

40A: 11-16.2 to 40A: 11-16.4

LEGISLATIVE HISTORY CHECKLIST

(Local Public Contracts--
Amends)

HJSA 40A:11-16.2 to 40A:11-16.4

LAWS OF 1979

CHAPTER 464

Bill No. S3250

Sponsor(s) Bedell and Friedland

Date Introduced May 10, 1979

Committee: Assembly

Senate County and Municipal Government

Amended during passage XXX No Senate Committee Substitute enacted

Date of Passage: Assembly January 7, 1980

Senate January 3, 1980

Date of approval February 27, 1980

Following statements are attached if available:

Sponsor statement Yes XXX

Committee Statement: Assembly XXX No

Senate Yes XX

Fiscal Note XXX No

Veto message XXX No

Message on signing XXX No

Following were printed:

Reports XXX No

Hearings XXX No

9/1/78
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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3250

STATE OF NEW JERSEY

ADOPTED DECEMBER 6, 1979

By Senators BEDELL and FRIEDLAND

A SUPPLEMENT to the "Local Public Contracts Law," approved
June 9, 1971 (P. L. 1971, c. 198; C. 40A:11-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Any contract or agreement, the total price of which exceeds
2 \$100,000.00, entered into by a contracting unit involving the con-
3 struction, reconstruction, alteration, repair or maintenance of any
4 building, structure, facility or other improvement to real property,
5 shall provide for partial payments to be made at least once each
6 month as the work progresses, unless the contractor shall agree to
7 deposit bonds with the contracting unit pursuant to P. L. 1979,
8 c. 152 (C. 40A:11-16.1).

1 2. With respect to any contract or agreement entered into by a
2 contracting unit pursuant to section 1 of this act for which the
3 contractor shall agree to the withholding of payments pursuant to
4 P. L. 1979, c. 152 (C. 40A:11-16.1), 2% of the amount due on each
5 partial payment shall be withheld by the contracting unit pending
6 completion of the contract or agreement.

1 3. Any contract or agreement entered into by a contracting unit
2 pursuant to section 1 of this act may also provide for partial
3 payments at least once in each month with respect to all materials
4 placed along or upon the site, or stored at secured locations, which
5 are suitable for use in the execution of the contract or agreement,
6 if the person providing the materials furnishes releases of liens
7 for the materials at the time each estimate of work is submitted
8 for payment. The total of all the partial payments shall not exceed
9 the cost of the materials.

1 4. This act shall take effect 30 days after enactment, and shall
2 apply only to contracts or agreements entered into after the effec-
3 tive date of the act.

SENATE, No. 3250

STATE OF NEW JERSEY

INTRODUCED MAY 10, 1979

By Senators BEDELL and FRIEDLAND

Referred to Committee on County and Municipal Government

A SUPPLEMENT to the "Local Public Contracts Law," approved
June 9, 1971 (P. L. 1971, c. 198; C. 40A:11-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. A contract or agreement involving construction or maintenance
2 the cost or price of which is \$100,000.00 or more shall provide for
3 partial payments at least once each month as the work progresses.
4 Two percent of the amount due on each partial payment shall be
5 withheld by the contracting unit pending completion of the contract
6 or agreement. The contract or agreement may also provide for
7 partial payments at least once in each month on all materials
8 placed along or upon the site, or stored at secured locations, which
9 are suitable for the use and execution of the contract or agreement,
10 if the person providing the materials furnishes releases of liens
11 for the materials at the time each estimate of work is submitted
12 for payment. The total of all the partial payments shall not exceed
13 the cost of the materials.

1 2. This act shall take effect immediately.

STATEMENT

The objective of this bill is to ease the cash flow problems experienced by contractors on medium and large scale public construction or maintenance projects (\$100,000.00 and more) to the maximum degree consistent with the important public purposes of the "Local Public Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.). This objective is achieved in this bill requiring monthly "partial payments" on such contracts as work progresses, and by requiring that 2% of the amount due on each such partial payment shall be withheld by the contracting unit pending the completion of the project. In addition, this bill authorizes, but does

not require, partial payment for materials "which are suitable for the use and execution of the contract or agreement" under the condition that the contractor furnishes releases of liens for all such materials at the time each estimate of work is submitted for payment, and provided "that the total of all such partial payments shall not exceed the cost of the materials."

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO
COMMITTEE SUBSTITUTE FOR
SENATE, No. 3250

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1979

The purpose of this committee substitute is the same as that of the original bill: "to ease the cash flow problems experienced by contractors on medium and large scale public construction or maintenance projects (\$100,000.00 and more) to the maximum degree consistent with the important public purposes of the 'Local Public Contracts Law,' P. L. 1971, c. 198 (C. 40A:11-1 et seq.)."

The provisions of the committee substitute are essentially the same as the original bill in that it would:

1. Require local units to make partial payments to contractors whenever the total price of the contract or agreement exceeds \$100,000.00;
2. Provides that 2% of each partial payment shall be withheld by the local unit pending completion of the contract or agreement; and,
3. Provide that a contract or agreement may also provide for partial payments for materials at the site, or stored at secured locations, suitable for use in the execution of the contract or agreement.

The Senate committee understands that the provision for 2% withholding on partial payments by local units under this bill is the provision currently in effect for State contracts under regulation of the Division of Building and Construction of the Department of Treasury. The purpose of the bill in extending the provision to local units is to standardize this practice among governmental units of the State.

In addition to the provisions of the original bill, the Senate committee substitute would:

- a. Reconcile the provisions of this bill with those of P. L. 1979, c. 152 (C. 40A:11-6.1), which permits contractors to deposit negotiable bearer bonds with the contracting unit, rather than agreeing to the withholding of payments; and,
- b. Provide that the legislation shall take effect 30 days after enactment, but shall not apply to any contract entered into on or before such effective date.