facility that is fueled by methane gas extracted from a landfill in the
16 county of the contracting unit.

17 (2) It is to be made or entered into with the United States of
18 America, the State of New Jersey, county or municipality or any
19 board, body, officer, agency or authority thereof or any other state or
20 subdivision thereof.

21 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
22 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
23 received on both occasions in response to the advertisement, or (b) the
24 governing body has rejected such bids on two occasions because it has
25 determined that they are not reasonable as to price, on the basis of
26 cost estimates prepared for or by the contracting agent prior to the
27 advertising therefor, or have not been independently arrived at in open
28 competition, or (c) on one occasion no bids were received pursuant to
29 (a) and on one occasion all bids were rejected pursuant to (b), in
30 whatever sequence; any such contract may then be negotiated and may
31 be awarded upon adoption of a resolution by a two-thirds affirmative
32 vote of the authorized membership of the governing body authorizing
33 such contract; provided, however, that:

34 (i) A reasonable effort is first made by the contracting agent to
35 determine that the same or equivalent goods or services, at a cost
36 which is lower than the negotiated price, are not available from an
37 agency or authority of the United States, the State of New Jersey or
38 of the county in which the contracting unit is located, or any
39 municipality in close proximity to the contracting unit;

40 (ii) The terms, conditions, restrictions and specifications set forth
41 in the negotiated contract are not substantially different from those
42 which were the subject of competitive bidding pursuant to section 4 of
43 P.L.1971, c.198 (C.40A:11-4); and

44 (iii) Any minor amendment or modification of any of the terms,
45 conditions, restrictions and specifications, which were the subject of
46 competitive bidding pursuant to section 4 of P.L.1971, c.198

1 (C.40A:11-4), shall be stated in the resolution awarding such contract;
2 provided further, however, that if on the second occasion the bids
3 received are rejected as unreasonable as to price, the contracting agent
4 shall notify each responsible bidder submitting bids on the second
5 occasion of its intention to negotiate, and afford each bidder a
6 reasonable opportunity to negotiate, but the governing body shall not
7 award such contract unless the negotiated price is lower than the
8 lowest rejected bid price submitted on the second occasion by a
9 responsible bidder, is the lowest negotiated price offered by any
10 responsible vendor, and is a reasonable price for such goods or
11 services.

12 Whenever a contracting unit shall determine that a bid was not
13 arrived at independently in open competition pursuant to subsection
14 (3) of this section it shall thereupon notify the county prosecutor of
15 the county in which the contracting unit is located and the Attorney
16 General of the facts upon which its determination is based, and when
17 appropriate, it may institute appropriate proceedings in any State or
18 federal court of competent jurisdiction for a violation of any State or
19 federal antitrust law or laws relating to the unlawful restraint of trade.

20 (4) The contracting unit has solicited and received at least three
21 quotations on materials, supplies or equipment for which a State
22 contract has been issued pursuant to section 12 of P.L.1971, c.198
23 (C.40A:11-12), and the lowest responsible quotation is at least 10%
24 less than the price the contracting unit would be charged for the
25 identical materials, supplies or equipment, in the same quantities,
26 under the State contract. Any such contract entered into pursuant to
27 this subsection may be awarded only upon adoption of a resolution by
28 the affirmative vote of two-thirds of the full membership of the
29 governing body of the contracting unit at a meeting thereof
30 authorizing such a contract. A copy of the purchase order relating to
31 any such contract, the requisition for purchase order, if applicable, and
32 documentation identifying the price of the materials, supplies or
33 equipment under the State contract and the State contract number
34 shall be filed with the director within five working days of the award
35 of any such contract by the contracting unit. The director shall notify
36 the contracting unit of receipt of the material and shall make the
37 material available to the State Treasurer. The contracting unit shall
38 make available to the director upon request any other documents
39 relating to the solicitation and award of the contract, including, but not
40 limited to, quotations, requests for quotations, and resolutions. The
41 director periodically shall review material submitted by contracting
42 units to determine the impact of such contracts on local contracting
43 and shall consult with the State Treasurer on the impact of such
44 contracts on the State procurement process. The director may, after
45 consultation with the State Treasurer, adopt rules in accordance with
46 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.) to limit the use of this subsection, after considering the impact of
2 contracts awarded under this subsection on State and local
3 contracting, or after considering the extent to which the award of
4 contracts pursuant to this subsection is consistent with and in
5 furtherance of the purposes of the public contracting laws.

6 (5) Notwithstanding any provision of law, rule or regulation to the
7 contrary, the subject matter consists of the combined collection and
8 marketing, or the cooperative combined collection and marketing of
9 recycled material recovered through a recycling program, or any
10 product intentionally produced or derived from solid waste received
11 at a resource recovery facility or recovered through a resource
12 recovery program including, but not limited to, refuse-derived fuel,
13 compost materials, methane gas, and other similar products, provided
14 that in lieu of engaging in such public advertising for bids and the
15 bidding therefor, the contracting unit shall, prior to commencing the
16 procurement process, submit for approval to the Director of the
17 Division of Local Government Services, a written detailed description
18 of the process to be followed in securing said services. Within 30 days
19 after receipt of the written description the director shall, if the director
20 finds that the process provides for fair competition and integrity in the
21 negotiation process, approve, in writing, the description submitted by
22 the contracting unit. If the director finds that the process does not
23 provide for fair competition and integrity in the negotiation process,
24 the director shall advise the contracting unit of the deficiencies that
25 must be remedied. If the director fails to respond in writing to the
26 contracting unit within 30 days, the procurement process as described
27 shall be deemed approved. As used in this section, "collection" means
28 the physical removal of recyclable materials from curbside or any other
29 location selected by the contracting unit.

30 (cf: P.L.2003, c.150, s.2)

31

32 3. (New section) A proposal by a private agency to provide
33 inspection or plan review services to a municipality to administer the
34 provisions of the "State Uniform Construction Code Act," P.L.1975,
35 c.217 (C.52:27D-119 et seq.) shall be submitted in accordance with
36 and shall be subject to the bidding and other provisions of the "Local
37 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). A
38 municipality shall require as part of the bid specifications that a private
39 agency submit a bid or proposal in terms of a percentage of the costs
40 charged by the department when it serves as a local enforcement
41 agency pursuant to section 10 of P.L.1975, c.217 (C.52:27D-128). A
42 municipality may include in the fee charged by it for work done by
43 private agencies an amount sufficient to cover a proportionate share
44 of administrative costs incurred by the local enforcing agency in
45 connection with inspections performed by private agencies.

1 agency inspection firm so burdensome that they opt to contract with
2 the department to do the work. The bill would remove the power
3 from the commissioner to regulate these types of contracts. Instead,
4 a contract for municipal code compliance or plan review would be bid
5 as a public contract under the "Local Public Contracts Law."

6 The bill would also require a study and report to be made by the
7 Commissioner of Community Affairs three years after the enactment
8 of the bill into law. The report is to include an assessment of the
9 quality of inspection services rendered pursuant to such contracts, the
10 price of those services and uniformity of pricing for comparable
11 services in municipalities throughout the State, the level of satisfaction
12 of municipal officials with the services provided, the ease of
13 administration of those contracts, and the extent to which full-time
14 inspectors employed by the Department of Community Affairs are
15 displaced by this change in contracting procedure.

16

17

18

19

20 Requires contracts between local governments and private inspection
21 agencies to comply with "Local Public Contracts Law."

SENATE, No. 2101

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED DECEMBER 6, 2004

Sponsored by:

Senator JOHN H. ADLER

District 6 (Camden)

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

Assemblyman GUY R. GREGG

District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:

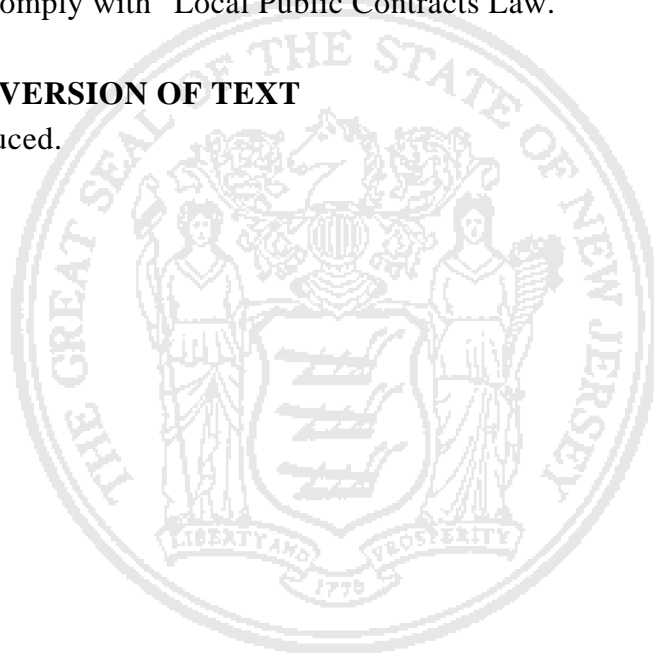
Assemblyman Connors

SYNOPSIS

Requires contracts between local governments and private inspection agencies to comply with "Local Public Contracts Law."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2005)

S2101 ADLER

2

1 **AN ACT** concerning construction code inspection, amending and
2 supplementing P.L.1975, c.217 (C.52:27D-119 et seq.), and
3 amending P.L.1971, c.198.

4

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

7

8 1. Section 6 of P.L.1975, c.217 (C.52:27D-124) is amended to
9 read as follows:

10 6. The commissioner shall have all the powers necessary or
11 convenient to effectuate the purposes of this act, including, but not
12 limited to, the following powers in addition to all others granted by
13 this act:

14 a. To adopt, amend and repeal, after consultation with the code
15 advisory board, rules: (1) relating to the administration and
16 enforcement of this act and (2) the qualifications or licensing, or both,
17 of all persons employed by enforcing agencies of the State to enforce
18 this act or the code, except that, plumbing inspectors shall be subject
19 to the rules adopted by the commissioner only insofar as such rules are
20 compatible with such rules and regulations, regarding health and
21 plumbing for public and private buildings, as may be promulgated by
22 the Public Health Council in accordance with Title 26 of the Revised
23 Statutes.

24 b. To enter into agreements with federal and State of New Jersey
25 agencies, after consultation with the code advisory board, to provide
26 insofar as practicable (1) single-agency review of construction plans
27 and inspection of construction and (2) intergovernmental acceptance
28 of such review and inspection to avoid unnecessary duplication of
29 effort and fees. The commissioner shall have the power to enter into
30 such agreements although the federal standards are not identical with
31 State standards; provided that the same basic objectives are met. The
32 commissioner shall have the power through such agreements to bind
33 the State of New Jersey and all governmental entities deriving
34 authority therefrom.

35 c. To take testimony and hold hearings relating to any aspect of or
36 matter relating to the administration or enforcement of this act,
37 including but not limited to prospective interpretation of the code so
38 as to resolve inconsistent or conflicting code interpretations, and, in
39 connection therewith, issue subpoena to compel the attendance of
40 witnesses and the production of evidence. The commissioner may
41 designate one or more hearing examiners to hold public hearings and
42 report on such hearings to the commissioner.

43 d. To encourage, support or conduct, after consultation with the

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Matter underlined thus is new matter.

S2101 ADLER

1 code advisory board, educational and training programs for employees,
2 agents and inspectors of enforcing agencies, either through the
3 Department of Community Affairs or in cooperation with other
4 departments of State government, enforcing agencies, educational
5 institutions, or associations of code officials.

6 e. To study the effect of this act and the code to ascertain their
7 effect upon the cost of building construction and maintenance, and the
8 effectiveness of their provisions for insuring the health, safety, and
9 welfare of the people of the State of New Jersey.

10 f. To make, establish and amend, after consultation with the code
11 advisory board, such rules as may be necessary, desirable or proper to
12 carry out his powers and duties under this act.

13 g. To adopt, amend, and repeal rules and regulations providing for
14 the charging of and setting the amount of fees for the following code
15 enforcement services, licenses or approvals performed or issued by the
16 department, pursuant to the "State Uniform Construction Code Act:"

17 (1) Plan review, construction permits, certificates of occupancy,
18 demolition permits, moving of building permits, elevator permits and
19 sign permits; and

20 (2) Review of applications for and the issuance of licenses
21 certifying an individual's qualifications to act as a construction code
22 official, subcode official or assistant under this act.

23 (3) (Deleted by amendment, P.L.1983, c.338).

24 h. To adopt, amend and repeal rules and regulations providing for
25 the charging of and setting the amount of construction permit
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27 the department to support those activities which may be undertaken
28 with moneys credited to the Uniform Construction Code Revolving
29 Fund.

30 i. To adopt, amend and repeal rules and regulations providing for:

31 (1) Setting the amount of and the charging of fees to be paid to the
32 department by a private agency for the review of applications for and
33 the issuance of approvals authorizing a private agency to act as an
34 on-site inspection and plan review agency or an in-plant inspection
35 agency;

36 (2) **[The setting of the amounts of fees to be charged by a private**
37 **agency for inspection and plan review services; provided, however,**
38 **that such fees shall not be more than those adopted and charged by the**
39 **department when it serves as a local enforcement agency pursuant to**
40 **section 10 of P.L.1975, c.217 (C.52:27D-128); and] (Deleted by**

41 amendment, P.L. , c.)(now before the Legislature as this bill).
42 (3) **[The formulation of standards to be observed by a municipality**
43 **in the evaluation of a proposal submitted by a private agency to**
44 **provide inspection or plan review services within a municipality.]**

45 (Deleted by amendment, P.L. , c.)(now before the Legislature as
46 this bill).

1 j. To enforce and administer the provisions of the "State Uniform
2 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
3 the code promulgated thereunder, and to prosecute or cause to be
4 prosecuted violators of the provisions of that act or the code
5 promulgated thereunder in administrative hearings and in civil
6 proceedings in State and local courts.

7 k. To monitor the compliance of local enforcing agencies with the
8 provisions of the "State Uniform Construction Code Act," P.L.1975,
9 c.217 (C.52:27D-119 et seq.), to order corrective action as may be
10 necessary where a local enforcing agency is found to be failing to carry
11 out its responsibilities under that act, to supplant or replace the local
12 enforcing agency for a specific project, and to order it dissolved and
13 replaced by the department where the local enforcing agency
14 repeatedly or habitually fails to enforce the provisions of the "State
15 Uniform Construction Code Act."

16 l. To adopt, amend and repeal rules and regulations concerning the
17 installation and maintenance of carbon monoxide sensors.

18 (cf: P.L.1999, c.15, s.4)

19
20 2. Section 5 of P.L.1971, c.198 (C:40A:11-5) is amended to read
21 as follows:

22 5. Exceptions. Any contract the amount of which exceeds the bid
23 threshold, may be negotiated and awarded by the governing body
24 without public advertising for bids and bidding therefor and shall be
25 awarded by resolution of the governing body if:

26 (1) The subject matter thereof consists of:

27 (a) (i) Professional services. The governing body shall in each
28 instance state supporting reasons for its action in the resolution
29 awarding each contract and shall forthwith cause to be printed once,
30 in the official newspaper, a brief notice stating the nature, duration,
31 service and amount of the contract, and that the resolution and
32 contract are on file and available for public inspection in the office of
33 the clerk of the county or municipality, or, in the case of a contracting
34 unit created by more than one county or municipality, of the counties
35 or municipalities creating such contracting unit; or (ii) Extraordinary
36 unspecifiable services. The application of this exception shall be
37 construed narrowly in favor of open competitive bidding, whenever
38 possible, and the Division of Local Government Services is authorized
39 to adopt and promulgate rules and regulations after consultation with
40 the Commissioner of Education limiting the use of this exception in
41 accordance with the intention herein expressed. The governing body
42 shall in each instance state supporting reasons for its action in the
43 resolution awarding each contract and shall forthwith cause to be
44 printed, in the manner set forth in subsection (1) (a) (i) of this section,
45 a brief notice of the award of such contract;

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

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- 1 (c) The printing of legal briefs, records and appendices to be used
2 in any legal proceeding in which the contracting unit may be a party;
- 3 (d) The furnishing of a tax map or maps for the contracting unit;
- 4 (e) The purchase of perishable foods as a subsistence supply;
- 5 (f) The supplying of any product or the rendering of any service by
6 a public utility, which is subject to the jurisdiction of the Board of
7 Public Utilities or the Federal Energy Regulatory Commission or its
8 successor, in accordance with tariffs and schedules of charges made,
9 charged or exacted, filed with the board or commission;
- 10 (g) The acquisition, subject to prior approval of the Attorney
11 General, of special equipment for confidential investigation;
- 12 (h) The printing of bonds and documents necessary to the issuance
13 and sale thereof by a contracting unit;
- 14 (i) Equipment repair service if in the nature of an extraordinary
15 unspecifiable service and necessary parts furnished in connection with
16 such service, which exception shall be in accordance with the
17 requirements for extraordinary unspecifiable services;
- 18 (j) The publishing of legal notices in newspapers as required by
19 law;
- 20 (k) The acquisition of artifacts or other items of unique intrinsic,
21 artistic or historical character;
- 22 (l) Those goods and services necessary or required to prepare and
23 conduct an election;
- 24 (m) Insurance, including the purchase of insurance coverage and
25 consultant services, which exception shall be in accordance with the
26 requirements for extraordinary unspecifiable services;
- 27 (n) The doing of any work by handicapped persons employed by a
28 sheltered workshop;
- 29 (o) The provision of any goods or services including those of a
30 commercial nature, attendant upon the operation of a restaurant by any
31 nonprofit, duly incorporated, historical society at or on any historical
32 preservation site;
- 33 (p) (Deleted by amendment, P.L.1999, c.440.)
- 34 (q) Library and educational goods and services;
- 35 (r) [On-site inspections undertaken by private agencies pursuant
36 to the "State Uniform Construction Code Act," P.L.1975, c.217
37 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;]
38 (Deleted by amendment, P.L. , c.) (pending before the Legislature
39 as this bill).
- 40 (s) The marketing of recyclable materials recovered through a
41 recycling program, or the marketing of any product intentionally
42 produced or derived from solid waste received at a resource recovery
43 facility or recovered through a resource recovery program, including,
44 but not limited to, refuse-derived fuel, compost materials, methane
45 gas, and other similar products;
- 46 (t) (Deleted by amendment, P.L.1999, c.440.)

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1 (u) Contracting unit towing and storage contracts, provided that
2 all such contracts shall be pursuant to reasonable non-exclusionary and
3 non-discriminatory terms and conditions, which may include the
4 provision of such services on a rotating basis, at the rates and charges
5 set by the municipality pursuant to section 1 of P.L.1979, c.101
6 (C.40:48-2.49). All contracting unit towing and storage contracts for
7 services to be provided at rates and charges other than those
8 established pursuant to the terms of this paragraph shall only be
9 awarded to the lowest responsible bidder in accordance with the
10 provisions of the "Local Public Contracts Law" and without regard for
11 the value of the contract therefor;

12 (v) The purchase of steam or electricity from, or the rendering of
13 services directly related to the purchase of such steam or electricity
14 from a qualifying small power production facility or a qualifying
15 cogeneration facility as defined pursuant to 16 U.S.C.s.796;

16 (w) The purchase of electricity or administrative or dispatching
17 services directly related to the transmission of such purchased
18 electricity by a contracting unit engaged in the generation of
19 electricity;

20 (x) The printing of municipal ordinances or other services
21 necessarily incurred in connection with the revision and codification
22 of municipal ordinances;

23 (y) An agreement for the purchase of an equitable interest in a
24 water supply facility or for the provision of water supply services
25 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
26 an agreement entered into pursuant to P.L.1989, c.109
27 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
28 later than six months after the effective date of P.L.1993, c.381;

29 (z) A contract for the provision of water supply services entered
30 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);

31 (aa) The cooperative marketing of recyclable materials recovered
32 through a recycling program;

33 (bb) A contract for the provision of wastewater treatment services
34 entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

35 (cc) Expenses for travel and conferences;

36 (dd) The provision or performance of goods or services for the
37 support or maintenance of proprietary computer hardware and
38 software, except that this provision shall not be utilized to acquire or
39 upgrade non-proprietary hardware or to acquire or update
40 non-proprietary software;

41 (ee) The management or operation of an airport owned by the
42 contracting unit pursuant to R.S.40:8-1 et seq.;

43 (ff) Purchases of goods and services at rates set by the Universal
44 Service Fund administered by the Federal Communications
45 Commission.

46 (gg) A contract for the provision of water supply services or

1 wastewater treatment services entered into pursuant to section 2 of
2 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
3 construction, operation, or maintenance, or any combination thereof,
4 of a water supply facility as defined in subsection (16) of section 15 of
5 P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as
6 defined in subsection (19) of section 15 of P.L.1971, c.198
7 (C.40A:11-15), or any component part or parts thereof, including a
8 water filtration system as defined in subsection (16) of section 15 of
9 P.L.1971, c.198 (C.40A:11-15);

10 (hh) The purchase of electricity generated from a power production
11 facility that is fueled by methane gas extracted from a landfill in the
12 county of the contracting unit.

13 (2) It is to be made or entered into with the United States of
14 America, the State of New Jersey, county or municipality or any
15 board, body, officer, agency or authority thereof or any other state or
16 subdivision thereof.

17 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
18 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
19 received on both occasions in response to the advertisement, or (b) the
20 governing body has rejected such bids on two occasions because it has
21 determined that they are not reasonable as to price, on the basis of
22 cost estimates prepared for or by the contracting agent prior to the
23 advertising therefor, or have not been independently arrived at in open
24 competition, or (c) on one occasion no bids were received pursuant to
25 (a) and on one occasion all bids were rejected pursuant to (b), in
26 whatever sequence; any such contract may then be negotiated and may
27 be awarded upon adoption of a resolution by a two-thirds affirmative
28 vote of the authorized membership of the governing body authorizing
29 such contract; provided, however, that:

30 (i) A reasonable effort is first made by the contracting agent to
31 determine that the same or equivalent goods or services, at a cost
32 which is lower than the negotiated price, are not available from an
33 agency or authority of the United States, the State of New Jersey or
34 of the county in which the contracting unit is located, or any
35 municipality in close proximity to the contracting unit;

36 (ii) The terms, conditions, restrictions and specifications set forth
37 in the negotiated contract are not substantially different from those
38 which were the subject of competitive bidding pursuant to section 4 of
39 P.L.1971, c.198 (C.40A:11-4); and

40 (iii) Any minor amendment or modification of any of the terms,
41 conditions, restrictions and specifications, which were the subject of
42 competitive bidding pursuant to section 4 of P.L.1971, c.198
43 (C.40A:11-4), shall be stated in the resolution awarding such contract;
44 provided further, however, that if on the second occasion the bids
45 received are rejected as unreasonable as to price, the contracting agent
46 shall notify each responsible bidder submitting bids on the second

1 occasion of its intention to negotiate, and afford each bidder a
2 reasonable opportunity to negotiate, but the governing body shall not
3 award such contract unless the negotiated price is lower than the
4 lowest rejected bid price submitted on the second occasion by a
5 responsible bidder, is the lowest negotiated price offered by any
6 responsible vendor, and is a reasonable price for such goods or
7 services.

8 Whenever a contracting unit shall determine that a bid was not
9 arrived at independently in open competition pursuant to subsection
10 (3) of this section it shall thereupon notify the county prosecutor of
11 the county in which the contracting unit is located and the Attorney
12 General of the facts upon which its determination is based, and when
13 appropriate, it may institute appropriate proceedings in any State or
14 federal court of competent jurisdiction for a violation of any State or
15 federal antitrust law or laws relating to the unlawful restraint of trade.

16 (4) The contracting unit has solicited and received at least three
17 quotations on materials, supplies or equipment for which a State
18 contract has been issued pursuant to section 12 of P.L.1971, c.198
19 (C.40A:11-12), and the lowest responsible quotation is at least 10%
20 less than the price the contracting unit would be charged for the
21 identical materials, supplies or equipment, in the same quantities,
22 under the State contract. Any such contract entered into pursuant to
23 this subsection may be awarded only upon adoption of a resolution by
24 the affirmative vote of two-thirds of the full membership of the
25 governing body of the contracting unit at a meeting thereof
26 authorizing such a contract. A copy of the purchase order relating to
27 any such contract, the requisition for purchase order, if applicable, and
28 documentation identifying the price of the materials, supplies or
29 equipment under the State contract and the State contract number
30 shall be filed with the director within five working days of the award
31 of any such contract by the contracting unit. The director shall notify
32 the contracting unit of receipt of the material and shall make the
33 material available to the State Treasurer. The contracting unit shall
34 make available to the director upon request any other documents
35 relating to the solicitation and award of the contract, including, but not
36 limited to, quotations, requests for quotations, and resolutions. The
37 director periodically shall review material submitted by contracting
38 units to determine the impact of such contracts on local contracting
39 and shall consult with the State Treasurer on the impact of such
40 contracts on the State procurement process. The director may, after
41 consultation with the State Treasurer, adopt rules in accordance with
42 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.) to limit the use of this subsection, after considering the impact of
44 contracts awarded under this subsection on State and local
45 contracting, or after considering the extent to which the award of
46 contracts pursuant to this subsection is consistent with and in

1 furtherance of the purposes of the public contracting laws.

2 (5) Notwithstanding any provision of law, rule or regulation to the
3 contrary, the subject matter consists of the combined collection and
4 marketing, or the cooperative combined collection and marketing of
5 recycled material recovered through a recycling program, or any
6 product intentionally produced or derived from solid waste received
7 at a resource recovery facility or recovered through a resource
8 recovery program including, but not limited to, refuse-derived fuel,
9 compost materials, methane gas, and other similar products, provided
10 that in lieu of engaging in such public advertising for bids and the
11 bidding therefor, the contracting unit shall, prior to commencing the
12 procurement process, submit for approval to the Director of the
13 Division of Local Government Services, a written detailed description
14 of the process to be followed in securing said services. Within 30 days
15 after receipt of the written description the director shall, if the director
16 finds that the process provides for fair competition and integrity in the
17 negotiation process, approve, in writing, the description submitted by
18 the contracting unit. If the director finds that the process does not
19 provide for fair competition and integrity in the negotiation process,
20 the director shall advise the contracting unit of the deficiencies that
21 must be remedied. If the director fails to respond in writing to the
22 contracting unit within 30 days, the procurement process as described
23 shall be deemed approved. As used in this section, "collection" means
24 the physical removal of recyclable materials from curbside or any other
25 location selected by the contracting unit.

26 (cf: P.L.2003, c.150, s.2)

27

28 3. (New section) A proposal by a private agency to provide
29 inspection or plan review services to a municipality to administer the
30 provisions of the "State Uniform Construction Code Act," P.L.1975,
31 c.217 (C.52:27D-119 et seq.) shall be submitted in accordance with
32 and shall be subject to the bidding and other provisions of the "Local
33 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). A
34 municipality shall require as part of the bid specifications that a private
35 agency submit a bid or proposal in terms of a percentage of the costs
36 charged by the department when it serves as a local enforcement
37 agency pursuant to section 10 of P.L.1975, c.217 (C.52:27D-128). A
38 municipality may include in the fee charged by it for work done by
39 private agencies an amount sufficient to cover a proportionate share
40 of administrative costs incurred by the local enforcing agency in
41 connection with inspections performed by private agencies.

42

43 4. (New section) The Commissioner of Community Affairs shall,
44 no later than three years after the effective date of P.L. , c.
45 (pending before the Legislature as this bill), submit to: the Chairman
46 of the Senate Community and Urban Affairs Committee and the

1 Chairman of the Assembly Housing Committee, or their successor
2 committees; the presiding officers and the minority leaders of the
3 Senate and General Assembly; and the Governor, a report on the
4 impact of making private agency contracts for inspection and plan
5 review services subject to contracting procedures provided under the
6 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.)
7 as required under P.L. , c. (pending before the Legislature as this
8 bill). The report shall include an assessment of the quality of
9 inspection services rendered pursuant to such contracts, the price of
10 those services and uniformity of pricing for comparable services in
11 municipalities throughout the State, the level of satisfaction of
12 municipal officials with the services provided, the ease of
13 administration of those contracts, and the extent to which full-time
14 inspectors employed by the Department of Community Affairs are
15 displaced by this change in contracting procedure.

16

17 5. This act shall take effect on the first day of the third month next
18 following enactment.

19

20

21

STATEMENT

22

23 This bill would make contracts between private inspection firms and
24 local governments for inspections completed pursuant to the "State
25 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et
26 seq.) subject to the bidding and other requirements of the "Local
27 Public Contracts Law," P.L.1971, c.198 (40A:11-1 et seq.). Currently
28 such contracts are subject to separate regulations promulgated by the
29 Commissioner of Community Affairs. In many ways these regulations
30 are more burdensome for municipalities than the requirements under
31 the "Local Public Contracts Law."

32 For more than 10 years, private agencies performing code
33 inspection were required to charge the same fees as the inspectors
34 employed by the Department of Community Affairs (DCA), and public
35 bidding of such work was not required. This situation prevented a
36 municipality from obtaining competitive prices from inspection firms.
37 The Legislature amended the law in 1993 to provide that private firms
38 could charge the same or less than the DCA fee schedule. The rules
39 promulgated by the commissioner to effectuate this change in the law
40 included requirements for sealed bids and ended the ability of a
41 municipality to engage in short term contracts. Many municipalities
42 now find the procedures for entering into a contract with a private
43 agency inspection firm so burdensome that they opt to contract with
44 the department to do the work. The bill would remove the power
45 from the commissioner to regulate these types of contracts. Instead,
46 a contract for municipal code compliance or plan review would be bid

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11

1 as a public contract under the "Local Public Contracts Law."

2 The bill would also require a study and report to be made by the
3 Commissioner of Community Affairs three years after the enactment
4 of the bill into law. The report is to include an assessment of the
5 quality of inspection services rendered pursuant to such contracts, the
6 price of those services and uniformity of pricing for comparable
7 services in municipalities throughout the State, the level of satisfaction
8 of municipal officials with the services provided, the ease of
9 administration of those contracts, and the extent to which full-time
10 inspectors employed by the Department of Community Affairs are
11 displaced by this change in contracting procedure.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 2101

STATE OF NEW JERSEY

DATED: MARCH 10, 2005

The Assembly Housing and Local Government Committee reports favorably Senate Bill No. 2101.

This bill would make contracts between private inspection firms and local governments for inspections completed pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) subject to the bidding and other requirements of the "Local Public Contracts Law," P.L.1971, c.198 (40A:11-1 et seq.). Currently such contracts are subject to separate regulations promulgated by the Commissioner of Community Affairs. In many ways these regulations are more burdensome for municipalities than the requirements under the "Local Public Contracts Law."

For more than 10 years, private agencies performing code inspection were required to charge the same fees as the inspectors employed by the Department of Community Affairs (DCA), and public bidding of such work was not required. This situation prevented a municipality from obtaining competitive prices from inspection firms. The Legislature amended the law in 1993 to provide that private firms could charge the same or less than the DCA fee schedule. The rules promulgated by the commissioner to effectuate this change in the law included requirements for sealed bids and ended the ability of a municipality to engage in short term contracts. Many municipalities now find the procedures for entering into a contract with a private agency inspection firm so burdensome that they opt to contract with the department to do the work. The bill would remove the power from the commissioner to regulate these types of contracts. Instead, a contract for municipal code compliance or plan review would be bid as a public contract under the "Local Public Contracts Law."

The bill would also require a study and report to be made by the Commissioner of Community Affairs three years after the enactment of the bill into law. The report is to include an assessment of the quality of inspection services rendered pursuant to such contracts, the price of those services and uniformity of pricing for comparable services in municipalities throughout the State, the level of satisfaction of municipal officials with the services provided, the ease of administration of those contracts, and the extent to which full-time

inspectors employed by the Department of Community Affairs are displaced by this change in contracting procedure.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2101

STATE OF NEW JERSEY

DATED: JANUARY 24, 2005

The Senate Community and Urban Affairs Committee reports favorably Senate, No. 2101.

This bill would make contracts between private inspection firms and local governments for inspections completed pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) subject to the bidding and other requirements of the "Local Public Contracts Law," P.L.1971, c.198 (40A:11-1 et seq.). Currently such contracts are subject to separate regulations promulgated by the Commissioner of Community Affairs. In many ways these regulations are more burdensome for municipalities than the requirements under the "Local Public Contracts Law."

For more than 10 years, private agencies performing code inspection were required to charge the same fees as the inspectors employed by the Department of Community Affairs (DCA), and public bidding of such work was not required. This situation prevented a municipality from obtaining competitive prices from inspection firms. The Legislature amended the law in 1993 to provide that private firms could charge the same or less than the DCA fee schedule. The rules promulgated by the commissioner to effectuate this change in the law included requirements for sealed bids and ended the ability of a municipality to engage in short term contracts. Many municipalities now find the procedures for entering into a contract with a private agency inspection firm so burdensome that they opt to contract with the department to do the work. The bill would remove the power from the commissioner to regulate these types of contracts. Instead, a contract for municipal code compliance or plan review would be bid as a public contract under the "Local Public Contracts Law."

The bill would also require a study and report to be made by the Commissioner of Community Affairs three years after the enactment of the bill into law. The report is to include an assessment of the quality of inspection services rendered pursuant to such contracts, the price of those services and uniformity of pricing for comparable services in municipalities throughout the State, the level of satisfaction of municipal officials with the services provided, the ease of administration of those contracts, and the extent to which full-time inspectors employed by the Department of Community Affairs are displaced by this change in contracting procedure.

ASSEMBLY, No. 387

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblywoman NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Requires contracts between local governments and private inspection agencies to comply with "Local Public Contracts Law."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A387 CRUZ-PEREZ

2

1 AN ACT concerning construction code inspection, amending and
2 supplementing P.L.1975, c.217 (C.52:27D-119 et seq.), and
3 amending P.L.1971, c.198.

4

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

7

8 1. Section 6 of P.L.1975, c.217 (C.52:27D-124) is amended to
9 read as follows:

10 6. The commissioner shall have all the powers necessary or
11 convenient to effectuate the purposes of this act, including, but not
12 limited to, the following powers in addition to all others granted by
13 this act:

14 a. To adopt, amend and repeal, after consultation with the code
15 advisory board, rules: (1) relating to the administration and
16 enforcement of this act and (2) the qualifications or licensing, or both,
17 of all persons employed by enforcing agencies of the State to enforce
18 this act or the code, except that, plumbing inspectors shall be subject
19 to the rules adopted by the commissioner only insofar as such rules are
20 compatible with such rules and regulations, regarding health and
21 plumbing for public and private buildings, as may be promulgated by
22 the Public Health Council in accordance with Title 26 of the Revised
23 Statutes.

24 b. To enter into agreements with federal and State of New Jersey
25 agencies, after consultation with the code advisory board, to provide
26 insofar as practicable (1) single-agency review of construction plans
27 and inspection of construction and (2) intergovernmental acceptance
28 of such review and inspection to avoid unnecessary duplication of
29 effort and fees. The commissioner shall have the power to enter into
30 such agreements although the federal standards are not identical with
31 State standards; provided that the same basic objectives are met. The
32 commissioner shall have the power through such agreements to bind
33 the State of New Jersey and all governmental entities deriving
34 authority therefrom.

35 c. To take testimony and hold hearings relating to any aspect of or
36 matter relating to the administration or enforcement of this act,
37 including but not limited to prospective interpretation of the code so
38 as to resolve inconsistent or conflicting code interpretations, and, in
39 connection therewith, issue subpoena to compel the attendance of
40 witnesses and the production of evidence. The commissioner may
41 designate one or more hearing examiners to hold public hearings and
42 report on such hearings to the commissioner.

43 d. To encourage, support or conduct, after consultation with the

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

Matter underlined thus is new matter.

1 code advisory board, educational and training programs for employees,
2 agents and inspectors of enforcing agencies, either through the
3 Department of Community Affairs or in cooperation with other
4 departments of State government, enforcing agencies, educational
5 institutions, or associations of code officials.

6 e. To study the effect of this act and the code to ascertain their
7 effect upon the cost of building construction and maintenance, and the
8 effectiveness of their provisions for insuring the health, safety, and
9 welfare of the people of the State of New Jersey.

10 f. To make, establish and amend, after consultation with the code
11 advisory board, such rules as may be necessary, desirable or proper to
12 carry out his powers and duties under this act.

13 g. To adopt, amend, and repeal rules and regulations providing for
14 the charging of and setting the amount of fees for the following code
15 enforcement services, licenses or approvals performed or issued by the
16 department, pursuant to the "State Uniform Construction Code Act:"

17 (1) Plan review, construction permits, certificates of occupancy,
18 demolition permits, moving of building permits, elevator permits and
19 sign permits; and

20 (2) Review of applications for and the issuance of licenses
21 certifying an individual's qualifications to act as a construction code
22 official, subcode official or assistant under this act.

23 (3) (Deleted by amendment, P.L.1983, c.338).

24 h. To adopt, amend and repeal rules and regulations providing for
25 the charging of and setting the amount of construction permit
26 surcharge fees to be collected by the enforcing agency and remitted to
27 the department to support those activities which may be undertaken
28 with moneys credited to the Uniform Construction Code Revolving
29 Fund.

30 i. To adopt, amend and repeal rules and regulations providing for:
31

32 (1) Setting the amount of and the charging of fees to be paid to the
33 department by a private agency for the review of applications for and
34 the issuance of approvals authorizing a private agency to act as an
35 on-site inspection and plan review agency or an in-plant inspection
36 agency;

37 (2) **【The setting of the amounts of fees to be charged by a private**
38 **agency for inspection and plan review services; provided, however,**
39 **that such fees shall not be more than those adopted and charged by the**
40 **department when it serves as a local enforcement agency pursuant to**
41 **section 10 of P.L.1975, c.217 (C.52:27D-128); and】 (Deleted by
42 amendment, P.L. , c.) (pending before the Legislature as this
43 bill).**

44 (3) **【The formulation of standards to be observed by a municipality**
45 **in the evaluation of a proposal submitted by a private agency to**
46 **provide inspection or plan review services within a municipality.】**

1 (Deleted by amendment, P.L. _____, c. _____) (pending before the
2 Legislature as this bill).

3 j. To enforce and administer the provisions of the "State Uniform
4 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
5 the code promulgated thereunder, and to prosecute or cause to be
6 prosecuted violators of the provisions of that act or the code
7 promulgated thereunder in administrative hearings and in civil
8 proceedings in State and local courts.

9 k. To monitor the compliance of local enforcing agencies with the
10 provisions of the "State Uniform Construction Code Act," P.L.1975,
11 c.217 (C.52:27D-119 et seq.), to order corrective action as may be
12 necessary where a local enforcing agency is found to be failing to carry
13 out its responsibilities under that act, to supplant or replace the local
14 enforcing agency for a specific project, and to order it dissolved and
15 replaced by the department where the local enforcing agency
16 repeatedly or habitually fails to enforce the provisions of the "State
17 Uniform Construction Code Act."

18 l. To adopt, amend and repeal rules and regulations implementing
19 the provisions of P.L.1999, c.15 and P.L.2003, c.44 concerning the
20 installation and maintenance of carbon monoxide sensors.
21 (cf: P.L.2003, c.44, s.2)

22
23 2. Section 5 of P.L.1971, c.198 (C:40A:11-5) is amended to read
24 as follows:

25 5. Any contract the amount of which exceeds the bid threshold, may
26 be negotiated and awarded by the governing body without public
27 advertising for bids and bidding therefor and shall be awarded by
28 resolution of the governing body if:

29 (1) The subject matter thereof consists of:

30 (a) (i) Professional services. The governing body shall in each
31 instance state supporting reasons for its action in the resolution
32 awarding each contract and shall forthwith cause to be printed once,
33 in the official newspaper, a brief notice stating the nature, duration,
34 service and amount of the contract, and that the resolution and
35 contract are on file and available for public inspection in the office of
36 the clerk of the county or municipality, or, in the case of a contracting
37 unit created by more than one county or municipality, of the counties
38 or municipalities creating such contracting unit; or (ii) Extraordinary
39 unspecifiable services. The application of this exception shall be
40 construed narrowly in favor of open competitive bidding, whenever
41 possible, and the Division of Local Government Services is authorized
42 to adopt and promulgate rules and regulations after consultation with
43 the Commissioner of Education limiting the use of this exception in
44 accordance with the intention herein expressed. The governing body
45 shall in each instance state supporting reasons for its action in the
46 resolution awarding each contract and shall forthwith cause to be

- 1 printed, in the manner set forth in subsection (1) (a) (i) of this section,
2 a brief notice of the award of such contract;
- 3 (b) The doing of any work by employees of the contracting unit;
- 4 (c) The printing of legal briefs, records and appendices to be used
5 in any legal proceeding in which the contracting unit may be a party;
- 6 (d) The furnishing of a tax map or maps for the contracting unit;
- 7 (e) The purchase of perishable foods as a subsistence supply;
- 8 (f) The supplying of any product or the rendering of any service by
9 a public utility, which is subject to the jurisdiction of the Board of
10 Public Utilities or the Federal Energy Regulatory Commission or its
11 successor, in accordance with tariffs and schedules of charges made,
12 charged or exacted, filed with the board or commission;
- 13 (g) The acquisition, subject to prior approval of the Attorney
14 General, of special equipment for confidential investigation;
- 15 (h) The printing of bonds and documents necessary to the issuance
16 and sale thereof by a contracting unit;
- 17 (i) Equipment repair service if in the nature of an extraordinary
18 unspecifiable service and necessary parts furnished in connection with
19 such service, which exception shall be in accordance with the
20 requirements for extraordinary unspecifiable services;
- 21 (j) The publishing of legal notices in newspapers as required by
22 law;
- 23 (k) The acquisition of artifacts or other items of unique intrinsic,
24 artistic or historical character;
- 25 (l) Those goods and services necessary or required to prepare and
26 conduct an election;
- 27 (m) Insurance, including the purchase of insurance coverage and
28 consultant services, which exception shall be in accordance with the
29 requirements for extraordinary unspecifiable services;
- 30 (n) The doing of any work by handicapped persons employed by a
31 sheltered workshop;
- 32 (o) The provision of any goods or services including those of a
33 commercial nature, attendant upon the operation of a restaurant by any
34 nonprofit, duly incorporated, historical society at or on any historical
35 preservation site;
- 36 (p) (Deleted by amendment, P.L.1999, c.440.)
- 37 (q) Library and educational goods and services;
- 38 (r) [On-site inspections undertaken by private agencies pursuant
39 to the "State Uniform Construction Code Act," P.L.1975, c.217
40 (C.52:27D-119 et seq.) and the regulations adopted pursuant thereto;]
41 (Deleted by amendment, P.L. , c.) (pending before the Legislature
42 as this bill).
- 43 (s) The marketing of recyclable materials recovered through a
44 recycling program, or the marketing of any product intentionally
45 produced or derived from solid waste received at a resource recovery
46 facility or recovered through a resource recovery program, including,

- 1 but not limited to, refuse-derived fuel, compost materials, methane
2 gas, and other similar products;
- 3 (t) (Deleted by amendment, P.L.1999, c.440.)
- 4 (u) Contracting unit towing and storage contracts, provided that
5 all such contracts shall be pursuant to reasonable non-exclusionary and
6 non-discriminatory terms and conditions, which may include the
7 provision of such services on a rotating basis, at the rates and charges
8 set by the municipality pursuant to section 1 of P.L.1979, c.101
9 (C.40:48-2.49). All contracting unit towing and storage contracts for
10 services to be provided at rates and charges other than those
11 established pursuant to the terms of this paragraph shall only be
12 awarded to the lowest responsible bidder in accordance with the
13 provisions of the "Local Public Contracts Law" and without regard for
14 the value of the contract therefor;
- 15 (v) The purchase of steam or electricity from, or the rendering of
16 services directly related to the purchase of such steam or electricity
17 from a qualifying small power production facility or a qualifying
18 cogeneration facility as defined pursuant to 16 U.S.C.s.796;
- 19 (w) The purchase of electricity or administrative or dispatching
20 services directly related to the transmission of such purchased
21 electricity by a contracting unit engaged in the generation of
22 electricity;
- 23 (x) The printing of municipal ordinances or other services
24 necessarily incurred in connection with the revision and codification
25 of municipal ordinances;
- 26 (y) An agreement for the purchase of an equitable interest in a
27 water supply facility or for the provision of water supply services
28 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
29 an agreement entered into pursuant to P.L.1989, c.109
30 (N.J.S.40A:31-1 et al.), so long as such agreement is entered into no
31 later than six months after the effective date of P.L.1993, c.381;
- 32 (z) A contract for the provision of water supply services entered
33 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);
- 34 (aa) The cooperative marketing of recyclable materials recovered
35 through a recycling program;
- 36 (bb) A contract for the provision of wastewater treatment services
37 entered into pursuant to P.L.1995, c.216 (C.58:27-19 et al.);
- 38 (cc) Expenses for travel and conferences;
- 39 (dd) The provision or performance of goods or services for the
40 support or maintenance of proprietary computer hardware and
41 software, except that this provision shall not be utilized to acquire or
42 upgrade non-proprietary hardware or to acquire or update
43 non-proprietary software;
- 44 (ee) The management or operation of an airport owned by the
45 contracting unit pursuant to R.S.40:8-1 et seq.;
- 46 (ff) Purchases of goods and services at rates set by the Universal

1 Service Fund administered by the Federal Communications
2 Commission;

3 (gg) A contract for the provision of water supply services or
4 wastewater treatment services entered into pursuant to section 2 of
5 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
6 construction, operation, or maintenance, or any combination thereof,
7 of a water supply facility as defined in subsection (16) of section 15 of
8 P.L.1971, c.198 (C.40A:11-15) or a wastewater treatment system as
9 defined in subsection (19) of section 15 of P.L.1971, c.198
10 (C.40A:11-15), or any component part or parts thereof, including a
11 water filtration system as defined in subsection (16) of section 15 of
12 P.L.1971, c.198 (C.40A:11-15);

13 (hh) The purchase of electricity generated from a power production
14 facility that is fueled by methane gas extracted from a landfill in the
15 county of the contracting unit.

16 (2) It is to be made or entered into with the United States of
17 America, the State of New Jersey, county or municipality or any
18 board, body, officer, agency or authority thereof or any other state or
19 subdivision thereof.

20 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
21 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
22 received on both occasions in response to the advertisement, or (b) the
23 governing body has rejected such bids on two occasions because it has
24 determined that they are not reasonable as to price, on the basis of
25 cost estimates prepared for or by the contracting agent prior to the
26 advertising therefor, or have not been independently arrived at in open
27 competition, or (c) on one occasion no bids were received pursuant to
28 (a) and on one occasion all bids were rejected pursuant to (b), in
29 whatever sequence; any such contract may then be negotiated and may
30 be awarded upon adoption of a resolution by a two-thirds affirmative
31 vote of the authorized membership of the governing body authorizing
32 such contract; provided, however, that:

33 (i) A reasonable effort is first made by the contracting agent to
34 determine that the same or equivalent goods or services, at a cost
35 which is lower than the negotiated price, are not available from an
36 agency or authority of the United States, the State of New Jersey or
37 of the county in which the contracting unit is located, or any
38 municipality in close proximity to the contracting unit;

39 (ii) The terms, conditions, restrictions and specifications set forth
40 in the negotiated contract are not substantially different from those
41 which were the subject of competitive bidding pursuant to section 4 of
42 P.L.1971, c.198 (C.40A:11-4); and

43 (iii) Any minor amendment or modification of any of the terms,
44 conditions, restrictions and specifications, which were the subject of
45 competitive bidding pursuant to section 4 of P.L.1971, c.198
46 (C.40A:11-4), shall be stated in the resolution awarding such contract;

1 provided further, however, that if on the second occasion the bids
2 received are rejected as unreasonable as to price, the contracting agent
3 shall notify each responsible bidder submitting bids on the second
4 occasion of its intention to negotiate, and afford each bidder a
5 reasonable opportunity to negotiate, but the governing body shall not
6 award such contract unless the negotiated price is lower than the
7 lowest rejected bid price submitted on the second occasion by a
8 responsible bidder, is the lowest negotiated price offered by any
9 responsible vendor, and is a reasonable price for such goods or
10 services.

11 Whenever a contracting unit shall determine that a bid was not
12 arrived at independently in open competition pursuant to subsection
13 (3) of this section it shall thereupon notify the county prosecutor of
14 the county in which the contracting unit is located and the Attorney
15 General of the facts upon which its determination is based, and when
16 appropriate, it may institute appropriate proceedings in any State or
17 federal court of competent jurisdiction for a violation of any State or
18 federal antitrust law or laws relating to the unlawful restraint of trade.

19 (4) The contracting unit has solicited and received at least three
20 quotations on materials, supplies or equipment for which a State
21 contract has been issued pursuant to section 12 of P.L.1971, c.198
22 (C.40A:11-12), and the lowest responsible quotation is at least 10%
23 less than the price the contracting unit would be charged for the
24 identical materials, supplies or equipment, in the same quantities,
25 under the State contract. Any such contract entered into pursuant to
26 this subsection may be awarded only upon adoption of a resolution by
27 the affirmative vote of two-thirds of the full membership of the
28 governing body of the contracting unit at a meeting thereof
29 authorizing such a contract. A copy of the purchase order relating to
30 any such contract, the requisition for purchase order, if applicable, and
31 documentation identifying the price of the materials, supplies or
32 equipment under the State contract and the State contract number
33 shall be filed with the director within five working days of the award
34 of any such contract by the contracting unit. The director shall notify
35 the contracting unit of receipt of the material and shall make the
36 material available to the State Treasurer. The contracting unit shall
37 make available to the director upon request any other documents
38 relating to the solicitation and award of the contract, including, but not
39 limited to, quotations, requests for quotations, and resolutions. The
40 director periodically shall review material submitted by contracting
41 units to determine the impact of such contracts on local contracting
42 and shall consult with the State Treasurer on the impact of such
43 contracts on the State procurement process. The director may, after
44 consultation with the State Treasurer, adopt rules in accordance with
45 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.) to limit the use of this subsection, after considering the impact of

1 contracts awarded under this subsection on State and local
2 contracting, or after considering the extent to which the award of
3 contracts pursuant to this subsection is consistent with and in
4 furtherance of the purposes of the public contracting laws.

5 (5) Notwithstanding any provision of law, rule or regulation to the
6 contrary, the subject matter consists of the combined collection and
7 marketing, or the cooperative combined collection and marketing of
8 recycled material recovered through a recycling program, or any
9 product intentionally produced or derived from solid waste received
10 at a resource recovery facility or recovered through a resource
11 recovery program including, but not limited to, refuse-derived fuel,
12 compost materials, methane gas, and other similar products, provided
13 that in lieu of engaging in such public advertising for bids and the
14 bidding therefor, the contracting unit shall, prior to commencing the
15 procurement process, submit for approval to the Director of the
16 Division of Local Government Services, a written detailed description
17 of the process to be followed in securing said services. Within 30 days
18 after receipt of the written description the director shall, if the director
19 finds that the process provides for fair competition and integrity in the
20 negotiation process, approve, in writing, the description submitted by
21 the contracting unit. If the director finds that the process does not
22 provide for fair competition and integrity in the negotiation process,
23 the director shall advise the contracting unit of the deficiencies that
24 must be remedied. If the director fails to respond in writing to the
25 contracting unit within 30 days, the procurement process as described
26 shall be deemed approved. As used in this section, "collection" means
27 the physical removal of recyclable materials from curbside or any other
28 location selected by the contracting unit.

29 (cf: P.L.2003, c.150, s.2)

30
31 3. (New section) A proposal by a private agency to provide
32 inspection or plan review services to a municipality to administer the
33 provisions of the "State Uniform Construction Code Act," P.L.1975,
34 c.217 (C.52:27D-119 et seq.) shall be submitted in accordance with
35 and shall be subject to the bidding and other provisions of the "Local
36 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). A
37 municipality shall require as part of the bid specifications that a private
38 agency submit a bid or proposal in terms of a percentage of the costs
39 charged by the department when it serves as a local enforcement
40 agency pursuant to section 10 of P.L.1975, c.217 (C.52:27D-128). A
41 municipality may include in the fee charged by it for work done by
42 private agencies an amount sufficient to cover a proportionate share
43 of administrative costs incurred by the local enforcing agency in
44 connection with inspections performed by private agencies.

45
46 4. (New section) The Commissioner of Community Affairs shall,

1 no later than three years after the effective date of P.L. , c.
2 (pending before the Legislature as this bill), submit to: the Chairman
3 of the Senate Community and Urban Affairs Committee and the
4 Chairman of the Assembly Housing Committee, or their successor
5 committees; the presiding officers and the minority leaders of the
6 Senate and General Assembly; and the Governor, a report on the
7 impact of making private agency contracts for inspection and plan
8 review services subject to contracting procedures provided under the
9 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.)
10 as required under P.L. , c. (pending before the Legislature as this
11 bill). The report shall include an assessment of the quality of
12 inspection services rendered pursuant to such contracts, the price of
13 those services and uniformity of pricing for comparable services in
14 municipalities throughout the State, the level of satisfaction of
15 municipal officials with the services provided, the ease of
16 administration of those contracts, and the extent to which full-time
17 inspectors employed by the Department of Community Affairs are
18 displaced by this change in contracting procedure.

19

20 5. This act shall take effect on the first day of the third month next
21 following enactment.

22

23

STATEMENT

24

25 This bill would make contracts between private inspection firms and
26 local governments for inspections completed pursuant to the "State
27 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et
28 seq.) subject to the bidding and other requirements of the "Local
29 Public Contracts Law," P.L.1971, c.198 (40A:11-1 et seq.).
30 Currently, such contracts are subject to separate regulations
31 promulgated by the Commissioner of Community Affairs. In many
32 ways these regulations are more burdensome for municipalities than
33 the requirements under the "Local Public Contracts Law."

34 For more than 10 years, private agencies performing code
35 inspection were required to charge the same fees as the inspectors
36 employed by the Department of Community Affairs (DCA), and public
37 bidding for such work was not required. This situation prevented a
38 municipality from obtaining competitive prices from inspection firms.
39 The Legislature amended the law in 1993 to provide that private firms
40 could charge the same or less than the DCA fee schedule. The rules
41 promulgated by the commissioner to effectuate this change in the law
42 included requirements for sealed bids and ended the ability of a
43 municipality to engage in short term contracts. Many municipalities
44 now find the procedures for entering into a contract with a private
45 agency inspection firm so burdensome that they opt to contract with
46 the department to do the work. The bill would remove the power

1 from the commissioner to regulate these types of contracts. Instead,
2 a contract for municipal code compliance or plan review would be bid
3 as a public contract under the "Local Public Contracts Law."

4 Specifically, the bill would require that a private agency submit a
5 bid or proposal for a contract to perform inspections pursuant to the
6 "State Uniform Construction Code Act", P.L.1975, c.217 (C.52:27D-
7 119 et seq.) in terms of a percentage of the costs charged by the
8 department when it serves as a local enforcing agency. Municipalities
9 would be authorized to include in the fee charged by them for work
10 done by private agencies an amount sufficient to cover a proportionate
11 share of administrative costs incurred by the local enforcing agency in
12 connection with inspections performed by private agencies.

13 The bill would also require a study and report to be made by the
14 Commissioner of Community Affairs three years after the enactment
15 of the bill into law. The report is to include an assessment of the
16 quality of inspection services rendered pursuant to such contracts, the
17 price of those services and uniformity of pricing for comparable
18 services in municipalities throughout the State, the level of satisfaction
19 of municipal officials with the services provided, the ease of
20 administration of those contracts, and the extent to which full-time
21 inspectors employed by the Department of Community Affairs are
22 displaced by this change in contracting procedure.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 387

STATE OF NEW JERSEY

DATED: MARCH 10, 2005

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 387.

This bill would make contracts between private inspection firms and local governments for inspections completed pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) subject to the bidding and other requirements of the "Local Public Contracts Law," P.L.1971, c.198 (40A:11-1 et seq.). Currently, such contracts are subject to separate regulations promulgated by the Commissioner of Community Affairs. In many ways these regulations are more burdensome for municipalities than the requirements under the "Local Public Contracts Law."

For more than 10 years, private agencies performing code inspection were required to charge the same fees as the inspectors employed by the Department of Community Affairs (DCA), and public bidding for such work was not required. This situation prevented a municipality from obtaining competitive prices from inspection firms. The Legislature amended the law in 1993 to provide that private firms could charge the same or less than the DCA fee schedule. The rules promulgated by the commissioner to effectuate this change in the law included requirements for sealed bids and ended the ability of a municipality to engage in short term contracts. Many municipalities now find the procedures for entering into a contract with a private agency inspection firm so burdensome that they opt to contract with the department to do the work. The bill would remove the power from the commissioner to regulate these types of contracts. Instead, a contract for municipal code compliance or plan review would be bid as a public contract under the "Local Public Contracts Law."

Specifically, the bill would require that a private agency submit a bid or proposal for a contract to perform inspections pursuant to the "State Uniform Construction Code Act", P.L.1975, c.217 (C.52:27D-119 et seq.) in terms of a percentage of the costs charged by the department when it serves as a local enforcing agency. Municipalities would be authorized to include in the fee charged by them for work done by private agencies an amount sufficient to cover a proportionate share of administrative costs incurred by the local enforcing agency in

connection with inspections performed by private agencies.

The bill would also require a study and report to be made by the Commissioner of Community Affairs three years after the enactment of the bill into law. The report is to include an assessment of the quality of inspection services rendered pursuant to such contracts, the price of those services and uniformity of pricing for comparable services in municipalities throughout the State, the level of satisfaction of municipal officials with the services provided, the ease of administration of those contracts, and the extent to which full-time inspectors employed by the Department of Community Affairs are displaced by this change in contracting procedure.

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.