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[Second Reprint]

ASSEMBLY, No. 436

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

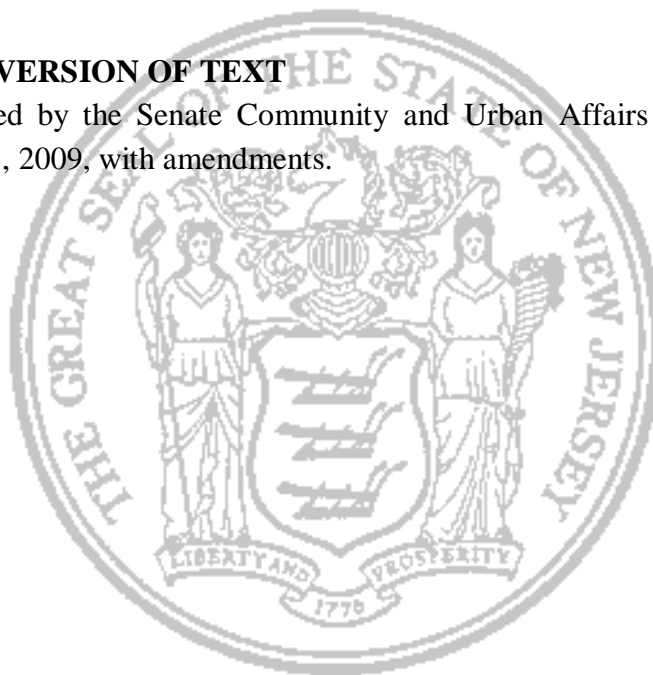
Assemblyman Connors, Senator Madden and Assemblywoman Greenstein

SYNOPSIS

Permits price adjustments in local public contracts for asphalt cement and fuel.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on November 23, 2009, with amendments.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning certain price adjustments in local public
2 contracts and ²**[supplementing]** amending² P.L.1971, c.198
3 ²**[(C.40A:11-1 et seq.)]**².

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 ²**[**¹1. For the purposes of this act:

9 "Asphalt Price Index" means the Asphalt Price Index as
10 determined and published by the New Jersey Department of
11 Transportation.

12 "Basic Asphalt Price Index" means the Basic Asphalt Price Index
13 as published by the New Jersey Department of Transportation in its
14 "Standard Specifications for Road and Bridge Construction," as
15 revised by the "Standard Inputs" periodically issued by the New
16 Jersey Department of Transportation.

17 "Basic Fuel Price Index" means the Basic Fuel Price Index as
18 published by the New Jersey Department of Transportation in its
19 "Standard Specifications for Road and Bridge Construction," as
20 revised by the "Standard Inputs" periodically issued by the New
21 Jersey Department of Transportation.

22 "Department" means the New Jersey Department of
23 Transportation.

24 "Fuel Price Index" means the Fuel Price Index as determined and
25 published by the New Jersey Department of Transportation.

26 "Pay Item" means a specifically described item of work for
27 which the bidder provides a per unit or lump sum price in a bid
28 specification.¹²

29
30 ²1. Section 16 of P.L.1971, c.198 (C.40A:11-16) is amended to
31 read as follows:

32 16. **[Separate plans for various types of work; bids; contracts.]**

33 a. In the preparation of plans and specifications for the
34 construction, alteration or repair of any public building by any
35 contracting unit, when the entire cost of the work will exceed the
36 bid threshold, the architect, engineer or other person preparing the
37 plans and specifications may prepare separate plans and
38 specifications for

- 39 (1) The plumbing and gas fitting and all kindred work;
40 (2) Steam power plants, steam and hot water heating and
41 ventilating apparatus and all kindred work;
42 (3) Electrical work;
43 (4) Structural steel and ornamental iron work; and

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHO committee amendments adopted May 7, 2009.

²Senate SCU committee amendments adopted November 23, 2009.

1 (5) All other work required for the completion of the project.

2 The contracting agent shall advertise for and receive, in the
3 manner provided by law, either (a) separate bids for each of said
4 branches of work, or (b) bids for all the work, goods and services
5 required to complete the building to be included in a single overall
6 contract, or (c) both. In the case of a single bid under (b) or (c),
7 there shall be set forth in the bid the name or names of all
8 subcontractors to whom the bidder will subcontract the furnishing
9 of plumbing and gas fitting, and all kindred work, and of the steam
10 and hot water heating and ventilating apparatus, steam power plants
11 and kindred work, and electrical work, structural steel and
12 ornamental iron work, each of which subcontractors shall be
13 qualified in accordance with P.L.1971, c.198 (C.40A:11-1 et seq.).
14 The contracting unit shall require evidence of performance security
15 to be submitted simultaneously with the list of the subcontractors.
16 Evidence of performance security may be supplied by the bidder on
17 behalf of himself and any or all subcontractors, or by each
18 respective subcontractor, or by any combination thereof which
19 results in evidence of performance security equaling, but in no
20 event exceeding, the total amount bid.

21 b. Whenever a bid sets forth more than one subcontractor for
22 any of the specialty trade categories (1) through (4) specified
23 **[hereinabove]** in subsection a. of this section, the bidder shall
24 submit to the contracting unit a certificate signed by the bidder
25 listing each subcontractor named in the bid for that category. The
26 certificate shall set forth the scope of work, goods and services for
27 which the subcontractor has submitted a price quote and which the
28 bidder has agreed to award to each subcontractor should the bidder
29 be awarded the contract. The certificate shall be submitted to the
30 contracting unit simultaneously with the list of the subcontractors.
31 The certificate may take the form of a single certificate listing all
32 subcontractors or, alternatively, a separate certificate may be
33 submitted for each subcontractor. If a bidder does not submit a
34 certificate or certificates to the contracting unit, the contracting unit
35 shall award the contract to the next lowest responsible bidder.

36 c. Contracts shall be awarded to the lowest responsible bidder.
37 In the event that a contract is advertised **[in accordance with c.**
38 **above]** for both separate bids for each branch of work and for bids
39 for all work, goods, and services, said contract shall be awarded in
40 the following manner: If the sum total of the amounts bid by the
41 lowest responsible bidder for each branch is less than the amount
42 bid by the lowest responsible bidder for all the work, goods and
43 services, the contracting unit shall award separate contracts for each
44 of such branches to the lowest responsible bidder therefor, but if the
45 sum total of the amounts bid by the lowest responsible bidder for
46 each branch is not less than the amount bid by the lowest
47 responsible bidder for all the work, goods and services, the

1 contracting unit shall award a single overall contract to the lowest
2 responsible bidder for all of such work, goods and services. In
3 every case in which a contract is awarded 【under (b) above】 for a
4 single overall contract, all payments required to be made under such
5 contract for work, goods and services supplied by a subcontractor
6 shall, upon the certification of the contractor of the amount due to
7 the subcontractor, be paid directly to the subcontractor.

8 d. Any bid specification prepared pursuant to this section that
9 includes the use of 1,000 or more tons of hot mix asphalt, shall
10 include a pay item for any asphalt price adjustment reflecting
11 changes in the cost of asphalt cement. Any bid specification
12 prepared pursuant to this section that includes the use of less than
13 1,000 tons of hot mix asphalt, shall include a pay item for an
14 asphalt price adjustment for any quantity of hot mix asphalt
15 exceeding 1,000 tons that 【was】 maybe used in the work in the
16 event that performance of the work, including change orders,
17 requires more than 1,000 tons of hot mix asphalt.

18 The asphalt price adjustment shall be calculated in accordance
19 with the formula and relevant instructions published in the most
20 recent edition of the New Jersey Department of Transportation
21 Standard Specifications for Road and Bridge Construction as
22 revised by the "Standard Inputs" periodically issued by the
23 department. All invoices for payment shall be accompanied by the
24 calculation of any asphalt price adjustment and a showing of the
25 current month's Asphalt Price Index, the Basic Asphalt Price Index.

26 e. (1) Every bid specification prepared pursuant to this section
27 may be eligible for a fuel price adjustment. Fuel that is eligible for
28 a fuel price adjustment shall be the sum of the quantities of the
29 eligible pay items in the contract times the fuel usage factors as
30 determined by the Department of Transportation. The types of fuel
31 furnished shall be at the option of the contractor.

32 (2) The fuel requirement for items not determined by the
33 Department of Transportation to be eligible, and for pay items in
34 the bid specifications calling for less than 500 gallons of fuel, shall
35 not be eligible for a fuel price adjustment. If more than one pay
36 item has the same nomenclature but with different thicknesses,
37 depths, or types, each individual pay item must require 500 gallons
38 or more of fuel to be eligible for a fuel price adjustment. If more
39 than one pay item has the exact same nomenclature, similar pay
40 items shall be combined and the this combination must require 500
41 gallons ore more of fuel to be eligible for the fuel price adjustment.

42 (3) Fuel price adjustments shall not be made in those months for
43 which the monthly fuel price index has changed by less than five
44 percent from the basic fuel price.

45 f. As used in subsections d. and e. of this section:

46 "Asphalt Price Index" means the Asphalt Price Index as
47 determined and published by the New Jersey Department of

1 Transportation.

2 "Basic Asphalt Price Index" means the Basic Asphalt Price Index
3 as published by the New Jersey Department of Transportation in its
4 "Standard Specifications for Road and Bridge Construction," as
5 revised by the "Standard Inputs" periodically issued by the New
6 Jersey Department of Transportation.

7 "Fuel Price Index" means the Fuel Price Index as determined and
8 published by the New Jersey Department of Transportation.

9 "Pay Item" means a specifically described item of work for
10 which the bidder provides a per unit or lump sum price in a bid
11 specification as determined and published by the New Jersey
12 Department of Transportation.²

13 (cf: P.L.1999, c.440, s.24)

14

15 ²['[1.] 2. a. Any [contract entered into] bid specification
16 prepared¹ pursuant to section 16 of P.L.1971, c.198 (C.40A:11-16)

17 [, which] that¹ includes the use of 1,000 or more tons of hot mix¹
18 asphalt, shall include [an adjustment clause for] a pay item for any
19 asphalt price adjustment reflecting¹ changes in the cost of asphalt
20 cement. [The adjustment clause shall be expressed by the
21 following formula: A=(MA-BA) x T, where:

22

23 A= Asphalt Price Adjustment;

24 MA= Monthly Asphalt Price Index, determined by the New
25 Jersey Department of Transportation each month;

26 BA= Basic Asphalt Price Index in effect at the time of the bid, as
27 published by the New Jersey Department of Transportation in its
28 "Standard Specifications for Road and Bridge Construction," as
29 revised by the "Standard Inputs" periodically issued by the
30 department; and

31 T= Tons of New Asphalt Binder, determined by multiplying the
32 percentage of new asphalt binder in the approved job mix
33 formula

34 by the weight of hot mix asphalt.]¹

35

36 b. [Adjustments made in accordance with the provisions of
37 this section shall be paid on a lump sum basis and shall be made
38 monthly.] Any bid specification prepared pursuant to section 16 of
39 P.L.1971, c.198 (C.40A:11-16) that includes the use of less than
40 1,000 tons of hot mix asphalt, shall include a pay item for an
41 asphalt price adjustment for any quantity of hot mix asphalt
42 exceeding 1,000 tons that was used in the work in the event that
43 performance of the work, including change orders, requires more
44 than 1,000 tons of hot mix asphalt.

45 c. The asphalt price adjustment shall be calculated in
46 accordance with the formula and relevant instructions published in
47 the most recent edition of the New Jersey Department of

1 Transportation Standard Specifications for Road and Bridge
2 Construction as revised by the "Standard Inputs" periodically issued
3 by the department. All invoices for payment shall be accompanied
4 by the calculation of any asphalt price adjustment and a showing of
5 the current month's Asphalt Price Index, the Basic Asphalt Price
6 Index. ¹]²

7
8 ²[¹[^{2.}] ^{3.} ¹ a. Every ¹[^{contract entered into}] bid specification
9 prepared¹ pursuant to section 16 of P.L.1971, c.198 (C.40A:11-16)
10 ¹that has pay items that are eligible for a fuel price adjustment,
11 pursuant to the most recent edition of the New Jersey Department of
12 Transportation Standard Specifications for Road and Bridge
13 Construction. ¹ shall include a ¹[^{provision}] pay item¹ for a fuel
14 price adjustment. ¹[^{Fuel eligible for fuel price adjustment shall be}
15 the sum of the quantities of the eligible pay items in the contract
16 multiplied by the fuel usage factor, as published by the New Jersey
17 Department of Transportation in its "Standard Specifications for
18 Road and Bridge Construction," as revised by the "Standard Inputs"
19 periodically issued by the Department. Fuel Price Adjustment shall
20 be determined on a monthly basis by a the formula: $F = (MF - BF) \times$
21 G, where:

22
23 F= Fuel Price Adjustment;

24 MF= Monthly Fuel Price Index, determined by the New Jersey
25 Department of Transportation each month;

26 BF= Basic Fuel Price Index in effect at the time of bid, as
27 published by the New Jersey Department of Transportation in its
28 "Standard Specifications for Road and Bridge Construction," as
29 revised by the "Standard Inputs" periodically issued by the
30 Department; and

31 G= Gallons of Fuel Available for Price Adjustment.

32 b. Adjustments made in accordance with the provisions of this
33 section shall be paid on a lump sum basis and shall be made
34 monthly.]

35
36 All invoices for payment shall be accompanied by the calculation of
37 any fuel price adjustment and showing of the monthly Fuel Price
38 Index, the Basic Fuel Price Index. ¹]²

39
40 ¹[^{3.}] ²[^{4.}] ¹ ^{2.} This act shall take effect ¹[^{immediately}] on the
41 first day of the fourth month next following the date of enactment ¹.

ASSEMBLY, No. 436

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Permits price adjustments in local public contracts for asphalt cement and fuel.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/8/2009)

1 AN ACT concerning certain price adjustments in local public
2 contracts and supplementing P.L.1971, c.198 (C.40A:11-1 et
3 seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. Any contract entered into pursuant to section 16 of
9 P.L.1971, c.198 (C.40A:11-16), which includes the use of asphalt,
10 shall include an adjustment clause for changes in the cost of asphalt
11 cement. The adjustment clause shall be expressed by the following
12 formula: $A=(MA-BA) \times T$, where:
13

14 A= Asphalt Price Adjustment;

15 MA= Monthly Asphalt Price Index, determined by the New
16 Jersey Department of Transportation each month;

17 BA= Basic Asphalt Price Index in effect at the time of the bid, as
18 published by the New Jersey Department of Transportation in its
19 "Standard Specifications for Road and Bridge Construction," as
20 revised by the "Standard Inputs" periodically issued by the
21 department; and

22 T= Tons of New Asphalt Binder, determined by multiplying the
23 percentage of new asphalt binder in the approved job mix
24 formula
25 by the weight of hot mix asphalt.
26

27 b. Adjustments made in accordance with the provisions of this
28 section shall be paid on a lump sum basis and shall be made
29 monthly.
30

31 2. a. Every contract entered into pursuant to section 16 of
32 P.L.1971, c.198 (C.40A:11-16) shall include a provision for a fuel
33 price adjustment. Fuel eligible for fuel price adjustment shall be
34 the sum of the quantities of the eligible pay items in the contract
35 multiplied by the fuel usage factor, as published by the New Jersey
36 Department of Transportation in its "Standard Specifications for
37 Road and Bridge Construction," as revised by the "Standard Inputs"
38 periodically issued by the Department. Fuel Price Adjustment shall
39 be determined on a monthly basis by a the formula: $F= (MF-BF) \times$
40 G , where:
41

42 F= Fuel Price Adjustment;

43 MF= Monthly Fuel Price Index, determined by the New Jersey
44 Department of Transportation each month;

45 BF= Basic Fuel Price Index in effect at the time of bid, as
46 published by the New Jersey Department of Transportation in its
47 "Standard Specifications for Road and Bridge Construction," as
48 revised by the "Standard Inputs" periodically issued by the

1 Department; and

2 G= Gallons of Fuel Available for Price Adjustment.

3 b. Adjustments made in accordance with the provisions of this
4 section shall be paid on a lump sum basis and shall be made
5 monthly.

6

7 3. This act shall take effect immediately.

8

9

10 STATEMENT

11

12 This bill would require that every contract entered into pursuant
13 to section 16 of the "Local Public Contracts Law," P.L.1971, c.198
14 (C.40A:11-16) shall include an adjustment clause for changes in the
15 cost of asphalt cement and a provision for a fuel price adjustment.
16 This bill will take effect immediately, bearing in mind the ability of
17 a Local Finance Board to grant exceptions to the limit on final
18 appropriations for any budget year set forth in C.40A:4-45.3d.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 436

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2009

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 436.

As amended, this bill would require bid specifications prepared pursuant to section 16 of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-16) to include an adjustment for changes in the cost of hot mix asphalt if hot mix asphalt is used in certain quantities. The amended legislation contains a similar requirement for a fuel price adjustment for certain items. As amended, this bill will take effect no less than 90 days after enactment.

It is the committee's understanding that this legislation will, at the outset of the bidding process, clarify and make the costs of certain commodities more predictable for bidders.

With the committee's changes, the bill requires that bid specifications that the use of more than 1,000 tons of hot mix asphalt also contain a provision for a price adjustment for the hot mix. The asphalt price adjustment shall be calculated pursuant to the formula published by the New Jersey Department of Transportation in its "Standard Specifications for Road and Bridge Construction." Invoices for payments shall also reflect the adjustment and be accompanied by information about asphalt pricing. As amended, the legislation also requires an asphalt price adjustment for quantities of asphalt exceeding 1,000 tons that are used in work on projects whose bid specification provided for the use of less than 1,000 tons of hot mix asphalt.

The amended bill also requires a fuel price adjustment for items that are eligible for a fuel price adjustment pursuant to the Department of Transportation's rules. The adjustment shall be calculated pursuant to a formula published by the New Jersey Department of Transportation in its "Standard Specifications for Road and Bridge Construction."

It is the committee's understanding that a price adjustment may be either an increase or decrease, depending on the price movement for a commodity.

This bill was prefiled for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- 1) Clarify and provide definitions for various technical terms used in the bill.
- 2) Replace, for purposes of asphalt price adjustments and fuel price adjustments, the technical term "contract" with the phrase "bid specification" to resolve a conflict with certain regulatory language.
- 3) Make an asphalt price adjustment applicable only to those bid specifications that include a minimum of 1,000 tons of hot mix asphalt, and to those projects that actually use 1,000 tons or more of hot mix asphalt.
- 4) Clarify that bid specifications must provide that there will be an asphalt price adjustment for certain quantities of hot mix asphalt.
- 5) Spell out that the Department of Transportation provides the formula that will be to be used to calculate an asphalt price adjustment.
- 6) Specify that only items that, pursuant to the standards of the Department of Transportation, are eligible for a fuel price adjustment will receive the adjustment.
- 7) Provide for a delayed effective date.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 436

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 2009

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Assembly Bill No. 436(1R).

As amended by the committee, the bill provides for price adjustments in the cost of asphalt cement and fuel in certain public contracts. The bill, as amended, requires that bid specifications calling for the use of more than 1,000 tons, or projects which actually use more than 1,000 tons, of hot mix asphalt contain provisions for the price adjustment of the asphalt. The bill also requires the New Jersey Department of Transportation to promulgate a formula by which bidders may calculate the potential price adjustment of the asphalt.

As amended by the committee, the Department of Transportation will specify which pay items listed in a bid specification will be eligible to receive a fuel price adjustment. Items not specified by the department, and those items which do not use more than 500 gallons of fuel, are ineligible for a fuel price adjustment. There shall be no adjustment in the fuel price in a month during which the fuel price index has changes by less than five percent.

The committee made technical changes to the bill to amend, rather than supplement, the "Local Public Contracts Law." This will better enable both local governments and bidders for public contracts to identify the requirements of the bill. The committee also amended the bill to provide that a project must use 500 gallons of fuel per pay item in order to be eligible for a fuel price adjustment. Finally, the committee amended the bill to prohibit fuel price adjustments in months when the monthly fuel price index changes by less than five percent.

The bill is identical to S-2833 (SCS).

SENATE, No. 2833

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MAY 18, 2009

Sponsored by:

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

SYNOPSIS

Permits price adjustments in local public contracts for asphalt cement and fuel.

CURRENT VERSION OF TEXT

As introduced.



S2833 MADDEN

2

1 AN ACT concerning certain price adjustments in local public
2 contracts and supplementing P.L.1971, c.198 (C.40A:11-1 et
3 seq.).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. Any contract entered into pursuant to section 16 of
9 P.L.1971, c.198 (C.40A:11-16), which includes the use of asphalt,
10 shall include an adjustment clause for changes in the cost of asphalt
11 cement. The adjustment clause shall be expressed by the following
12 formula: $A=(MA-BA) \times T$, where:

13
14 A= Asphalt Price Adjustment;

15 MA= Monthly Asphalt Price Index, determined by the New
16 Jersey Department of Transportation each month;

17 BA= Basic Asphalt Price Index in effect at the time of the bid, as
18 published by the New Jersey Department of Transportation in its
19 "Standard Specifications for Road and Bridge Construction," as
20 revised by the "Standard Inputs" periodically issued by the
21 department; and

22 T= Tons of New Asphalt Binder, determined by multiplying the
23 percentage of new asphalt binder in the approved job mix
24 formula

25 by the weight of hot mix asphalt.

26
27 b. Adjustments made in accordance with the provisions of this
28 section shall be paid on a lump sum basis and shall be made
29 monthly.

30
31 2. a. Every contract entered into pursuant to section 16 of
32 P.L.1971, c.198 (C.40A:11-16) shall include a provision for a fuel
33 price adjustment. Fuel eligible for fuel price adjustment shall be
34 the sum of the quantities of the eligible pay items in the contract
35 multiplied by the fuel usage factor, as published by the New Jersey
36 Department of Transportation in its "Standard Specifications for
37 Road and Bridge Construction," as revised by the "Standard Inputs"
38 periodically issued by the Department. Fuel Price Adjustment shall
39 be determined on a monthly basis by the formula: $F=(MF-BF) \times$
40 G , where:

41
42 F= Fuel Price Adjustment;

43 MF= Monthly Fuel Price Index, determined by the New Jersey
44 Department of Transportation each month;

45 BF= Basic Fuel Price Index in effect at the time of bid, as
46 published by the New Jersey Department of Transportation in its
47 "Standard Specifications for Road and Bridge Construction," as
48 revised by the "Standard Inputs" periodically issued by the

1 Department; and

2 G= Gallons of Fuel Available for Price Adjustment.

3

4 b. Adjustments made in accordance with the provisions of this
5 section shall be paid on a lump sum basis and shall be made
6 monthly.

7

8 3. This act shall take effect immediately.

9

10

11

STATEMENT

12

13 This bill would require that every contract entered into pursuant
14 to section 16 of the "Local Public Contracts Law," P.L.1971, c.198
15 (C.40A:11-16) shall include an adjustment clause for changes in the
16 cost of asphalt cement and a provision for a fuel price adjustment.
17 This bill will take effect immediately, bearing in mind the ability of
18 the Local Finance Board to grant exceptions for "extraordinary
19 circumstances" to the limit on final appropriations for any budget
20 year, as set forth in N.J.S.A.40A:4-45.3d.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2833**

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 2009

The Senate Community and Urban Affairs Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2833.

This committee substitute the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to provide for price adjustments in the cost of asphalt cement and fuel in certain public contracts.

The substitute requires that bid specifications calling for the use of more than 1,000 tons, or projects which actually use more than 1,000 tons, of hot mix asphalt contain a provision for the price adjustment of the asphalt. The substitute also requires the New Jersey Department of Transportation to promulgate a formula by which bidders may calculate the potential price adjustment of asphalt.

The substitute also requires the Department of Transportation shall specify which pay items listed in a bid specification will be eligible to receive a fuel price adjustment. Items not specified by the Department, and those items which do not use more than 500 gallons of fuel, are not eligible to receive the fuel price adjustment. The bill prohibits adjustments in the price of fuel in months during which the fuel price index has changes by less than five percent.

The substitute is identical to A-436(2R).