

40A:11-2

LEGISLATIVE HISTORY CHECKLIST
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(Recycling--duration of contracts)

NJSA: 40A:11-2

LAWS OF: 1992 CHAPTER: 98

BILL NO: S834

SPONSOR(S) McNamara and Bennett

DATE INTRODUCED: May 14, 1992

COMMITTEE: ASSEMBLY: Solid Waste
SENATE: Environment

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by asterisks

DATE OF PASSAGE: ASSEMBLY: August 3, 1992
SENATE: May 21, 1992

DATE OF APPROVAL: September 14, 1992

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

KBG:pp

[FIRST REPRINT]

SENATE, No. 834

STATE OF NEW JERSEY

INTRODUCED MAY 14, 1992

By Senators McNAMARA and Bennett

1 AN ACT concerning the duration of certain local public
2 contracts, and 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 2 of P.L.1971, c.198 (C.40A:11-2) is amended to
7 read as follows:

8 2. As used herein the following words have the following
9 definitions, unless the context otherwise indicates:

10 (1) "Contracting unit" means:

11 (a) Any county; or

12 (b) Any municipality; or

13 (c) Any board, commission, committee, authority or agency,
14 which is not a State board, commission, committee, authority or
15 agency, and which has administrative jurisdiction over any
16 district other than a school district, project, or facility, included
17 or operating in whole or in part, within the territorial boundaries
18 of any county or municipality which exercises functions which are
19 appropriate for the exercise by one or more units of local
20 government, and which has statutory power to make purchases
21 and enter into contracts or agreements for the performance of
22 any work or the furnishing or hiring of any materials or supplies
23 usually required, the cost or contract price of which is to be paid
24 with or out of public funds.

25 (2) "Governing body" means:

26 (a) The governing body of the county, when the purchase is to
27 be made or the contract or agreement is to be entered into by, or
28 in behalf of, a county; or

29 (b) The governing body of the municipality, when the purchase
30 is to be made or the contract or agreement is to be entered into
31 by, or on behalf of, a municipality; or

32 (c) Any board, commission, committee, authority or agency of
33 the character described in subsection (1)(c) of this section.

34 (3) "Contracting agent" means the governing body of a
35 contracting unit, or any board, commission, committee, officer,
36 department, branch or agency which has the power to prepare the
37 advertisements, to advertise for and receive bids and, as
38 permitted by this act, to make awards for the contracting unit in
39 connection with purchases, contracts or agreements.

40 (4) "Purchase" is a transaction, for a valuable consideration,
41 creating or acquiring an interest in goods, services and property,
42 except real property or any interest therein.

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 Senate SEN committee amendments adopted May 18, 1992.

1 (5) "Materials" includes goods and property subject to chapter
2 of Title 12A of the New Jersey Statutes, apparatus, or any
3 other tangible thing, except real property or any interest therein.

4 (6) "Professional services" means services rendered or
5 performed by a person authorized by law to practice a recognized
6 profession, whose practice is regulated by law, and the
7 performance of which services requires knowledge of an advanced
8 type in a field of learning acquired by a prolonged formal course
9 of specialized instruction and study as distinguished from general
10 academic instruction or apprenticeship and training. Professional
11 services may also mean services rendered in the performance of
12 work that is original and creative in character in a recognized
13 field of artistic endeavor.

14 (7) "Extraordinary unspecifiable services" means services
15 which are specialized and qualitative in nature requiring
16 expertise, extensive training and proven reputation in the field of
17 endeavor.

18 (8) "Project" means any work, undertaking, program, activity,
19 development, redevelopment, construction or reconstruction of
20 any area or areas.

21 (9) "Work" includes services and any other activity of a
22 tangible or intangible nature performed or assumed pursuant to a
23 contract or agreement with a contracting unit.

24 (10) "Homemaker--home health services" means at home
25 personal care and home management provided to an individual or
26 members of his family who reside with him, or both, necessitated
27 by the individual's illness or incapacity. "Homemaker--home
28 health services" includes, but is not limited to, the services of a
29 trained homemaker.

30 (11) "Recyclable material" means those materials which would
31 otherwise become municipal solid waste, and which may be
32 collected, separated or processed and returned to the economic
33 mainstream in the form of raw materials or products.

34 (12) "Recycling" means any process by which materials which
35 would otherwise become solid waste are collected, separated or
36 processed and returned to the economic mainstream in the form
37 of raw materials or products.

38 (13) "Marketing" means the [marketing] ¹[disposition]
39 marketing¹ of designated recyclable materials [source separated
40 in a municipality which entails a marketing cost less than the
41 cost of transporting the recyclable materials to solid waste
42 facilities and disposing of the materials as municipal solid waste
43 at the facility utilized by the municipality] ¹source separated in a
44 municipality which entails a marketing cost less than the cost of
45 transporting the recyclable materials to solid waste facilities and
46 disposing of the materials as municipal solid waste at the facility
47 utilized by the municipality¹.

48 (14) "Municipal solid waste" means all residential, commercial
49 and institutional solid waste generated within the boundaries of a
50 municipality.

51 (15) "Distribution" (when used in relation to electricity) means
52 the process of conveying electricity from a contracting unit who
53 is a generator of electricity or a wholesale purchaser of
54 electricity to retail customers or other end users of electricity.

1 (16) "Transmission" (when used in relation to electricity)
2 means the conveyance of electricity from its point of generation
3 to a contracting unit who purchases it on a wholesale basis for
4 resale.

5 (17) "Disposition" ¹[or "disposition of designated recyclable
6 materials"]¹ means the transportation, placement, reuse, sale,
7 donation, transfer or temporary storage ¹[for a period not
8 exceeding six months of designated] of¹ recyclable materials for
9 all possible uses except for disposal as municipal solid waste.
10 (cf: P.L.1991, c.143, s.7)

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

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

18 (1) Supplying of:

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

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

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

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

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

36 (4) The collection and recycling of methane gas from a
37 sanitary landfill facility, for any term not exceeding 25 years,
38 when such contract is in conformance with a solid waste
39 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1
40 et seq.), and with the approval of the Division of Local
41 Government Services and the Department of Environmental
42 Protection. The contracting unit shall award the contract to the
43 highest responsible bidder, notwithstanding that the contract
44 price may be in excess of the amount of any necessarily related
45 administrative expenses; except that if the contract requires the
46 contracting unit to expend funds only, the contracting unit shall
47 award the contract to the lowest responsible bidder. The
48 approval by the Division of Local Government Services of public
49 bidding requirements shall not be required for those contracts
50 exempted therefrom pursuant to section 5 of P.L.1971, c.198
51 (C.40A:11-5);

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

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

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

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

12 (9) Any single project for the construction, reconstruction or
13 rehabilitation of any public building, structure or facility, or any
14 public works project, including the retention of the services of
15 any architect or engineer in connection therewith, for the length
16 of time authorized and necessary for the completion of the actual
17 construction;

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

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

24 (12) The performance of work or services or the furnishing of
25 materials or supplies for the purpose of conserving energy in
26 buildings owned by, or operations conducted by, the contracting
27 unit, the entire price of which to be established as a percentage
28 of the resultant savings in energy costs, for a term not to exceed
29 10 years; provided, however, that such contracts shall be entered
30 into only subject to and in accordance with rules and regulations
31 promulgated by the Department of Energy establishing a
32 methodology for computing energy cost savings;

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

36 (14) Leasing or servicing of electronic communications
37 equipment for a period not to exceed five years; provided,
38 however, such contract shall be entered into only subject to and
39 in accordance with the rules and regulations promulgated by the
40 Director of the Division of Local Government Services of the
41 Department of Community Affairs;

42 (15) Leasing of motor vehicles, machinery and other equipment
43 primarily used to fight fires, for a term not to exceed seven
44 years, when the contract includes an option to purchase, subject
45 to and in accordance with rules and regulations promulgated by
46 the Director of the Division of Local Government Services of the
47 Department of Community Affairs;

48 (16) The provision of water supply services or the designing,
49 financing, construction, operation, or maintenance, or any
50 combination thereof, of a water supply facility, or any component
51 part or parts thereof, including a water filtration system, for a
52 period not to exceed 40 years, when the contract for these
53 services is approved by the Division of Local Government
54 Services in the Department of Community Affairs, the Board of

1 Public Utilities, and the Department of Environmental Protection
2 pursuant to P.L.1985, c.37 (C.58:26-1 et seq.). For the purposes
3 of this subsection, "water supply services" means any service
4 provided by a water supply facility; "water filtration system"
5 means any equipment, plants, structures, machinery, apparatus,
6 or land, or any combination thereof, acquired, used, constructed,
7 rehabilitated, or operated for the collection, impoundment,
8 storage, improvement, filtration, or other treatment of drinking
9 water for the purposes of purifying and enhancing water quality
10 and insuring its potability prior to the distribution of the drinking
11 water to the general public for human consumption, including
12 plants and works, and other personal property and appurtenances
13 necessary for their use or operation; and "water supply facility"
14 means and refers to the real property and the plants, structures,
15 interconnections between existing water supply facilities,
16 machinery and equipment and other property, real, personal and
17 mixed, acquired, constructed or operated, or to be acquired,
18 constructed or operated, in whole or in part by or on behalf of a
19 political subdivision of the State or any agency thereof, for the
20 purpose of augmenting the natural water resources of the State
21 and making available an increased supply of water for all uses, or
22 of conserving existing water resources, and any and all
23 appurtenances necessary, useful or convenient for the collecting,
24 impounding, storing, improving, treating, filtering, conserving or
25 transmitting of water and for the preservation and protection of
26 these resources and facilities and providing for the conservation
27 and development of future water supply resources;

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

50 (18) The sale of electricity or thermal energy, or both,
51 produced by a resource recovery facility for a period not to
52 exceed 40 years when the contract is approved by the Board of
53 Public Utilities, and when the facility is in conformance with a
54 solid waste management plan approved pursuant to P.L.1970, c.39

1 (C.13:1E-1 et seq.). For the purposes of this subsection,
2 "resource recovery facility" means a solid waste facility
3 constructed and operated for the incineration of solid waste for
4 energy production and the recovery of metals and other materials
5 for reuse; or a mechanized composting facility, or any other solid
6 waste facility constructed or operated for the collection,
7 separation, recycling, and recovery of metals, glass, paper, and
8 other materials for reuse or for energy production;

9 (19) The provision of wastewater treatment services or the
10 designing, financing, construction, operation, or maintenance, or
11 any combination thereof, of a wastewater treatment system, or
12 any component part or parts thereof, for a period not to exceed
13 40 years, when the contract for these services is approved by the
14 Division of Local Government Services in the Department of
15 Community Affairs and the Department of Environmental
16 Protection pursuant to P.L.1985, c.72 (C.58:27-1 et seq.). For
17 the purposes of this subsection, "wastewater treatment services"
18 means any service provided by a wastewater treatment system,
19 and "wastewater treatment system" means equipment, plants,
20 structures, machinery, apparatus, or land, or any combination
21 thereof, acquired, used, constructed, or operated for the storage,
22 collection, reduction, recycling, reclamation, disposal,
23 separation, or other treatment of wastewater or sewage sludge,
24 or for the final disposal of residues resulting from the treatment
25 of wastewater, including, but not limited to, pumping and
26 ventilating stations, facilities, plants and works, connections,
27 outfall sewers, interceptors, trunk lines, and other personal
28 property and appurtenances necessary for their operation;

29 (20) The supplying of materials or services for the purpose of
30 lighting public streets, for a term not to exceed five years,
31 provided that the rates, fares, tariffs or charges for the supplying
32 of electricity for that purpose are approved by the Board of
33 Public Utilities;

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

38 (22) Towing and storage contracts, awarded pursuant to
39 paragraph u. of subsection (1) of section 5 of P.L.1971, c.198
40 (C.40A:11-5) for any term not exceeding three years;

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

43 (24) The purchase of electricity or administrative or
44 dispatching services related to the transmission of such
45 electricity, from a public utility company subject to the
46 jurisdiction of the Board of Public Utilities, a similar regulatory
47 body of another state, or a federal regulatory agency, or from a
48 qualifying small power producing facility or qualifying
49 cogeneration facility, as defined by 16 U.S.C. §796, by a
50 contracting unit engaged in the generation of electricity for
51 retail sale, as of the date of this amendatory act, for a term not
52 to exceed 40 years;

53 (25) Basic life support services, for a period not to exceed five
54 years. For the purposes of this subsection, "basic life support"

1 means a basic level of prehospital care, which includes but need
2 not be limited to patient stabilization, airway clearance,
3 cardiopulmonary resuscitation, hemorrhage control, initial wound
4 care and fracture stabilization;

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

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

21 (28) The supplying of liquid oxygen or other chemicals, for a
22 term not to exceed five years, when the contract includes the
23 installation of tanks or other storage facilities by the supplier, on
24 or near the premises of the contracting unit.

25 All multi-year leases and contracts entered into pursuant to
26 this 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 (16) above, contracts for
38 resource recovery services or a resource recovery facility
39 authorized pursuant to subsection (17) above, contracts for the
40 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 (19) above, contracts for the purchase of
45 electricity or administrative or dispatching services related to
46 the transmission of such electricity authorized pursuant to
47 subsection (24) above, shall contain a clause making them subject
48 to the availability and appropriation annually of sufficient funds
49 as may be required to meet the extended obligation, or contain an
50 annual cancellation clause.

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

55 (cf: P.L.1991, c.451)

1 3. This act shall take effect immediately.

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7 Extends permissible duration of local government's recycling
contracts.

1 (27) The provision of transportation services to elderly,
2 disabled or indigent persons for any term of not more than three
3 years. For the purposes of this subsection, "elderly persons"
4 means persons who are 60 years of age or older. "Disabled
5 persons" means persons of any age who, by reason of illness,
6 injury, age, congenital malfunction, or other permanent or
7 temporary incapacity or disability, are unable, without special
8 facilities or special planning or design to utilize mass
9 transportation facilities and services as effectively as persons
10 who are not so affected. "Indigent persons" means persons of any
11 age whose income does not exceed 100 percent of the poverty
12 level, adjusted for family size, established and adjusted under
13 section 673(2) of subtitle B, the "Community Services Block
14 Grant Act," Pub.L. 97-35 (42 U.S.C. §9902 (2));

15 (28) The supplying of liquid oxygen or other chemicals, for a
16 term not to exceed five years, when the contract includes the
17 installation of tanks or other storage facilities by the supplier, on
18 or near the premises of the contracting unit.

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

45 The Division of Local Government Services shall adopt and
46 promulgate rules and regulations concerning the methods of
47 accounting for all contracts that do not coincide with the fiscal
48 year.

49 (cf: P.L.1991, c.451)

50 3. This act shall take effect immediately.

51

52 *Sponsor* STATEMENT

53

54 This bill would amend the "Local Public Contracts Law,"

1 P.L.1971, c.198 (C.40A:11-1 et seq.) to allow local contracting
2 units to enter into contracts for the collection and disposition of
3 recyclable material for periods of up to five years. Under
4 existing law, those contracts may be for a one year period only.

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9 Extends permissible duration of local government's recycling
10 contracts.

ASSEMBLY SOLID WASTE COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 834

STATE OF NEW JERSEY

DATED: JULY 20, 1992

The Assembly Solid Waste Committee favorably reports Senate Bill No. 834 [1R].

Senate Bill No. 834 (1R) would amend the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to allow local contracting units to enter into contracts for the collection and disposition of recyclable material for periods of up to five years. Under existing law, those contracts may be for a one year period only.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 834

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 1992

The Senate Environment Committee favorably reports Senate Bill No. 834 with committee amendments.

This bill would amend the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) to allow local contracting units to enter into contracts for the collection and disposition of recyclable material for periods of up to five years. Under existing law, those contracts may be for a one year period only.

The technical amendment would simplify the definition of "disposition" and delete the changes to the definition of "marketing" in the bill as introduced.