

40A:11-15

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 40A:11-15 (Public contracts---duration)

LAWS OF: 1991 **CHAPTER:** 356

Bill No: S2954

Sponsor(s): Girgenti

Date Introduced: October 4, 1990

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: No

Date of Passage: Assembly: December 2, 1991

Senate: January 24, 1991

Date of Approval: January 9, 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/dgw

1 **AN ACT** concerning the length 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. Duration of certain contracts. All purchases, contracts or
9 agreements for the performing of work or the furnishing of
10 materials, supplies or services shall be made for a period not to
11 exceed 12 consecutive months, except that contracts or
12 agreements may be entered into for longer periods of time as
13 follows:

14 (1) Supplying of:

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

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

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

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

28 (3) The collection and disposal of garbage and refuse, and the
29 barging and disposal of sewage sludge, for any term not exceeding
30 in the aggregate, five years;

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

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

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

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

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

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

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

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

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

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

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

1 Director of the Division of Local Government Services of the
2 Department of Community Affairs;

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

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

43 (17) The provision of solid waste disposal services by a
44 resource recovery facility, the furnishing of products of a
45 resource recovery facility, the disposal of the solid waste
46 delivered for disposal which cannot be processed by a resource
47 recovery facility or the waste products resulting from the
48 operation of a resource recovery facility, including hazardous

1 waste and recovered metals and other materials for reuse, or the
2 design, financing, construction, operation or maintenance of a
3 resource recovery facility for a period not to exceed 40 years
4 when the contract is approved by the Division of Local
5 Government Services in the Department of Community Affairs,
6 the Board of Public Utilities, and the Department of
7 Environmental Protection; and when the facility is in
8 conformance with a solid waste management plan approved
9 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.). For the purposes
10 of this subsection, "resource recovery facility" means a solid
11 waste facility constructed and operated for the incineration of
12 solid waste for energy production and the recovery of metals and
13 other materials for reuse; or a mechanized composting facility,
14 or any other solid waste facility constructed or operated for the
15 collection, separation, recycling, and recovery of metals, glass,
16 paper, and other materials for reuse or for energy production;

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

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

1 property and appurtenances necessary for their operation;
2 (20) The supplying of materials or services for the purpose of
3 lighting public streets, for a term not to exceed five years,
4 provided that the rates, fares, tariffs or charges for the supplying
5 of electricity for that purpose are approved by the Board of
6 Public Utilities;

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

11 (22) Claims administration services, for any term not to
12 exceed three years.

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

36 The Division of Local Government Services shall adopt and
37 promulgate rules and regulations concerning the methods of
38 accounting for all contracts that do not coincide with the fiscal
39 year.

40 (cf: P.L.1989, c.159, s.2)

41 2. This act shall take effect immediately.

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STATEMENT

45

46 This bill would amend the "Local Public Contracts Law" to
47 allow for contracts of up to three years' duration for claims
48 administration services.

1 According to the Office of the Attorney General, claims
2 administration services are professional services and, therefore,
3 are limited to no more than 12 months' duration under current
4 law.

5 This bill would amend P.L.1971, c.198 (C.40A:11-15) to allow
6 for contracts of up to three years for claims administration
7 services.

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LOCAL BUDGET AND FINANCE

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Allows for public contracts for claims administration services for
up to 3 years' duration.

1 property and appurtenances necessary for their operation;

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3 lighting public streets, for a term not to exceed five years,
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5 of electricity for that purpose are approved by the Board of
6 Public Utilities;

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

11 (22) Claims administration services, for any term not to
12 exceed three years.

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

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37 promulgate rules and regulations concerning the methods of
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7 services.

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10 LOCAL BUDGET AND FINANCE

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12 Allows for public contracts for claims administration services for
13 up to 3 years' duration.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 2954

STATE OF NEW JERSEY

DATED: MARCH 18, 1991

The Assembly Municipal Government Committee reports favorably Senate Bill No. 2954.

Senate Bill No. 2954 would amend the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-15) to allow for contracts of up to three years' duration for claims administration services.

According to the Office of the Attorney General, claims administration services are professional services and, therefore, are limited under current law to no more than 12 months' duration.

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 2954

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1990

The Senate County and Municipal Government Committee reports favorably Senate Bill No. 2954.

Senate Bill No. 2954 would amend the "Local Public Contracts Law" to allow for contracts of up to three years' duration for claims administration services.

According to the Office of the Attorney General, claims administration services are professional services and, therefore, are limited to no more than 12 months' duration under current law.

This bill would amend P.L.1971, c.198 (C.40A:11-15) to allow for contracts of up to three years for claims administration services.