

40A:11-15

LEGISLATIVE HISTORY CHECKLIST
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(County & municipal water supply
--40 year agreements)

NJSA: 40A:11-15

LAWS OF: 1994 **CHAPTER:** 71

BILL NO: A1858

SPONSOR(S): Garcia

DATE INTRODUCED: June 13, 1994

COMMITTEE: **ASSEMBLY:** Environment & Energy

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 27, 1994

SENATE: June 30, 1994

DATE OF APPROVAL: July 7, 1994

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

KBG:pp

1 AN ACT to permit terms of not more than forty years for
2 agreements entered into pursuant to the "County and Municipal
3 Water Supply Act," N.J.S.40A:31-1 et seq., and amending
4 P.L.1971, c.198.

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

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

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

15 (1) Supplying of:

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

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

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

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

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

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

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 approval by the Division of Local Government Services of public
2 bidding requirements shall not be required for those contracts
3 exempted therefrom pursuant to section 5 of P.L.1971, c.198
4 (C.40A:11-5);
- 5 (5) Data processing service, for any term of not more than
6 three years;
- 7 (6) Insurance, for any term of not more than three years;
- 8 (7) Leasing or servicing of automobiles, motor vehicles,
9 machinery and equipment of every nature and kind, for a period
10 not to exceed three years; provided, however, such contracts
11 shall be entered into only subject to and in accordance with the
12 rules and regulations promulgated by the Director of the Division
13 of Local Government Services of the Department of Community
14 Affairs;
- 15 (8) The supplying of any product or the rendering of any
16 service by a telephone company which is subject to the
17 jurisdiction of the Board of Regulatory Commissioners for a term
18 not exceeding five years;
- 19 (9) Any single project for the construction, reconstruction or
20 rehabilitation of any public building, structure or facility, or any
21 public works project, including the retention of the services of
22 any architect or engineer in connection therewith, for the length
23 of time authorized and necessary for the completion of the actual
24 construction;
- 25 (10) The providing of food services for any term not exceeding
26 three years;
- 27 (11) On-site inspections undertaken by private agencies
28 pursuant to the "State Uniform Construction Code Act,"
29 P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not more
30 than three years;
- 31 (12) The performance of work or services or the furnishing of
32 materials or supplies for the purpose of conserving energy in
33 buildings owned by, or operations conducted by, the contracting
34 unit, the entire price of which to be established as a percentage
35 of the resultant savings in energy costs, for a term not to exceed
36 10 years; provided, however, that such contracts shall be entered
37 into only subject to and in accordance with rules and regulations
38 promulgated by the Department of Environmental Protection
39 establishing a methodology for computing energy cost savings;
- 40 (13) The performance of work or services or the furnishing of
41 materials or supplies for the purpose of elevator maintenance for
42 any term not exceeding three years;
- 43 (14) Leasing or servicing of electronic communications
44 equipment for a period not to exceed five years; provided,
45 however, such contract shall be entered into only subject to and
46 in accordance with the rules and regulations promulgated by the
47 Director of the Division of Local Government Services of the
48 Department of Community Affairs;
- 49 (15) Leasing of motor vehicles, machinery and other equipment
50 primarily used to fight fires, for a term not to exceed seven
51 years, when the contract includes an option to purchase, subject
52 to and in accordance with rules and regulations promulgated by
53 the Director of the Division of Local Government Services of the
54 Department of Community Affairs;

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

37 (17) The provision of solid waste disposal services by a
38 resource recovery facility, the furnishing of products of a
39 resource recovery facility, the disposal of the solid waste
40 delivered for disposal which cannot be processed by a resource
41 recovery facility or the waste products resulting from the
42 operation of a resource recovery facility, including hazardous
43 waste and recovered metals and other materials for reuse, or the
44 design, financing, construction, operation or maintenance of a
45 resource recovery facility for a period not to exceed 40 years
46 when the contract is approved by the Division of Local
47 Government Services in the Department of Community Affairs,
48 the Board of Regulatory Commissioners, and the Department of
49 Environmental Protection; and when the facility is in
50 conformance with a solid waste management plan approved
51 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes
52 of this subsection, "resource recovery facility" means a solid
53 waste facility constructed and operated for the incineration of
54 solid waste for energy production and the recovery of metals and

- 1 other materials for reuse; or a mechanized composting facility,
2 or any other solid waste facility constructed or operated for the
3 collection, separation, recycling, and recovery of metals, glass,
4 paper, and other materials for reuse or for energy production;
- 5 (18) The sale of electricity or thermal energy, or both,
6 produced by a resource recovery facility for a period not to
7 exceed 40 years when the contract is approved by the Board of
8 Regulatory Commissioners, and when the facility is in
9 conformance with a solid waste management plan approved
10 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes
11 of this subsection, "resource recovery facility" means a solid
12 waste facility constructed and operated for the incineration of
13 solid waste for energy production and the recovery of metals and
14 other materials for reuse; or a mechanized composting facility,
15 or any other solid waste facility constructed or operated for the
16 collection, separation, recycling, and recovery of metals, glass,
17 paper, and other materials for reuse or for energy production;
- 18 (19) The provision of wastewater treatment services or the
19 designing, financing, construction, operation, or maintenance, or
20 any combination thereof, of a wastewater treatment system, or
21 any component part or parts thereof, for a period not to exceed
22 40 years, when the contract for these services is approved by the
23 Division of Local Government Services in the Department of
24 Community Affairs and the Department of Environmental
25 Protection pursuant to P.L.1985, c.72 (C.58:27-1 et al.). For the
26 purposes of this subsection, "wastewater treatment services"
27 means any services provided by a wastewater treatment system,
28 and "wastewater treatment system" means equipment, plants,
29 structures, machinery, apparatus, or land, or any combination
30 thereof, acquired, used, constructed, or operated for the storage,
31 collection, reduction, recycling, reclamation, disposal,
32 separation, or other treatment of wastewater or sewage sludge,
33 or for the final disposal of residues resulting from the treatment
34 of wastewater, including, but not limited to, pumping and
35 ventilating stations, facilities, plants and works, connections,
36 outfall sewers, interceptors, trunk lines, and other personal
37 property and appurtenances necessary for their operation;
- 38 (20) The supplying of materials or services for the purpose of
39 lighting public streets, for a term not to exceed five years,
40 provided that the rates, fares, tariffs or charges for the supplying
41 of electricity for that purpose are approved by the Board of
42 Regulatory Commissioners;
- 43 (21) In the case of a contracting unit which is a county or
44 municipality, the provision of emergency medical services by a
45 hospital to residents of a municipality or county as appropriate
46 for a term not to exceed five years;
- 47 (22) Towing and storage contracts, awarded pursuant to
48 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
49 (C.40A:11-5) for any term not exceeding three years;
- 50 (23) Fuel for the purpose of generating electricity for a term
51 not to exceed eight years;
- 52 (24) The purchase of electricity or administrative or
53 dispatching services related to the transmission of such
54 electricity, from a public utility company subject to the

1 jurisdiction of the Board of Regulatory Commissioners, a similar
2 regulatory body of another state, or a federal regulatory agency,
3 or from a qualifying small power producing facility or qualifying
4 cogeneration facility, as defined by 16 U.S.C. §796, by a
5 contracting unit engaged in the generation of electricity for
6 retail sale, as of the date of this amendatory act, for a term not
7 to exceed 40 years;

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

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

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

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

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

37 (30) The acquisition of an equitable interest in a water supply
38 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
39 an agreement entered into pursuant to the "County and Municipal
40 Water Supply Act," N.J.S.40A:31-1 et seq., if the agreement is
41 entered into no more than six months after the effective date of
42 this amendatory act, P.L. c. (C.) (now pending
43 before the Legislature as this bill), for any term of not more than
44 forty years; and

45 (31) The provision of water supply services or the financing,
46 construction, operation or maintenance or any combination
47 thereof, of a water supply facility or any component part or parts
48 thereof, by a partnership or copartnership established pursuant to
49 a contract authorized under section 2 of P.L.1993, c.381
50 (C.58:28-2) for a period not to exceed 40 years.

51 All multiyear leases and contracts entered into pursuant to this
52 section, except contracts for the leasing or servicing of
53 equipment supplied by a telephone company which is subject to
54 the jurisdiction of the Board of Regulatory Commissioners.

1 contracts involving the supplying of electricity for the purpose of
2 lighting public streets and contracts for thermal energy
3 authorized pursuant to subsection (1) above, construction
4 contracts authorized pursuant to subsection (9) above, contracts
5 and agreements for the provision of work or the supplying of
6 equipment to promote energy conservation authorized pursuant to
7 subsection (12) above, contracts for water supply services or for a
8 water supply facility, or any component part or parts thereof
9 authorized pursuant to subsection (16) above, contracts for
10 resource recovery services or a resource recovery facility
11 authorized pursuant to subsection (17) above, contracts for the
12 sale of energy produced by a resource recovery facility
13 authorized pursuant to subsection (18) above, contracts for
14 wastewater treatment services or for a wastewater treatment
15 system or any component part or parts thereof authorized
16 pursuant to subsection (19) above, and contracts for the purchase
17 of electricity or administrative or dispatching services related to
18 the transmission of such electricity authorized pursuant to
19 subsection (24) above, shall contain a clause making them subject
20 to the availability and appropriation annually of sufficient funds
21 as may be required to meet the extended obligation, or contain an
22 annual cancellation clause.

23 The Division of Local Government Services shall adopt and
24 promulgate rules and regulations concerning the methods of
25 accounting for all contracts that do not coincide with the fiscal
26 year.

27 (cf: P.L.1993, c.381, s.5)

28 2. This act shall take effect immediately.

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STATEMENT

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33 This bill would permit local governments to enter into
34 agreements for terms of not more than 40 years for water supply
35 facilities pursuant to the "County and Municipal Water Supply
36 Act." N.J.S.40A:31-1 et seq. An agreement would be required to
37 be entered into within six months after the effective date of this
38 legislation.

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43 Permits agreements under "County and Municipal Water Supply
44 Act" for terms of not more than 40 years.

1 contracts involving the supplying of electricity for the purpose of
2 lighting public streets and contracts for thermal energy
3 authorized pursuant to subsection (1) above, construction
4 contracts authorized pursuant to subsection (9) above, contracts
5 and agreements for the provision of work or the supplying of
6 equipment to promote energy conservation authorized pursuant to
7 subsection (12) above, contracts for water supply services or for a
8 water supply facility, or any component part or parts thereof
9 authorized pursuant to subsection (16) above, contracts for
10 resource recovery services or a resource recovery facility
11 authorized pursuant to subsection (17) above, contracts for the
12 sale of energy produced by a resource recovery facility
13 authorized pursuant to subsection (18) above, contracts for
14 wastewater treatment services or for a wastewater treatment
15 system or any component part or parts thereof authorized
16 pursuant to subsection (19) above, and contracts for the purchase
17 of electricity or administrative or dispatching services related to
18 the transmission of such electricity authorized pursuant to
19 subsection (24) above, shall contain a clause making them subject
20 to the availability and appropriation annually of sufficient funds
21 as may be required to meet the extended obligation, or contain an
22 annual cancellation clause.

23 The Division of Local Government Services shall adopt and
24 promulgate rules and regulations concerning the methods of
25 accounting for all contracts that do not coincide with the fiscal
26 year.

27 (cf: P.L.1993, c.381, s.5)

28 2. This act shall take effect immediately.

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STATEMENT

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33 This bill would permit local governments to enter into
34 agreements for terms of not more than 40 years for water supply
35 facilities pursuant to the "County and Municipal Water Supply
36 Act," N.J.S.40A:31-1 et seq. An agreement would be required to
37 be entered into within six months after the effective date of this
38 legislation.

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43 _____
44 Permits agreements under "County and Municipal Water Supply
Act" for terms of not more than 40 years.

ASSEMBLY ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1858

STATE OF NEW JERSEY

DATED: JUNE 13, 1994

The Assembly Environment and Energy Committee favorably reports Assembly Bill No. 1858.

This bill would exempt agreements entered into by local government units for water supply facilities pursuant to the "County and Municipal Water Supply Act," N.J.S.40A:31-1 et seq, from the provision in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), that limits public agreements or contracts to a one-year length. The exemption would allow the term of such agreements to be up to 40 years in length, if the agreement is entered into within six months after the effective date of this bill.