

40:8A-3

LEGISLATIVE HISTORY CHECKLIST
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(Consolidated local services)

NJSA: 40:8A-3

LAWS OF: 1995 CHAPTER: 356

BILL NO: A1378

SPONSOR(S): Bagger and Augustine

DATE INTRODUCED: February 28, 1994

COMMITTEE: ASSEMBLY Local Government

SENATE: Community Affairs

AMENDED DURING PASSAGE: Yes
First reprint enacted

DATE OF PASSAGE: ASSEMBLY: September 12, 1995

SENATE: December 7, 1995

DATE OF APPROVAL: January 5, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

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

[FIRST REPRINT]

ASSEMBLY, No. 1378

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STATE OF NEW JERSEY

INTRODUCED FEBRUARY 28, 1994

By Assemblymen BAGGER and AUGUSTINE

1 AN ACT concerning consolidated services, interlocal and joint
2 agreements between local units and amending various sections
3 of statutory law.

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

7 1. Section 3 of P.L.1973, c.208 (C.40:8A-3) is amended to read
8 as follows:

9 3. Any local unit of this State may enter into a contract with
10 any other local unit or units for the joint provision within their
11 several jurisdictions of any service which any party to the
12 agreement is empowered to render within its own jurisdiction.
13 An autonomous authority, board, commission or district
14 established by and within a single local unit and providing service
15 within such local unit or a part thereof may become a party to
16 such contract with the consent of the governing body of the local
17 unit, by [ordinance or] resolution thereof adopted in the manner
18 provided in section 4 of this act; and after such consent duly
19 given, such authority, board, commission or district may enter
20 into such contract by resolution without need of publication or
21 hearing.

22 (cf: P.L.1973, c.208, s.3)

23 2. Section 4 of P.L.1973, c.208 (C.40:8A-4) is amended to read
24 as follows:

25 4. A party authorized to enter into a contract under section 3
26 of this act may do so by the adoption of [an ordinance, if such
27 party is a municipality, or] a resolution[, if it is any other such
28 party]. A resolution adopted pursuant to this section or section 3
29 need not set forth the terms of the contract in full, but shall
30 clearly identify it by reference; and a copy of the contract shall
31 be filed and open to public inspection at the offices of the local
32 unit immediately after the introduction of any such resolution
33 before the governing body. The contract shall take effect upon
34 the adoption of appropriate [ordinances or] resolutions by all the
35 parties thereto as set forth in the contract document.

36 [An ordinance or resolution adopted pursuant to this section
37 shall before final adoption be introduced in writing before the
38 governing body and passed upon first reading, which may be by
39 title. Within 10 days thereafter it shall be published, together
40 with a notice of the date, time and place fixed for consideration
41 of its final adoption. Such publication shall include notification
42 of the place at which copies of the proposed contract are
43 available for public inspection, and the times at which such
44 inspection is permitted. Publication shall be in at least one

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:
1 Assembly ALG committee amendments adopted May 12, 1994.

1 newspaper of general circulation in the jurisdictional or service
2 area of the local unit at least 1 week prior to the date fixed for
3 consideration for final adoption. At the date fixed for
4 consideration of the ordinance or resolution for final adoption, or
5 at subsequent adjournment thereof, the governing body shall hold
6 a public hearing and shall then proceed to consider the final
7 adoption, which may be by majority vote of the governing body,
8 subject to any executive approval or veto, as referred to in
9 section 2 of this act.]

10 (cf: P.L.1973, c.208, s.4)

11 ¹[3. Section 4 of P.L.1952, c.72 (C.40:48B-4) is amended to
12 read as follows:

13 4. The joint contract shall provide for the operation of the
14 public services, public improvements, works, facilities or
15 undertakings of the joint meeting, for the apportionment of the
16 costs and expenses of operation required therefor among the
17 contracting local units, for the addition of other local units as
18 members of the joint meeting, for the terms and conditions of
19 continued participation and discontinuance of participation in the
20 joint meeting by the contracting local units, and for such other
21 terms and conditions as may be necessary or convenient for the
22 purposes of the joint meeting. The apportionment of costs and
23 expenses may be based upon assessed valuations, population, and
24 such other factor or factors, or any combination thereof, as may
25 be provided in the joint contract. The joint contract shall be
26 subject to approval by resolution of the governing bodies of each
27 of the local units prior to its execution by such official or
28 officials as may be authorized to execute such joint contract.
29 The joint contract shall specify the name by which the joint
30 meeting shall be known. The joint contract may be amended
31 from time to time by agreement of the parties thereto, in the
32 same manner as the original contract was authorized and
33 approved. A copy of every [ordinance,] resolution, joint contract
34 and every amendment thereto shall be forthwith filed with the
35 Commissioner of Community Affairs.

36 (cf: P.L.1973, c.208, s.14)]¹

37 ¹[4. Section 3 of P.L.1992, c.146 (C.40:48B-4.1) is amended to
38 read as follows:

39 3. Whenever the governing bodies of two or more local units
40 enter into a joint contract as provided in P.L.1952, c.72
41 (C.40:48B-1 et seq.) for the joint operation of law enforcement
42 services within their respective jurisdictions, the joint contract
43 shall recognize and preserve the seniority, tenure, and pension
44 rights of every full time law enforcement officer who is
45 employed by each of the participating local units and who is in
46 good standing at the time the [ordinance or] resolution[, as the
47 case may be,] authorizing the contract is adopted, and no such
48 law enforcement officer shall be terminated except for cause;
49 however, for reasons of economy and efficiency the contract may
50 authorize a reduction in force.

51 Whenever the governing bodies of two or more local units enter
52 into a joint contract as provided in P.L.1952, c.72 (C.40:48B-1 et
53 seq.) for the joint operation of law enforcement services within
54 their respective jurisdictions, and any one of the local units is

1 operating under Title 11A of the New Jersey Statutes at the time
2 of the contract, the other local unit or units shall be deemed to
3 have adopted Title 11A of the New Jersey Statutes with regard to
4 the provision of law enforcement services.

5 To provide for the efficient administration and operation of the
6 joint law enforcement services within the participating local
7 units, the joint contract may provide for the appointment of a
8 chief law enforcement officer. In such cases, the joint contract
9 shall provide that any person who is serving as the chief law
10 enforcement officer in one of the participating local units at the
11 time the joint contract is adopted may elect either:

12 a. To accept a demotion of no more than one rank without any
13 loss of seniority rights, impairment of tenure, or pension rights; or

14 b. To retire from service.

15 If the person elects retirement, he shall not be demoted but
16 shall retain the rank of chief law enforcement officer and shall
17 be given terminal leave for a period of one month for each five
18 year period of past service as a law enforcement officer with the
19 participating local unit. During the terminal leave, the person
20 shall continue to receive full compensation and shall be entitled
21 to all benefits, including any increases in compensation or
22 benefits, that he may have been entitled to if he had remained on
23 active duty.

24 Whenever the participating local units have adopted or are
25 deemed to have adopted Title 11A of the New Jersey Statutes
26 with regard to the provision of law enforcement services, and the
27 contract provides for the appointment of a chief law enforcement
28 officer, the position of chief law enforcement officer shall be in
29 the career service.

30 (cf: P.L.1992, c.146, s.3)]¹

31 ¹[5.] 3.¹ Section 1 of P.L.1967, c.180 (C.40:48B-14) is amended
32 to read as follows:

33 1. The governing bodies of any 2 or more municipalities may,
34 by substantially similar [ordinances] resolutions duly adopted by
35 each of such governing bodies within 6 calendar months after the
36 first such [ordinance] resolution is adopted, establish and
37 maintain the office of joint municipal tax assessor to assess real
38 and personal property for taxation within each of the respective
39 municipalities joining hereunder.

40 (cf: P.L.1967, c.180, s.1)

41 ¹[6.] 4.¹ Section 2 of P.L.1967, c.180 (C.40:48B-15) is amended
42 to read as follows:

43 2. The governing bodies of the participating municipalities
44 shall, by agreement, provide for the appointment of a joint
45 municipal tax assessor and other necessary personnel, for the
46 apportionment of the costs and expenses of operation of such
47 office among the participating municipalities, for the addition of
48 other municipalities in the same county and such other terms and
49 conditions as may be necessary and convenient for the
50 establishment and maintenance of the office. The apportionment
51 of costs and expenses may be based upon "apportionment
52 valuations" determined under Revised Statutes 54:4-49, number
53 of taxable properties, population, budgets, and such other factor
54 or factors, or any combination thereof, as may be provided in the

1 agreement. The agreement shall be subject to approval by
2 resolution of the governing bodies of each of the municipalities
3 prior to its execution by such official or officials as may be
4 authorized to execute such agreement. A copy of every pertinent
5 [ordinance,] resolution, agreement and every amendment thereto
6 shall be filed with the Director of the Division of Taxation in the
7 Department of the Treasury and the Director of the Division of
8 Local Finance in the Department of Community Affairs.

9 (cf: P.L.1967, c.180, s.2)

10 ¹[7.] 5.¹ Section 1 of P.L.1983, c.372 (C.40A:10-36) is
11 amended to read as follows:

12 1. a. The governing body of any local unit, including any
13 contracting unit as defined in section 2 of P.L.1971, c.198
14 (C.40A:11-2), may by resolution [or ordinance, as appropriate,]
15 agree to join together with any other local unit or units to
16 establish a joint insurance fund for the purpose of insuring against
17 liability, property damage, and workers' compensation as
18 provided in Articles 3 and 4 of chapter 10 of Title 40A of the
19 New Jersey Statutes, and providing contributory or
20 non-contributory group health insurance or group term life
21 insurance, or both, to employees or their dependents or both,
22 through self insurance, the purchase of commercial insurance or
23 reinsurance, or any combination thereof, and may appropriate
24 such moneys as are required therefor. The maximum risk to be
25 retained for group term life insurance by a joint insurance fund
26 on a self-insured basis shall not exceed a face amount of \$5,000
27 per covered employee or dependent or more if approved by the
28 Commissioners of Insurance and Community Affairs. As used in
29 this subsection: (1) "life insurance" means life insurance as
30 defined pursuant to N.J.S.17B:17-3; (2) "health insurance" means
31 health insurance as defined pursuant to N.J.S.17B:17-4 or service
32 benefits as provided by health service corporations, hospital
33 service corporations or medical service corporations authorized
34 to do business in this State; and (3) "dependent" means dependent
35 as defined pursuant to N.J.S.40A:10-16.

36 b. The governing body of any local unit, including any
37 contracting unit as defined in section 2 of P.L.1971, c.198
38 (C.40A:11-2), may by resolution [or ordinance, as appropriate,]
39 agree to join together with any other local unit or units to
40 establish a joint insurance fund for the sole purpose of insuring
41 against bodily injury and property damage claims arising from
42 environmental impairment liability and legal representation
43 therefor to the extent and for coverages approved by the
44 Commissioner of Insurance.

45 (cf: P.L.1993, c.269, s.13)

46 ¹[8.] 6.¹ Section 2 of P.L.1992, c.51 (C.40A:10-53) is amended
47 to read as follows:

48 2. In the case of an all purpose regional school district or a
49 consolidated school district, the governing body of one or more of
50 the constituent municipalities and the board of education of the
51 regional or consolidated school district may by [ordinance or]
52 resolution[, as the case may be,] adopted by a majority of the full
53 membership of the governing body of each of the participating
54 constituent municipalities and a majority of the full membership

1 of the board, agree to join together for the purpose of insuring
2 pursuant to the provisions of: a. Article 1 of chapter 10 of Title
3 40A of the New Jersey Statutes (N.J.S.40A:10-1 et seq.); b.
4 Article 3 of chapter 10 of Title 40A of the New Jersey Statutes
5 (N.J.S.40A:10-6 et seq.); c. Article 4 of chapter 10 of Title 40A
6 of the New Jersey Statutes (N.J.S.40A:10-12 et seq.); or d.
7 P.L.1983, c.372 (C.40A:10-36 et seq.).

8 Notwithstanding the provisions of this section, a board of
9 education shall not join together with a municipality or other
10 local unit as provided in section 1 of P.L.1983, c.372
11 (C.40A:10-36) for the purpose of providing contributory or
12 non-contributory group health insurance or group term life
13 insurance, or both, to employees or their dependents or both, as
14 otherwise permitted therein.

15 (cf: P.L.1992, c.51, s.2)

16 ¹[9.] 7.1 Section 10 of P.L.1971, c.198 (C.40A:11-10) is
17 amended to read as follows:

18 10. Joint agreements for purchase of work, materials, supplies;
19 authorization.

20 (a) (1) The governing bodies of two or more contracting units
21 within the same county, or adjoining counties, may provide by
22 joint agreement for the purchase of work, materials and supplies
23 for use by their respective jurisdictions.

24 (2) The governing bodies of two or more contracting units
25 providing sewerage services pursuant to the "sewerage
26 authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), the
27 "municipal and county utilities authorities law," P.L.1957, c.183
28 (C.40:14B-1 et seq.), R.S.58:14-1 et seq. or R.S.40:63-68 et seq.
29 may provide by joint agreement for the purchase of work related
30 to sewage sludge disposal.

31 (3) The governing body of two or more contracting units
32 providing electrical distribution services pursuant to and in
33 accord with R.S.40:62-12 through R.S.40:62-25, may provide by
34 joint agreement for the purchase of work, material and supplies
35 related to the distribution of electricity.

36 (b) The governing body of any county or municipality may
37 provide by joint agreement with the board of education of any
38 school district located wholly or partially within the geographic
39 boundaries of the county or municipality for the purchase of
40 work, materials and supplies for use by their respective
41 jurisdictions.

42 (c) Such agreement shall be entered into by resolution [or
43 ordinance, as the case may be,] adopted by each of the
44 participating bodies and boards, which shall set forth the
45 categories of work, materials and supplies to be purchased, the
46 manner of advertising for bids and of awarding of contracts, the
47 method of payment by each participating body and board, and
48 other matters deemed necessary to carry out the purposes of the
49 agreement.

50 (d) Each participating body's and board's share of
51 expenditures for purchases under any such agreement shall be
52 appropriated and paid in the manner set forth in the agreement
53 and in the same manner as for other expenses of the participating
54 body and board.

55 (cf: P.L.1991, c.143, s.3)

1 1[10.] 8.¹ Section 11 of P.L.1971, c.198 (C.40A:11-11) is
2 amended to read as follows:

3 11. Additional matters regarding agreements for the purchases
4 of work, materials and supplies.

5 (1) The contracting units entering into a joint agreement
6 pursuant to section 10 of this act may designate a joint
7 purchasing agent, department or board pursuant to section 9 of
8 this act. Any such agent, board or department already designated
9 pursuant to section 9 may serve as the joint agent, department or
10 board designated pursuant to this section.

11 (2) Purchases, contracts or agreements made pursuant to a
12 joint purchasing agreement shall be subject to all of the terms
13 and conditions of this act.

14 (3) Any county or municipality serving as a purchasing agent,
15 board or department pursuant to this section 11, may make an
16 appropriation to enable it to perform any such contract and may
17 anticipate as revenue payments to be made and received by it
18 from any other party to the agreement. Any items so included in
19 a local budget shall be subject to the approval of the Director,
20 Division of Local Government Services, who shall consider the
21 matter in conjunction with the requirements of chapter 4 of Title
22 40A of the New Jersey Statutes. The agreement and any
23 subsequent amendment or revisions thereto shall be filed with the
24 Director of the Division of Local Government Services in the
25 Department of Community Affairs.

26 (4) Any agent, department or board so designated pursuant to a
27 joint purchasing agreement shall have the sole responsibility to
28 comply with the provisions of section 23 of this act.

29 (5) The governing bodies of two or more contracting units or
30 boards of education within the same county, or adjoining
31 counties; or for purposes related to the distribution of electricity,
32 the governing bodies of two or more contracting units providing
33 electrical distribution services pursuant to R.S.40:62-12 through
34 R.S.40:62-25, may by [ordinance or] resolution[, as appropriate,]
35 establish a cooperative pricing system as hereinafter provided.
36 Any such [ordinance or] resolution shall establish procedures
37 whereby one participating contracting unit in the cooperative
38 pricing system shall be empowered to advertise and receive bids
39 to provide prices for all other participating contracting units in
40 such system for the purchase of work, materials and supplies;
41 provided, however, that no purchase or contract shall be made by
42 any participating contracting unit for a price which exceeds any
43 other price available to the participating contracting unit, or for
44 a purchase in deviation from the specifications, price or quality
45 set forth by the participating contracting unit.

46 No vendor shall be required or permitted to extend his bid
47 prices to participating contracting units in a cooperative pricing
48 system unless so specified in the bids.

49 No cooperative pricing system and agreements entered into
50 pursuant to such system, or joint purchase agreements established
51 pursuant to this act, the "Interlocal Services Act," (P.L.1973,
52 c.208; C.40:8A-1 et seq.) or any other provision of law, shall
53 become effective without prior approval of the Director of the
54 Division of Local Government Services and said approval shall be

1 valid for a period not to exceed five years.

2 The director's approval shall be based on the following:

3 (a) Provision for maintaining adequate records and orderly
4 procedures to facilitate audit and efficient administration, and

5 (b) Adequacy of public disclosure of such actions as are taken
6 by the participants, and

7 (c) Adequacy of procedures to facilitate compliance with all
8 provisions of the "Local Public Contracts Law" and corresponding
9 regulations, and

10 (d) Clarity of provisions to assure that the responsibilities of
11 the respective parties are understood.

12 Failure of the Director of the Division of Local Government
13 Services to approve or disapprove a properly executed and
14 completed application to establish a cooperative pricing system
15 and agreements entered into pursuant to such system or other
16 joint purchase agreement within 45 days from the date of receipt
17 of said application by the director shall constitute approval of
18 said application , which shall be valid for a period of five years ,
19 commencing from the date of receipt of said application by the
20 director.

21 The Director of the Division of Local Government Services is
22 hereby authorized to promulgate rules and regulations specifying
23 procedures pertaining to cooperative pricing systems and joint
24 purchase agreements entered into pursuant to this act, the
25 "Interlocal Services Act," (P.L.1973, c.208; C.40:8A-1 et seq.)
26 and any other provision of law.

27 (cf: P.L.1991, c.143, s.4)

28 ¹[11.] 9.¹ This act shall take effect immediately and shall be
29 applicable to contracts and agreements entered into after the
30 effective date of this act.

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35 Promotes consolidated services, interlocal and joint agreements
36 by eliminating ordinance requirement.

1 valid for a period not to exceed five years.

2 The director's approval shall be based on the following:

3 (a) Provision for maintaining adequate records and orderly
4 procedures to facilitate audit and efficient administration, and

5 (b) Adequacy of public disclosure of such actions as are taken
6 by the participants, and

7 (c) Adequacy of procedures to facilitate compliance with all
8 provisions of the "Local Public Contracts Law" and corresponding
9 regulations, and

10 (d) Clarity of provisions to assure that the responsibilities of
11 the respective parties are understood.

12 Failure of the Director of the Division of Local Government
13 Services to approve or disapprove a properly executed and
14 completed application to establish a cooperative pricing system
15 and agreements entered into pursuant to such system or other
16 joint purchase agreement within 45 days from the date of receipt
17 of said application by the director shall constitute approval of
18 said application, which shall be valid for a period of five years,
19 commencing from the date of receipt of said application by the
20 director.

21 The Director of the Division of Local Government Services is
22 hereby authorized to promulgate rules and regulations specifying
23 procedures pertaining to cooperative pricing systems and joint
24 purchase agreements entered into pursuant to this act, the
25 "Interlocal Services Act," (P.L.1973, c.208; C.40:8A-1 et seq.)
26 and any other provision of law.

27 (cf: P.L.1991, c.143, s.4)

28 11. This act shall take effect immediately and shall be
29 applicable to contracts and agreements entered into after the
30 effective date of this act.

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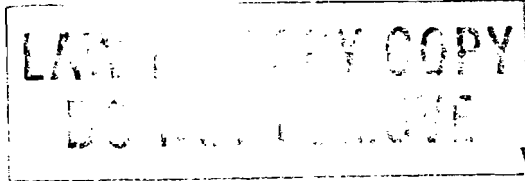
33 SPONSORS' STATEMENT

34

35 The bill removes the requirement that a municipality, or a
36 county operating under the "Optional County Charter Law,"
37 P.L.1972, c.154 (C.40:41A-1 et seq.), adopt an ordinance to enter
38 into interlocal and consolidated service agreements, joint
39 insurance pools and joint purchase agreements with other local
40 units pursuant to the "Interlocal Services Act," P.L.1973, c.208
41 (C.40:8A-1 et seq.), the "Consolidated Municipal Service Act" of
42 1952, P.L.1952, c.72 (C.40:48B-1 et seq.), joint insurance funds
43 under P.L.1983, c.372 (C.40A:10-36 et seq.), and joint purchase
44 agreements under the "Local Public Contracts Law," P.L.1971,
45 c.198 (C.40A:11-1 et seq.). Elimination of the ordinance
46 requirement is intended to promote the use of cooperative and
47 joint agreements by streamlining the process and reducing costs
48 associated with commencing such agreements. Any increase in
49 the use of cooperative services and joint purchase agreements
50 will result in substantial savings to local property taxpayers
51 through increased efficiencies from economies of scale and
52 elimination of duplicative services. This bill would apply to
53 contracts and agreements entered into after its effective date.

ASSEMBLY LOCAL GOVERNMENT COMMITTEE

STATEMENT TO



ASSEMBLY, No. 1378

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 1994

The Assembly Local Government Committee favorably reports Assembly Bill No. 1378, with committee amendments.

As amended the bill removes the requirement that a municipality, or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), adopt an ordinance to enter into interlocal service agreements, joint insurance pools and joint purchase agreements with other local units pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), joint insurance funds under P.L.1983, c.372 (C.40A:10-36 et seq.), and joint purchase agreements under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.). Elimination of the ordinance requirement is intended to promote the use of joint agreements by streamlining the process and reducing costs associated with commencing such agreements. Any increase in the use of joint services and joint purchase agreements will result in substantial savings to local property taxpayers through increased efficiencies from economies of scale and elimination of duplicative services. This bill would apply to contracts and agreements entered into after its effective date.

The committee amended the bill by omitting sections 3 and 4 in order to retain the ordinance requirement for joint meetings pursuant to the "Consolidated Municipal Service Act" of 1952, P.L.1952, c.72 (C.40:48B-1 et seq.), because of the quasi-governmental nature of the joint meetings.

SENATE COMMUNITY AFFAIRS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1378

STATE OF NEW JERSEY

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DATED: SEPTEMBER 28, 1995

The Senate Community Affairs Committee reports favorably Assembly Bill No. 1378 [1R].

This bill would change the method by which municipalities and certain counties may enter into certain joint agreements from an ordinance procedure to a resolution procedure.

Specifically, the bill would remove the requirement that a municipality or a county operating under the "Optional County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), must adopt an ordinance to enter into interlocal service agreements, joint insurance pools, or joint purchase agreements with other local units, pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.); joint insurance funds, under P.L.1983, c.372 (C.40A:10-36 et seq.); and joint purchase agreements, under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and replace it with a requirement that a resolution be adopted. The bill would also remove the requirement that municipal governing bodies must adopt substantially similar ordinances to establish and maintain an office of joint municipal tax assessor, under the "Consolidated Municipal Services Act," P.L.1952, c.72 (C.40:48B-1 et seq.), and replace it with a resolution requirement. This bill would apply to contracts and agreements entered into after its effective date.