

40A:11-23

LEGISLATIVE HISTORY CHECKLIST

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(Advertisements)

NJSA: 40A:11-23

LAWS OF: 1997 CHAPTER: 243

BILL NO: A1706

SPONSOR(S): T. Smith

DATE INTRODUCED: March 11, 1996

COMMITTEE: ASSEMBLY: Local Government

SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Third reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: May 30, 1996

SENATE: June 26, 1997

DATE OF APPROVAL: September 5, 1997

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement
adpoted 5-6-96

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

KBP:pp

P.L. 1997, CHAPTER 243, *approved September 5, 1997*
Assembly, No. 1706 (*Third Reprint*)

1 **AN ACT** concerning certain notifications relating to bidding on local
2 public contracts and amending P.L.1971, c.198.

3

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

6

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

9 23. ³a.³ Advertisements for bids; bids; general requirements. All
10 advertisements for bids shall be published in a legal newspaper
11 sufficiently in advance of the date fixed for receiving the bids to
12 promote competitive bidding, but in no event less than 10 days prior
13 to such date; except that all advertisements for bids on contracts for
14 the collection and disposal of municipal solid waste shall be published
15 in a legal newspaper circulating in the county or municipality, and in
16 at least one newspaper of general circulation published in the State,
17 sufficiently in advance of the date fixed for receiving the bids to
18 promote competitive bidding, but not less than 60 days prior to that
19 date.

20 ³b.³ The advertisement shall designate the manner of submitting
21 and the method of receiving the bids and the time and place at which
22 the bids will be received. If the published specifications provide for
23 receipt of bids by mail, those bids which are mailed to the contracting
24 unit shall be sealed and shall only be opened for examination at such
25 time and place as all bids received are unsealed and announced. At
26 such time and place the contracting agent of the contracting unit shall
27 publicly receive the bids, and thereupon immediately proceed to unseal
28 them and publicly announce the contents, which announcement shall
29 be made in the presence of any parties bidding or their agents, who are
30 then and there present, and shall also make proper record of the prices

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALG committee amendments adopted March 25, 1996.

² Assembly floor amendments adopted May 6, 1996.

³ Senate SCO committee amendments adopted January 14, 1997.

1 and terms, upon the minutes of the governing body, if the award is to
2 be made by the governing body of the contracting unit, or in a book
3 kept for that purpose, if the award is to be made by other than the
4 governing body, and in such latter case it shall be reported to the
5 governing body of the contracting unit for its action thereon, when
6 such action thereon is required. No bids shall be received after the time
7 designated in the advertisement.

8 ³Except as provided below, notice of revisions or addenda to
9 advertisements or bid documents relating to bids shall, no later than
10 five days, Saturdays, Sundays and holidays excepted, prior to the date
11 for acceptance of bids, be published in a legal newspaper and be made
12 available by notification in writing by certified mail to any person who
13 has submitted a bid or who has received a bid package; except that
14 notice of revisions or addenda to advertisements or bid documents
15 relating to bids on contracts for the collection and disposal of
16 municipal solid waste shall be published in a legal newspaper
17 circulating in the county or municipality, and in at least one newspaper
18 of general circulation published in the State, no later than five days,
19 Saturdays, Sundays and holidays excepted, prior to the date for
20 acceptance of bids.¹

21 c.³ Notice of revisions or addenda to advertisements or bid
22 documents³relating to¹construction¹bids shall be¹received by¹sent
23 to¹any person who has submitted a bid or who has received a bid
24 package¹or who has filed a notification request with the governing
25 body of the contracting unit¹, no later than ¹five¹seven¹ days,
26 Saturdays, Sundays and holidays excepted, prior to the date for
27 acceptance of bids¹, be published in a legal newspaper and be made
28 available by notification in writing by certified mail to any person who
29 has submitted a bid or who has received a bid package¹. Such
30 notification shall be made in writing by certified mail, return receipt
31 requested, by facsimile transmission with return facsimile receipt, or
32 by next day delivery carrier¹; except that notice of revisions or
33 addenda to advertisements or bid documents relating to bids on
34 contracts for the collection and disposal of municipal solid waste shall
35 be published in a legal newspaper circulating in the county or
36 municipality, and in at least one newspaper of general circulation
37 published in the State, no later than 5 days, Saturdays, Sundays and
38 holidays excepted, prior to the date for acceptance of bids¹. ²Such
39 revisions or addenda to advertisements or bid documents shall not
40 increase the total cost of the contract.² shall be provided as follows:

41 1) For all contracts except those for construction work and
42 municipal solid waste collection and disposal service, notice shall be
43 published no later than five days, Saturdays, Sundays, and holidays
44 excepted, prior to the date for acceptance of bids, in an official
45 newspaper of the contracting unit and be provided to any person who
46 has submitted a bid or who has received a bid package, in one of the

1 following ways: i) in writing by certified mail or ii) by certified
2 facsimile transmission, meaning that the sender's facsimile machine
3 produces a receipt showing date and time of transmission and that the
4 transmission was successful or iii) by a delivery service that provides
5 certification of delivery to the sender.

6 2) For all contracts for construction work, notice shall be provided
7 no later than seven days, Saturday, Sundays, or holidays excepted,
8 prior to the date for acceptance of bids, to any person who has
9 submitted a bid or who has received a bid package in any of the
10 following ways: i) in writing by certified mail or ii) by certified
11 facsimile transmission, meaning that the sender's facsimile machine
12 produces a receipt showing date and time of transmission and that the
13 transmission was successful or iii) by a delivery service that provides
14 certification of delivery to the sender.

15 3) For municipal solid waste collection and disposal contracts,
16 notice shall be published in an official newspaper of the contracting
17 unit and in at least one newspaper of general circulation published in
18 the State no later than five days, Saturdays, Sundays, and holidays
19 excepted, prior to the date for acceptance of bids.

20 d.³ Failure of the contracting unit to advertise for the receipt of
21 bids or to provide proper notification of revisions or addenda to
22 advertisements or bid documents related to bids as prescribed by this
23 section shall prevent the contracting unit from accepting the bids and
24 require the readvertisement for bids ³pursuant to subsection a. of this
25 section. Failure to obtain a receipt when good faith notice is sent or
26 delivered to the address or telephone facsimile number on file with the
27 contracting unit shall not be considered failure by the contracting unit
28 to provide notice³.

29 (cf: P.L.1991, c.381, s.50)

30
31 2. This act shall take effect ¹[immediately] on the first day of the
32 fourth month next following enactment¹.

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37 Changes notice requirements for revisions or addenda to
38 advertisements relating to bids or bid documents under "Local Public
39 Contracts Law."

ASSEMBLY, No. 1706

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1996

By Assemblyman T. SMITH

1 AN ACT concerning certain notifications relating to bidding on local
2 public contracts and amending P.L.1971, c.198.

3

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

6

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

9 23. Advertisements for bids; bids; general requirements. All
10 advertisements for bids shall be published in a legal newspaper
11 sufficiently in advance of the date fixed for receiving the bids to
12 promote competitive bidding, but in no event less than 10 days prior
13 to such date; except that all advertisements for bids on contracts for
14 the collection and disposal of municipal solid waste shall be published
15 in a legal newspaper circulating in the county or municipality, and in
16 at least one newspaper of general circulation published in the State,
17 sufficiently in advance of the date fixed for receiving the bids to
18 promote competitive bidding, but not less than 60 days prior to that
19 date.

20 The advertisement shall designate the manner of submitting and the
21 method of receiving the bids and the time and place at which the bids
22 will be received. If the published specifications provide for receipt of
23 bids by mail, those bids which are mailed to the contracting unit shall
24 be sealed and shall only be opened for examination at such time and
25 place as all bids received are unsealed and announced. At such time
26 and place the contracting agent of the contracting unit shall publicly
27 receive the bids, and thereupon immediately proceed to unseal them
28 and publicly announce the contents, which announcement shall be
29 made in the presence of any parties bidding or their agents, who are
30 then and there present, and shall also make proper record of the prices
31 and terms, upon the minutes of the governing body, if the award is to
32 be made by the governing body of the contracting unit, or in a book
33 kept for that purpose, if the award is to be made by other than the
34 governing body, and in such latter case it shall be reported to the

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Matter underlined thus is new matter.

1 governing body of the contracting unit for its action thereon, when
2 such action thereon is required. No bids shall be received after the time
3 designated in the advertisement.

4 Notice of revisions or addenda to advertisements or bid documents
5 relating to bids shall be received by any person who has submitted a
6 bid or who has received a bid package, no later than five days,
7 Saturdays, Sundays and holidays excepted, prior to the date for
8 acceptance of bids[, be published in a legal newspaper and be made
9 available by notification in writing by certified mail to any person who
10 has submitted a bid or who has received a bid package]. Such
11 notification shall be made in writing by certified mail, return receipt
12 requested, by facsimile transmission with return facsimile receipt, or
13 by next day delivery carrier; except that notice of revisions or addenda
14 to advertisements or bid documents relating to bids on contracts for
15 the collection and disposal of municipal solid waste shall be published
16 in a legal newspaper circulating in the county or municipality, and in
17 at least one newspaper of general circulation published in the State, no
18 later than 5 days, Saturdays, Sundays and holidays excepted, prior to
19 the date for acceptance of bids.

20 Failure of the contracting unit to advertise for the receipt of bids or
21 to provide proper notification of revisions or addenda to
22 advertisements or bid documents related to bids as prescribed by this
23 section shall prevent the contracting unit from accepting the bids and
24 require the readvertisement for bids.

25 (cf: P.L.1991, c.381, s. 50)

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27 2. This act shall take effect immediately.

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STATEMENT

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32 This bill requires that notification of revisions or addenda to
33 advertisements or bid documents relating to bids other than bids on
34 contracts for the collection and disposal of municipal solid waste, be
35 made in writing by certified mail, return receipt requested, by facsimile
36 transmission with return facsimile receipt, or by next day delivery
37 carrier. The bill also requires that such notification be received by any
38 person who has submitted a bid or received a bid package not later
39 than five days prior to the date for acceptance of bids, Saturdays,
40 Sundays and holidays excepted. Current law requires that, no later
41 than five days prior to the date for acceptance of bids, such
42 notification be published in a legal newspaper and be made available
43 in writing by certified mail to any person who has submitted a bid or
44 who has received a bid package.

1

2

3 Changes notice requirements for revisions or addenda to
4 advertisements relating to bids or bid documents under "Local Public
5 Contracts Law."

[Passed Both Houses]

[Third Reprint]

ASSEMBLY, No. 1706

STATE OF NEW JERSEY

INTRODUCED MARCH 11, 1996

By Assemblyman T. SMITH, Senators Palaia and Ciesla

1 AN ACT concerning certain notifications relating to bidding on local
2 public contracts and amending P.L.1971, c.198.

3

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

6

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

9 23. ³a.³ Advertisements for bids; bids; general requirements. All
10 advertisements for bids shall be published in a legal newspaper
11 sufficiently in advance of the date fixed for receiving the bids to
12 promote competitive bidding, but in no event less than 10 days prior
13 to such date; except that all advertisements for bids on contracts for
14 the collection and disposal of municipal solid waste shall be published
15 in a legal newspaper circulating in the county or municipality, and in
16 at least one newspaper of general circulation published in the State,
17 sufficiently in advance of the date fixed for receiving the bids to
18 promote competitive bidding, but not less than 60 days prior to that
19 date.

20 ³b.³ The advertisement shall designate the manner of submitting
21 and the method of receiving the bids and the time and place at which
22 the bids will be received. If the published specifications provide for
23 receipt of bids by mail, those bids which are mailed to the contracting
24 unit shall be sealed and shall only be opened for examination at such
25 time and place as all bids received are unsealed and announced. At
26 such time and place the contracting agent of the contracting unit shall
27 publicly receive the bids, and thereupon immediately proceed to unseal

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Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALG committee amendments adopted March 25, 1996.

² Assembly floor amendments adopted May 6, 1996.

³ Senate SCO committee amendments adopted January 14, 1997.

1 them and publicly announce the contents, which announcement shall
2 be made in the presence of any parties bidding or their agents, who are
3 then and there present, and shall also make proper record of the prices
4 and terms, upon the minutes of the governing body, if the award is to
5 be made by the governing body of the contracting unit, or in a book
6 kept for that purpose, if the award is to be made by other than the
7 governing body, and in such latter case it shall be reported to the
8 governing body of the contracting unit for its action thereon, when
9 such action thereon is required. No bids shall be received after the time
10 designated in the advertisement.

11 ³1 Except as provided below, notice of revisions or addenda to
12 advertisements or bid documents relating to bids shall, no later than
13 five days, Saturdays, Sundays and holidays excepted, prior to the date
14 for acceptance of bids, be published in a legal newspaper and be made
15 available by notification in writing by certified mail to any person who
16 has submitted a bid or who has received a bid package; except that
17 notice of revisions or addenda to advertisements or bid documents
18 relating to bids on contracts for the collection and disposal of
19 municipal solid waste shall be published in a legal newspaper
20 circulating in the county or municipality, and in at least one newspaper
21 of general circulation published in the State, no later than five days,
22 Saturdays, Sundays and holidays excepted, prior to the date for
23 acceptance of bids.¹】

24 c.³ Notice of revisions or addenda to advertisements or bid
25 documents ³【relating to ¹construction¹ bids shall be ¹【received by】
26 sent to¹ any person who has submitted a bid or who has received a bid
27 package ¹or who has filed a notification request with the governing
28 body of the contracting unit¹, no later than ¹【five】 seven¹ days,
29 Saturdays, Sundays and holidays excepted, prior to the date for
30 acceptance of bids【, be published in a legal newspaper and be made
31 available by notification in writing by certified mail to any person who
32 has submitted a bid or who has received a bid package】. Such
33 notification shall be made in writing by certified mail, return receipt
34 requested, by facsimile transmission with return facsimile receipt, or
35 by next day delivery carrier¹【; except that notice of revisions or
36 addenda to advertisements or bid documents relating to bids on
37 contracts for the collection and disposal of municipal solid waste shall
38 be published in a legal newspaper circulating in the county or
39 municipality, and in at least one newspaper of general circulation
40 published in the State, no later than 5 days, Saturdays, Sundays and
41 holidays excepted, prior to the date for acceptance of bids】¹. ²Such
42 revisions or addenda to advertisements or bid documents shall not
43 increase the total cost of the contract.²】 shall be provided as follows:

44 1) For all contracts except those for construction work and
45 municipal solid waste collection and disposal service, notice shall be

1 published no later than five days, Saturdays, Sundays, and holidays
2 excepted, prior to the date for acceptance of bids, in an official
3 newspaper of the contracting unit and be provided to any person who
4 has submitted a bid or who has received a bid package, in one of the
5 following ways: i) in writing by certified mail or ii) by certified
6 facsimile transmission, meaning that the sender's facsimile machine
7 produces a receipt showing date and time of transmission and that the
8 transmission was successful or iii) by a delivery service that provides
9 certification of delivery to the sender.

10 2) For all contracts for construction work, notice shall be provided
11 no later than seven days, Saturday, Sundays, or holidays excepted,
12 prior to the date for acceptance of bids, to any person who has
13 submitted a bid or who has received a bid package in any of the
14 following ways: i) in writing by certified mail or ii) by certified
15 facsimile transmission, meaning that the sender's facsimile machine
16 produces a receipt showing date and time of transmission and that the
17 transmission was successful or iii) by a delivery service that provides
18 certification of delivery to the sender.

19 3) For municipal solid waste collection and disposal contracts,
20 notice shall be published in an official newspaper of the contracting
21 unit and in at least one newspaper of general circulation published in
22 the State no later than five days, Saturdays, Sundays, and holidays
23 excepted, prior to the date for acceptance of bids.

24 d.³ Failure of the contracting unit to advertise for the receipt of
25 bids or to provide proper notification of revisions or addenda to
26 advertisements or bid documents related to bids as prescribed by this
27 section shall prevent the contracting unit from accepting the bids and
28 require the readvertisement for bids ³pursuant to subsection a. of this
29 section. Failure to obtain a receipt when good faith notice is sent or
30 delivered to the address or telephone facsimile number on file with the
31 contracting unit shall not be considered failure by the contracting unit
32 to provide notice³.

33 (cf: P.L.1991, c.381, s.50)

34
35 2. This act shall take effect ¹**[immediately]** on the first day of the
36 fourth month next following enactment¹.

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41 Changes notice requirements for revisions or addenda to
42 advertisements relating to bids or bid documents under "Local Public
43 Contracts Law."

ASSEMBLY LOCAL GOVERNMENT COMMITTEE

STATEMENT TO ASSEMBLY, No. 1706 with committee amendments

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STATE OF NEW JERSEY

DATED: MARCH 25, 1996

The Assembly Local Government Committee reports favorably Assembly Bill No. 1706 with committee amendments.

Assembly Bill No. 1706, as amended by the committee, requires that notification of revisions or addenda to advertisements or bid documents relating to construction bids, be made in writing by certified mail, return receipt requested, by facsimile transmission with return facsimile receipt, or by next day delivery carrier. The bill, as amended by the committee, also requires that such notification be sent to any person who has submitted a bid, received a bid package, or filed a notification request, not later than seven days prior to the date for acceptance of bids, Saturdays, Sundays and holidays excepted. Current law does not distinguish between construction bids and non-construction bids and requires that, no later than five days prior to the date for acceptance of bids, such notification be published in a legal newspaper and be made available in writing by certified mail to any person who has submitted a bid or who has received a bid package.

The committee amended the bill to remove the publication requirement only for construction bids and to require that notice be sent to interested parties at least seven work days prior to the date for acceptance of bids. The committee also amended the effective date of the bill to provide that it shall not take effect until the first day of the fourth month next following enactment. This will permit time for local contracting units and contractors to be made aware of the new procedure.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 1706

with Assembly Floor Amendments
(Proposed By Assemblyman T. SMITH)

ADOPTED: MAY 6, 1996

These amendments require that notices of revisions or addenda to advertisements or bid documents relating to construction bids under the bill shall not increase the total cost of the contract.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

[Second Reprint] **ASSEMBLY, No. 1706**

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 14, 1997

The Senate Community Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1706 (2R).

This bill, as amended by the committee, would make certain changes in the requirements for notification of revisions or addenda to advertisements or bid documents for contracts under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

The bill, as amended, would require that five days prior to the date for acceptance of bids, Saturdays, Sundays, and holidays excepted, notification of revisions or addenda to advertisements or bid documents for all contracts, except those for construction work and municipal solid waste collection and disposal service, be published in an official newspaper of the contracting unit and be sent to any person who has submitted a bid or received a bid package, either in writing by certified mail, return receipt requested, or by facsimile transmission with return facsimile receipt, or by next day delivery carrier. Contracts for construction work would require the same notice, over seven instead of five days, except for that of publication in a newspaper. Contracts for solid waste collection and disposal would require only newspaper publication in two newspapers as designated by the bill.

The committee amended the bill to distinguish between the types of notice required and the types of contracts made.

Current law does not distinguish between construction bids and non-construction bids and requires that, no later than five days prior to the date for acceptance of bids, such notification be published in a legal newspaper and be made available in writing by certified mail to any person who has submitted a bid or who has received a bid package.

The effective date of the bill provides that it shall not take effect until the first day of the fourth month next following enactment, in order to permit time for local contracting units and contractors to be made aware of the new procedure.

This bill is identical to Senate Bill No. 1636 with Senate committee amendments, also reported by this committee on January 14, 1997.