

40A:11-15

LEGISLATIVE HISTORY CHECKLIST

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(Local public contracts--duration)

NJSA: 40A:11-15

LAWS OF: 1995 CHAPTER: 371

BILL NO: A2313

SPONSOR(S): Bagger

DATE INTRODUCED: November 21, 1994

COMMITTEE: ASSEMBLY: Solid & Hazardous Waste

SENATE: ---

AMENDED DURING PASSAGE: Yes Assembly Committee substitute (AS) enacted

DATE OF PASSAGE: ASSEMBLY: November 30, 1995

SENATE: Decmeber 18, 1995

DATE OF APPROVAL: January 5, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

ASSEMBLY SUBSTITUTE FOR  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2313**  
**STATE OF NEW JERSEY**

ADOPTED MAY 1, 1995

Sponsored by Assemblymen BAGGER and AUGUSTINE

1 AN ACT concerning the duration of certain public contracts, and  
2 amending P.L.1971, c.198.

3

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

6 1. Section 15 of P.L.1971, c.198 (C.40A:11-15) is amended to  
7 read as follows:

8 15. All purchases, contracts or agreements for the performing  
9 of work or the furnishing of materials, supplies or services shall  
10 be made for a period not to exceed 12 consecutive months,  
11 except that contracts or agreements may be entered into for  
12 longer periods of time as follows:

13 (1) Supplying of:

14 (a) Fuel for heating purposes, for any term not exceeding in  
15 the aggregate, two years;

16 (b) Fuel or oil for use of airplanes, automobiles, motor vehicles  
17 or equipment for any term not exceeding in the aggregate, two  
18 years;

19 (c) Thermal energy produced by a cogeneration facility, for  
20 use for heating or air conditioning or both, for any term not  
21 exceeding 40 years, when the contract is approved by the Board  
22 of Public Utilities. For the purposes of this paragraph,  
23 "cogeneration" means the simultaneous production in one facility  
24 of electric power and other forms of useful energy such as  
25 heating or process steam;

26 (2) (Deleted by amendment, P.L.1977, c.53.)

27 (3) The collection and disposal of municipal solid waste, the  
28 collection and disposition of recyclable material, or the disposal  
29 of sewage sludge, for any term not exceeding in the aggregate,  
30 five years;

31 (4) The collection and recycling of methane gas from a  
32 sanitary landfill facility, for any term not exceeding 25 years,  
33 when such contract is in conformance with a district solid waste  
34 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1  
35 et seq.), and with the approval of the Division of Local  
36 Government Services in the Department of Community Affairs  
37 and the Department of Environmental Protection. The  
38 contracting unit shall award the contract to the highest  
39 responsible bidder, notwithstanding that the contract price may  
40 be in excess of the amount of any necessarily related  
41 administrative expenses; except that if the contract requires the  
42 contracting unit to expend funds only, the contracting unit shall

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.

1 award the contract to the lowest responsible bidder. The  
2 approval by the Division of Local Government Services of public  
3 bidding requirements shall not be required for those contracts  
4 exempted therefrom pursuant to section 5 of P.L.1971, c.198  
5 (C.40A:11-5);

6 (5) Data processing service, for any term of not more than  
7 three years;

8 (6) Insurance, for any term of not more than three years;

9 (7) Leasing or servicing of automobiles, motor vehicles,  
10 machinery and equipment of every nature and kind, for a period  
11 not to exceed three years; provided, however, such contracts  
12 shall be entered into only subject to and in accordance with the  
13 rules and regulations promulgated by the Director of the Division  
14 of Local Government Services of the Department of Community  
15 Affairs;

16 (8) The supplying of any product or the rendering of any  
17 service by a telephone company which is subject to the  
18 jurisdiction of the Board of Public Utilities for a term not  
19 exceeding five years;

20 (9) Any single project for the construction, reconstruction or  
21 rehabilitation of any public building, structure or facility, or any  
22 public works project, including the retention of the services of  
23 any architect or engineer in connection therewith, for the length  
24 of time authorized and necessary for the completion of the actual  
25 construction;

26 (10) The providing of food services for any term not exceeding  
27 three years;

28 (11) On-site inspections undertaken by private agencies  
29 pursuant to the "State Uniform Construction Code Act,"  
30 P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more  
31 than three years;

32 (12) The performance of work or services or the furnishing of  
33 materials or supplies for the purpose of conserving energy in  
34 buildings owned by, or operations conducted by, the contracting  
35 unit, the entire price of which to be established as a percentage  
36 of the resultant savings in energy costs, for a term not to exceed  
37 10 years; provided, however, that such contracts shall be entered  
38 into only subject to and in accordance with rules and regulations  
39 promulgated by the Department of Environmental Protection  
40 establishing a methodology for computing energy cost savings;

41 (13) The performance of work or services or the furnishing of  
42 materials or supplies for the purpose of elevator maintenance for  
43 any term not exceeding three years;

44 (14) Leasing or servicing of electronic communications  
45 equipment for a period not to exceed five years; provided,  
46 however, such contract shall be entered into only subject to and  
47 in accordance with the rules and regulations promulgated by the  
48 Director of the Division of Local Government Services of the  
49 Department of Community Affairs;

50 (15) Leasing of motor vehicles, machinery and other equipment  
51 primarily used to fight fires, for a term not to exceed seven  
52 years, when the contract includes an option to purchase, subject  
53 to and in accordance with rules and regulations promulgated by  
54 the Director of the Division of Local Government Services of the

1 Department of Community Affairs;

2 (16) The provision of water supply services or the designing,  
3 financing, construction, operation, or maintenance, or any  
4 combination thereof, of a water supply facility, or any component  
5 part or parts thereof, including a water filtration system, for a  
6 period not to exceed 40 years, when the contract for these  
7 services is approved by the Division of Local Government  
8 Services in the Department of Community Affairs, the Board of  
9 Public Utilities, and the Department of Environmental Protection  
10 pursuant to P.L.1985, c.37 (C.58:26-1 et al.), except for those  
11 contracts otherwise exempted pursuant to subsection (30) or (31)  
12 of this section. For the purposes of this subsection, "water  
13 supply services" means any service provided by a water supply  
14 facility; "water filtration system" means any equipment, plants,  
15 structures, machinery, apparatus, or land, or any combination  
16 thereof, acquired, used, constructed, rehabilitated, or operated  
17 for the collection, impoundment, storage, improvement,  
18 filtration, or other treatment of drinking water for the purposes  
19 of purifying and enhancing water quality and insuring its  
20 potability prior to the distribution of the drinking water to the  
21 general public for human consumption, including plants and  
22 works, and other personal property and appurtenances necessary  
23 for their use or operation; and "water supply facility" means and  
24 refers to the real property and the plants, structures,  
25 interconnections between existing water supply facilities,  
26 machinery and equipment and other property, real, personal and  
27 mixed, acquired, constructed or operated, or to be acquired,  
28 constructed or operated, in whole or in part by or on behalf of a  
29 political subdivision of the State or any agency thereof, for the  
30 purpose of augmenting the natural water resources of the State  
31 and making available an increased supply of water for all uses, or  
32 of conserving existing water resources, and any and all  
33 appurtenances necessary, useful or convenient for the collecting,  
34 impounding, storing, improving, treating, filtering, conserving or  
35 transmitting of water and for the preservation and protection of  
36 these resources and facilities and providing for the conservation  
37 and development of future water supply resources;

38 (17) The provision of [solid waste disposal] resource recovery  
39 services by a [resource recovery facility] qualified vendor, the  
40 [furnishing of products of a resource recovery facility, the]  
41 disposal of the solid waste delivered for disposal which cannot be  
42 processed by a resource recovery facility or the [waste products  
43 resulting from the operation of] residual ash generated at a  
44 resource recovery facility, including hazardous waste and  
45 recovered metals and other materials for reuse, or the design,  
46 financing, construction, operation or maintenance of a resource  
47 recovery facility for a period not to exceed 40 years when the  
48 contract is approved by the Division of Local Government  
49 Services in the Department of Community Affairs, [the Board of  
50 Public Utilities,] and the Department of Environmental  
51 Protection pursuant to P.L.1985, c.38 (C.13:1E-136 et al); and  
52 when the resource recovery facility is in conformance with a  
53 district solid waste management plan approved pursuant to  
54 P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes of

1 this subsection, "resource recovery facility" means a solid waste  
2 facility constructed and operated for the incineration of solid  
3 waste for energy production and the recovery of metals and other  
4 materials for reuse; or a mechanized composting facility, or any  
5 other [solid waste] facility constructed or operated for the  
6 collection, separation, recycling, and recovery of metals, glass,  
7 paper, and other materials for reuse or for energy production; and  
8 "residual ash" means the bottom ash, fly ash, or any combination  
9 thereof, resulting from the combustion of solid waste at a  
10 resource recovery facility;

11 (18) The sale of electricity or thermal energy, or both,  
12 produced by a resource recovery facility for a period not to  
13 exceed 40 years when the contract is approved by the Board of  
14 Public Utilities, and when the resource recovery facility is in  
15 conformance with a district solid waste management plan  
16 approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the  
17 purposes of this subsection, "resource recovery facility" means a  
18 solid waste facility constructed and operated for the incineration  
19 of solid waste for energy production and the recovery of metals  
20 and other materials for reuse; or a mechanized composting  
21 facility, or any other [solid waste] facility constructed or  
22 operated for the collection, separation, recycling, and recovery  
23 of metals, glass, paper, and other materials for reuse or for  
24 energy production;

25 (19) The provision of wastewater treatment services or the  
26 designing, financing, construction, operation, or maintenance, or  
27 any combination thereof, of a wastewater treatment system, or  
28 any component part or parts thereof, for a period not to exceed  
29 40 years, when the contract for these services is approved by the  
30 Division of Local Government Services in the Department of  
31 Community Affairs and the Department of Environmental  
32 Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.). For the  
33 purposes of this subsection, "wastewater treatment services"  
34 means any services provided by a wastewater treatment system,  
35 and "wastewater treatment system" means equipment, plants,  
36 structures, machinery, apparatus, or land, or any combination  
37 thereof, acquired, used, constructed, or operated for the storage,  
38 collection, reduction, recycling, reclamation, disposal,  
39 separation, or other treatment of wastewater or sewage sludge,  
40 or for the final disposal of residues resulting from the treatment  
41 of wastewater, including, but not limited to, pumping and  
42 ventilating stations, facilities, plants and works, connections,  
43 outfall sewers, interceptors, trunk lines, and other personal  
44 property and appurtenances necessary for their operation;

45 (20) The supplying of materials or services for the purpose of  
46 lighting public streets, for a term not to exceed five years,  
47 provided that the rates, fares, tariffs or charges for the supplying  
48 of electricity for that purpose are approved by the Board of  
49 Public Utilities;

50 (21) In the case of a contracting unit which is a county or  
51 municipality, the provision of emergency medical services by a  
52 hospital to residents of a municipality or county as appropriate  
53 for a term not to exceed five years;

54 (22) Towing and storage contracts, awarded pursuant to

1 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198  
2 (C.40A:11-5) for any term not exceeding three years;

3 (23) Fuel for the purpose of generating electricity for a term  
4 not to exceed eight years;

5 (24) The purchase of electricity or administrative or  
6 dispatching services related to the transmission of such  
7 electricity, from a public utility company subject to the  
8 jurisdiction of the Board of Public Utilities, a similar regulatory  
9 body of another state, or a federal regulatory agency, or from a  
10 qualifying small power producing facility or qualifying  
11 cogeneration facility, as defined by 16 U.S.C. §796, by a  
12 contracting unit engaged in the generation of electricity for  
13 retail sale, as of [the date of this amendatory act] May 24, 1991,  
14 for a term not to exceed 40 years;

15 (25) Basic life support services, for a period not to exceed five  
16 years. For the purposes of this subsection, "basic life support"  
17 means a basic level of prehospital care, which includes but need  
18 not be limited to patient stabilization, airway clearance,  
19 cardiopulmonary resuscitation, hemorrhage control, initial wound  
20 care and fracture stabilization;

21 (26) Claims administration services, for any term not to  
22 exceed three years;

23 (27) The provision of transportation services to elderly,  
24 disabled or indigent persons for any term of not more than three  
25 years. For the purposes of this subsection, "elderly persons"  
26 means persons who are 60 years of age or older. "Disabled  
27 persons" means persons of any age who, by reason of illness,  
28 injury, age, congenital malfunction, or other permanent or  
29 temporary incapacity or disability, are unable, without special  
30 facilities or special planning or design to utilize mass  
31 transportation facilities and services as effectively as persons  
32 who are not so affected. "Indigent persons" means persons of any  
33 age whose income does not exceed 100 percent of the poverty  
34 level, adjusted for family size, established and adjusted under  
35 section 673(2) of subtitle B, the "Community Services Block  
36 Grant Act," Pub.L.97-35 (42 U.S.C. §9902 (2));

37 (28) The supplying of liquid oxygen or other chemicals, for a  
38 term not to exceed five years, when the contract includes the  
39 installation of tanks or other storage facilities by the supplier, on  
40 or near the premises of the contracting unit;

41 (29) The performance of patient care services by contracted  
42 medical staff at county hospitals, correction facilities and long  
43 term care facilities, for any term of not more than three years;

44 (30) The acquisition of an equitable interest in a water supply  
45 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or  
46 an agreement entered into pursuant to the "County and Municipal  
47 Water Supply Act," N.J.S.40A:31-1 et seq., if the agreement is  
48 entered into no [more than six months after the effective date of  
49 this amendatory act, P.L.1994, c.71] later than January 7, 1995,  
50 for any term of not more than forty years;

51 (31) The provision of water supply services or the financing,  
52 construction, operation or maintenance or any combination  
53 thereof, of a water supply facility or any component part or parts  
54 thereof, by a partnership or copartnership established pursuant to

1 a contract authorized under section 2 of P.L.1993, c.381  
2 (C.58:28-2), for a period not to exceed 40 years; [and]

3 (32) Laundry service and the rental, supply and cleaning of  
4 uniforms for any term of not more than three years;

5 (33) The supplying of any product or the rendering of any  
6 service, including consulting services, by a cemetery management  
7 company for the maintenance and preservation of a municipal  
8 cemetery operating pursuant to the "New Jersey Cemetery Act,"  
9 N.J.S.8A:1-1 et seq., for a term not exceeding 15 years; and

10 (34) The operation and management of a facility under a  
11 license issued or permit approved by the Department of  
12 Environmental Protection, including a wastewater treatment  
13 system or a water supply or distribution facility, as the case may  
14 be, for any term of not more than seven years. For the purposes  
15 of this subsection, "wastewater treatment system" refers to  
16 facilities operated or maintained for the storage, collection,  
17 reduction, disposal, or other treatment of wastewater or sewage  
18 sludge, remediation of groundwater contamination, stormwater  
19 runoff, or the final disposal of residues resulting from the  
20 treatment of wastewater; and "water supply or distribution  
21 facility" refers to facilities operated or maintained for  
22 augmenting the natural water resources of the State, increasing  
23 the supply of water, conserving existing water resources, or  
24 distributing water to users.

25 All multiyear leases and contracts entered into pursuant to this  
26 section, except contracts for the leasing or servicing of  
27 equipment supplied by a telephone company which is subject to  
28 the jurisdiction of the Board of Public Utilities, contracts  
29 involving the supplying of electricity for the purpose of lighting  
30 public streets and contracts for thermal energy authorized  
31 pursuant to subsection (1) above, construction contracts  
32 authorized pursuant to subsection (9) above, contracts and  
33 agreements for the provision of work or the supplying of  
34 equipment to promote energy conservation authorized pursuant to  
35 subsection (12) above, contracts for water supply services or for a  
36 water supply facility, or any component part or parts thereof  
37 authorized pursuant to [subsection] subsections (16) or (34) above,  
38 contracts for resource recovery services or a resource recovery  
39 facility authorized pursuant to subsection (17) above, contracts  
40 for the sale of energy produced by a resource recovery facility  
41 authorized pursuant to subsection (18) above, contracts for  
42 wastewater treatment services or for a wastewater treatment  
43 system or any component part or parts thereof authorized  
44 pursuant to [subsection] subsections (19) or (34) above, and  
45 contracts for the purchase of electricity or administrative or  
46 dispatching services related to the transmission of such  
47 electricity authorized pursuant to subsection (24) above, shall  
48 contain a clause making them subject to the availability and  
49 appropriation annually of sufficient funds as may be required to  
50 meet the extended obligation, or contain an annual cancellation  
51 clause.

52 The Division of Local Government Services shall adopt and  
53 promulgate rules and regulations concerning the methods of  
54 accounting for all contracts that do not coincide with the fiscal

1 year.  
2 (cf: P.L.1995, c.41, s.2)  
3 2. This act shall take effect immediately.

4  
5  
6 STATEMENT

7  
8 Assembly Bill No. 2313 ACS would permit local governments to  
9 enter into contracts, for periods not to exceed seven years, for  
10 the operation and management of wastewater treatment system  
11 and water supply or distribution facilities licensed or permitted  
12 by the Department of Environmental Protection.

13 The Assembly Substitute for Assembly Bill No. 2313 ACS would  
14 revise the definitions of "wastewater treatment system" and  
15 "water supply or distribution facility" to more clearly identify  
16 the types of State licensed and regulated facilities the operation  
17 and management of which would be privatized under a contract  
18 between a local government and a private firm.

19  
20  
21

22  
23 \_\_\_\_\_  
24 Permits local governments to contract with private firms for  
25 operation and management of wastewater treatment systems or  
water supply facilities for terms not to exceed seven years.



ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2313

STATE OF NEW JERSEY

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DATED: MARCH 9, 1995

The Assembly Solid and Hazardous Waste Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 2313.

The Assembly Committee Substitute for Assembly Bill No. 2313 authorizes any local government to enter into a contract, for a term not to exceed seven years, for the operation and management of a wastewater treatment system or a water supply facility, as the case may be, or any component part or parts thereof.

The Committee finds that, currently, approximately 25 local governments in this State contract with private sector firms for the operation and management of their water supply facilities or wastewater treatment systems. Under existing law, these contracts are limited to one year terms and are subject to an annual bidding process. The long-term operation and management of such facilities by private firms provided under this substitute bill is intended to reduce the costs to local governments and users of these facilities, while maintaining continuity of the provision of vital public services.

The substitute bill defines a "wastewater treatment system" as any equipment, plants, structures, machinery, apparatus, or land, or any combination thereof, operated or maintained for the storage, collection, reduction, recycling, reclamation, sludge management, disposal, separation, or other treatment of wastewater or sewage sludge, or for any activity necessary to remediate groundwater contamination, including leachate collection, pumping, filtration or treatment, and long-term operations and maintenance, or for the collection or treatment, or both, of stormwater runoff and wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, sewage sludge incinerators, treatment plants and works, connections, outfall sewers, interceptors, trunk lines, stormwater management systems, and other personal property and appurtenances necessary for their use or operation.

A "water supply facility" is defined as the real property and the plants, structures, interconnections between existing water supply facilities, machinery and equipment and other property, real, personal and mixed, operated or maintained for the purpose of augmenting the natural water resources of the State and making available an increased supply of water for all uses, or of conserving existing water resources, and any and all appurtenances necessary, useful or convenient for the collecting, impounding, storing, improving, treating, filtering, conserving or transmitting of water.

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2313

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