

# 40A:11-16.6

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 67

**NJSA:** 40A:11-16.6 (Requires value engineering clause in specifications for certain construction contracts)

**BILL NO:** A2809 (Substituted for S297)

**SPONSOR(S):** Stender and Green

**DATE INTRODUCED:** May 13, 2004

**COMMITTEE:** **ASSEMBLY:** Housing and Local Government  
**SENATE**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** March 14, 2005

**SENATE:** March 14, 2005

**DATE OF APPROVAL:** April 7, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (3rd reprint enacted)

**A2809**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** Yes [6-17-2004](#)  
[6-21-2004](#)  
[10-25-2004](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

**S297**

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

IS 4/30/07

P.L. 2005, CHAPTER 67, *approved April 7, 2005*

Assembly, No. 2809 (*Third Reprint*)

1 AN ACT <sup>3</sup>[requiring a] authorizing<sup>3</sup> value engineering <sup>3</sup>[clause in the  
2 specifications for certain public contracts and amending] change  
3 orders<sup>3</sup> and supplementing P.L.1971, c.198 <sup>3</sup>(C.40A:11-1 et seq.)<sup>3</sup>.  
4

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

7  
8 <sup>3</sup>[1. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read  
9 as follows:

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

12 (1) "Contracting unit" means:

13 (a) Any county; or

14 (b) Any municipality; or

15 (c) Any board, commission, committee, authority or agency, which  
16 is not a State board, commission, committee, authority or agency, and  
17 which has administrative jurisdiction over any district other than a  
18 school district, project, or facility, included or operating in whole or  
19 in part, within the territorial boundaries of any county or municipality  
20 which exercises functions which are appropriate for the exercise by  
21 one or more units of local government, and which has statutory power  
22 to make purchases and enter into contracts awarded by a contracting  
23 agent for the provision or performance of goods or services.

24 The term shall not include a private firm that has entered into a  
25 contract with a public entity for the provision of water supply services  
26 pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

27 "Contracting unit" shall not include a private firm or public  
28 authority that has entered into a contract with a public entity for the  
29 provision of wastewater treatment services pursuant to P.L.1995,  
30 c.216 (C.58:27-19 et al.).

31 "Contracting unit" shall not include a duly incorporated nonprofit  
32 association that has entered into a contract with the governing body  
33 of a city of the first class for the provision of water supply services or  
34 wastewater treatment services pursuant to section 2 of P.L.2002, c.47  
35 (C.40A:11-5.1).

36 (2) "Governing body" means:

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

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> **Assembly floor amendments adopted June 17, 2004.**

<sup>2</sup> **Assembly floor amendments adopted June 21, 2004.**

<sup>3</sup> **Senate floor amendments adopted October 25, 2004.**

1 of, a county; or

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

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

7 (3) "Contracting agent" means the governing body of a contracting  
8 unit, or its authorized designee, which has the power to prepare the  
9 advertisements, to advertise for and receive bids and, as permitted by  
10 this act, to make awards for the contracting unit in connection with  
11 purchases, contracts or agreements.

12 (4) "Purchase" means a transaction, for a valuable consideration,  
13 creating or acquiring an interest in goods, services and property,  
14 except real property or any interest therein.

15 (5) (Deleted by amendment, P.L.1999, c.440.)

16 (6) "Professional services" means services rendered or performed  
17 by a person authorized by law to practice a recognized profession,  
18 whose practice is regulated by law, and the performance of which  
19 services requires knowledge of an advanced type in a field of learning  
20 acquired by a prolonged formal course of specialized instruction and  
21 study as distinguished from general academic instruction or  
22 apprenticeship and training. Professional services may also mean  
23 services rendered in the provision or performance of goods or services  
24 that are original and creative in character in a recognized field of  
25 artistic endeavor.

26 (7) "Extraordinary unspecifiable services" means services which are  
27 specialized and qualitative in nature requiring expertise, extensive  
28 training and proven reputation in the field of endeavor.

29 (8) (Deleted by amendment, P.L.1999, c.440.)

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

33 (10) "Homemaker--home health services" means at home personal  
34 care and home management provided to an individual or members of  
35 the individual's family who reside with the individual, or both,  
36 necessitated by the individual's illness or incapacity.  
37 "Homemaker--home health services" includes, but is not limited to, the  
38 services of a trained homemaker.

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

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

1 (13) "Marketing" means the sale, disposition, assignment, or  
2 placement of designated recyclable materials with, or the granting of  
3 a concession to, a reseller, processor, materials recovery facility, or  
4 end-user of recyclable material, in accordance with a district solid  
5 waste management plan adopted pursuant to P.L.1970, c.39  
6 (C.13:1E-1 et seq.) and shall not include the collection of such  
7 recyclable material when collected through a system of routes by local  
8 government unit employees or under a contract administered by a local  
9 government unit.

10 (14) "Municipal solid waste" means, as appropriate to the  
11 circumstances, all residential, commercial and institutional solid waste  
12 generated within the boundaries of a municipality; or the formal  
13 collection of such solid wastes or recyclable material in any  
14 combination thereof when collected through a system of routes by  
15 local government unit employees or under a contract administered by  
16 a local government unit.

17 (15) "Distribution" (when used in relation to electricity) means the  
18 process of conveying electricity from a contracting unit that is a  
19 generator of electricity or a wholesale purchaser of electricity to retail  
20 customers or other end users of electricity.

21 (16) "Transmission" (when used in relation to electricity) means  
22 the conveyance of electricity from its point of generation to a  
23 contracting unit that purchases it on a wholesale basis for resale.

24 (17) "Disposition" means the transportation, placement, reuse, sale,  
25 donation, transfer or temporary storage of recyclable materials for all  
26 possible uses except for disposal as municipal solid waste.

27 (18) "Cooperative marketing" means the joint marketing by two or  
28 more contracting units of the source separated recyclable materials  
29 designated in a district recycling plan required pursuant to section 3 of  
30 P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative  
31 agreement entered into by the participating contracting units thereof.

32 (19) "Aggregate" means the sums expended or to be expended for  
33 the provision or performance of any goods or services in connection  
34 with the same immediate purpose or task, or the furnishing of similar  
35 goods or services, during the same contract year through a contract  
36 awarded by a contracting agent.

37 (20) "Bid threshold" means the dollar amount set in section 3 of  
38 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall  
39 advertise for and receive sealed bids in accordance with procedures set  
40 forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

41 (21) "Contract" means any agreement, including but not limited to  
42 a purchase order or a formal agreement, which is a legally binding  
43 relationship enforceable by law, between a vendor who agrees to  
44 provide or perform goods or services and a contracting unit which  
45 agrees to compensate a vendor, as defined by and subject to the terms  
46 and conditions of the agreement. A contract also may include an

1 arrangement whereby a vendor compensates a contracting unit for the  
2 vendor's right to perform a service, such as, but not limited to,  
3 operating a concession.

4 (22) "Contract year" means the period of 12 consecutive months  
5 following the award of a contract.

6 (23) "Competitive contracting" means the method described in  
7 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru  
8 40A:11-4.5) of contracting for specialized goods and services in which  
9 formal proposals are solicited from vendors; formal proposals are  
10 evaluated by the purchasing agent or counsel or administrator; and the  
11 governing body awards a contract to a vendor or vendors from among  
12 the formal proposals received.

13 (24) "Goods and services" or "goods or services" means any work,  
14 labor, commodities, equipment, materials, or supplies of any tangible  
15 or intangible nature, except real property or any interest therein,  
16 provided or performed through a contract awarded by a contracting  
17 agent, including goods and property subject to N.J.S.12A:2-101 et  
18 seq.

19 (25) "Library and educational goods and services" means  
20 textbooks, copyrighted materials, student produced publications and  
21 services incidental thereto, including but not limited to books,  
22 periodicals, newspapers, documents, pamphlets, photographs,  
23 reproductions, microfilms, pictorial or graphic works, musical scores,  
24 maps, charts, globes, sound recordings, slides, films, filmstrips, video  
25 and magnetic tapes, other printed or published matter and audiovisual  
26 and other materials of a similar nature, necessary binding or rebinding  
27 of library materials, and specialized computer software used as a  
28 supplement or in lieu of textbooks or reference material.

29 (26) "Lowest price" means the least possible amount that meets all  
30 requirements of the request of a contracting agent.

31 (27) "Lowest responsible bidder or vendor" means the bidder or  
32 vendor: (a) whose response to a request for bids offers the lowest  
33 price and is responsive; and (b) who is responsible.

34 (28) "Official newspaper" means any newspaper designated by the  
35 contracting unit pursuant to R.S.35:1-1 et seq.

36 (29) "Purchase order" means a document issued by the contracting  
37 agent authorizing a purchase transaction with a vendor to provide or  
38 perform goods or services to the contracting unit, which, when  
39 fulfilled in accordance with the terms and conditions of a request of a  
40 contracting agent and other provisions and procedures that may be  
41 established by the contracting unit, will result in payment by the  
42 contracting unit.

43 (30) "Purchasing agent" means the individual duly assigned the  
44 authority, responsibility, and accountability for the purchasing activity  
45 of the contracting unit, and who has such duties as are defined by an  
46 authority appropriate to the form and structure of the contracting unit,  
47 and P.L.1971, c.198 (C.40A:11-1 et seq.).

1 (31) "Quotation" means the response to a formal or informal  
2 request made by a contracting agent by a vendor for provision or  
3 performance of goods or services, when the aggregate cost is less than  
4 the bid threshold. Quotations may be in writing, or taken verbally if  
5 a record is kept by the contracting agent.

6 (32) "Responsible" means able to complete the contract in  
7 accordance with its requirements, including but not limited to  
8 requirements pertaining to experience, moral integrity, operating  
9 capacity, financial capacity, credit, and workforce, equipment, and  
10 facilities availability.

11 (33) "Responsive" means conforming in all material respects to the  
12 terms and conditions, specifications, legal requirements, and other  
13 provisions of the request.

14 (34) "Public works" means building, altering, repairing, improving  
15 or demolishing any public structure or facility constructed or acquired  
16 by a contracting unit to house local government functions or provide  
17 water, waste disposal, power, transportation, and other public  
18 infrastructures.

19 (35) "Director" means the Director of the Division of Local  
20 Government Services in the Department of Community Affairs.

21 (36) "Administrator" means a municipal administrator appointed  
22 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business  
23 administrator, a municipal manager or a municipal administrator  
24 appointed pursuant to the "Optional Municipal Charter Law,"  
25 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed  
26 pursuant to "the municipal manager form of government law,"  
27 R.S.40:79-1 et seq.; or the person holding responsibility for the overall  
28 operations of an authority that falls under the "Local Authorities Fiscal  
29 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

30 (37) "Concession" means the granting of a license or right to act  
31 for or on behalf of the contracting unit, or to provide a service  
32 requiring the approval or endorsement of the contracting unit, and  
33 which may or may not involve a payment or exchange, or provision of  
34 services by or to the contracting unit.

35 (38) "Index rate" means the rate of annual percentage increase,  
36 rounded to the nearest half-percent, in the Implicit Price Deflator for  
37 State and Local Government Purchases of Goods and Services,  
38 computed and published quarterly by the United States Department of  
39 Commerce, Bureau of Economic Analysis.

40 (39) "Proprietary" means goods or services of a specialized nature,  
41 that may be made or marketed by a person or persons having the  
42 exclusive right to make or sell them, when the need for such goods or  
43 services has been certified in writing by the governing body of the  
44 contracting unit to be necessary for the conduct of its affairs.

45 (40) "Service or services" means the performance of work, or the  
46 furnishing of labor, time, or effort, or any combination thereof, not  
47 involving or connected to the delivery or ownership of a specified end

1 product or goods or a manufacturing process. Service or services may  
2 also include an arrangement in which a vendor compensates the  
3 contracting unit for the vendor's right to operate a concession.

4 (41) "Value engineering analysis" means an analysis by a contractor  
5 of the functions, systems, equipment, facilities, services, supplies, and  
6 any other item needed for the performance of a contract for the  
7 purpose of achieving the essential functions of the contract at the  
8 lowest life-cycle cost consistent with required performance, reliability,  
9 quality, and safety.

10 (42) "Value engineering proposal" means a cost reduction proposal  
11 that results in savings to the contracting unit based upon a value  
12 engineering analysis, without impairing any of the essential functions  
13 or characteristics of the project or any portion of the work involved.  
14 (cf: P.L.2002, c.47, s.7)]<sup>3</sup>

15  
16 <sup>3</sup>[2. (New section) All contract specifications and bid proposal  
17 documents for the erection, alteration, or repair of a <sup>1</sup>[building,]<sup>1</sup>  
18 structure or other improvement to real property, <sup>1</sup>other than the  
19 construction, reconstruction, demolition, or renovation of a public  
20 building,<sup>1</sup> when the total price of the contract equals or exceeds  
21 \$2,000,000, shall include a value engineering clause stating that after  
22 the contract is awarded, the contractor may submit a value engineering  
23 proposal for consideration by the contracting unit. <sup>1</sup>The contractor  
24 shall be liable for all reasonable costs associated with the technical  
25 evaluation and engineering review of the value engineering proposal  
26 by the public entity.<sup>1</sup> The contracting unit shall have the sole  
27 discretion to approve or disapprove a value engineering proposal. If  
28 a value engineering proposal is approved by the contracting unit, the  
29 contractor and the contracting unit shall share equally in any cost  
30 savings generated on the contract as a result of the proposal. The  
31 contractor shall have no claim against the contracting unit as a result  
32 of the contracting unit's disapproval of a value engineering proposal.  
33 A contracting unit may utilize value engineering procedures  
34 established by the New Jersey Department of Transportation or any  
35 other appropriate State agency. <sup>2</sup> A contracting unit may also develop  
36 value engineering procedures based on those established by the New  
37 Jersey Department of Transportation or any other appropriate State  
38 agency.<sup>2</sup>]<sup>3</sup>

39  
40 <sup>3</sup>1. a. For the purpose of this act:

41 "Construction" means the construction, reconstruction, demolition,  
42 erection, alteration, or repair of a structure or other improvement to  
43 real property, other than the construction, reconstruction, demolition,  
44 or renovation of a public building.

45 "Value engineering construction change order" means a change  
46 order that results in cost reductions to a project or any portion of the  
47 work from the original bid specifications after a construction contract



1 is awarded.

2 "Value engineering construction proposal" means a cost reduction  
3 proposal based on analysis by a contractor of the functions, systems,  
4 equipment, facilities, services, supplies, means and methods of  
5 construction, and any other item needed for the completion of the  
6 contract consistent with the required performance, quality, reliability,  
7 and safety.

8 b. All construction contracts issued by a contracting unit when the  
9 total price of the originally awarded contract equals or exceeds  
10 \$5,000,000, shall allow for value engineering construction change  
11 orders to be approved after the award of the contract.

12 c. Value engineering construction change orders shall be subject to  
13 the following provisions:

14 (1) Value engineering construction change orders shall not be used  
15 to impair any of the essential functions, or characteristics of the  
16 project, or any portion of the work involved.

17 (2) The contractor shall submit a value engineering construction  
18 proposal that completely describes the changes to the original  
19 specifications or proposal, impact on other project components,  
20 advantages and disadvantages of the proposed change, cost estimates  
21 and calculations on which they are based, any impact on the contract  
22 time schedule, and any other relevant information that the contracting  
23 unit may require in order to review the value engineering construction  
24 proposal. The contractor's cost for developing the value engineering  
25 construction proposal shall not be eligible for reimbursement by the  
26 contracting unit.

27 (3) The contractor shall be liable for all reasonable costs incurred  
28 by the contracting unit for the technical evaluation and engineering  
29 review of a value engineering construction proposal presented by the  
30 contractor.

31 (4) The contracting unit's engineer shall prepare a written report for  
32 the governing body that shall evaluate the value engineering  
33 construction proposal, make a recommendation on whether or not it  
34 should be accepted, rejected, or modified, and state to the contracting  
35 unit and contractor the amount of any projected cost savings.

36 (5) The proposal shall not be approved unless the engineer reports  
37 to the governing body that the proposal appears consistent with the  
38 required performance, quality, reliability, and safety of the project and  
39 does not impair any of the essential functions, or characteristics of the  
40 project, or any portion of the work involved.

41 (6) The contracting unit shall have the sole discretion to approve or  
42 disapprove a value engineering construction proposal.

43 (7) The contractor and the contracting unit shall equally share in the  
44 cost savings generated on the contract as a result of an approved value  
45 engineering construction change order. Once the project is completed,  
46 the contracting unit's engineer shall verify the cost savings to reflect  
47 the actual cost of the work, and such verified cost saving shall be the

1 basis for the savings shared equally with the contractor.

2 (8) The contractor shall have no claim against the contracting unit  
3 as a result of the contracting unit's disapproval of a value engineering  
4 construction proposal.

5 (9) A contracting unit shall include in its bid specifications and  
6 contract documents procedures to regulate the value engineering  
7 construction change order process. Such procedures shall be based on  
8 procedures established by the New Jersey Department of  
9 Transportation, or any other appropriate State agency, or rules  
10 adopted by the director of the Division of Local Government Services.

11 d. This section shall not invalidate or impair rules regarding change  
12 orders adopted by the director of the Division of Local Government  
13 Services prior to the effective date of this act. Notwithstanding any  
14 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
15 director may adopt, immediately upon filing with the Office of  
16 Administrative Law, such rules and regulations as the director deems  
17 necessary to implement the provisions of P.L. , c. (C. )  
18 (pending before the Legislature as this bill) which shall be effective for  
19 a period not to exceed 12 months. The regulations shall thereafter be  
20 amended, adopted or readopted in accordance with the provisions of  
21 P.L.1968, c.410 (C.52:14B-1 et seq.).<sup>3</sup>

22

23 <sup>3</sup>[3.] 2.<sup>3</sup> This act shall take effect <sup>3</sup>[immediately] on the first day  
24 of the fourth month next following enactment<sup>3</sup>.

25

26

27

28

29 Requires value engineering clause in specifications for certain  
30 construction contracts under Local Public Contracts Law.

# ASSEMBLY, No. 2809

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 13, 2004

**Sponsored by:**

**Assemblywoman LINDA STENDER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

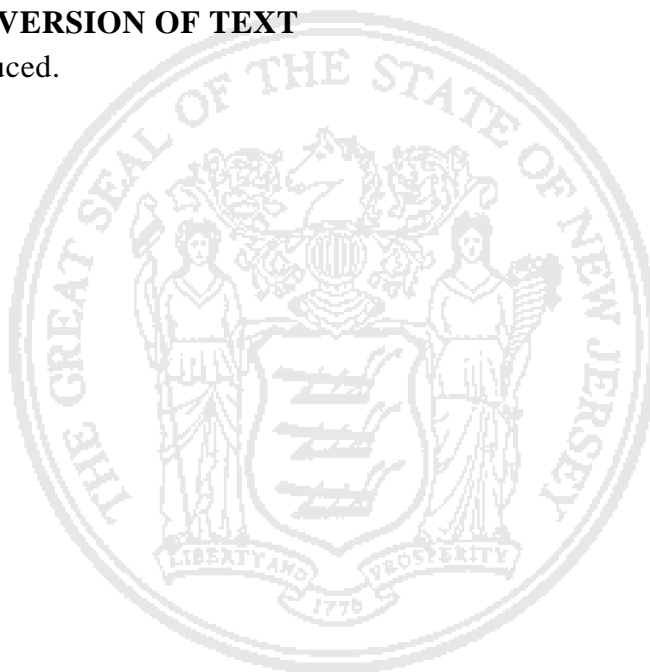
**Assemblyman Eagler**

**SYNOPSIS**

Requires value engineering clause in specifications for certain construction contracts under Local Public Contracts Law.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/15/2004)**

A2809 STENDER, GREEN

2

1 AN ACT requiring a value engineering clause in the specifications for  
2 certain public contracts and amending and supplementing P.L.1971,  
3 c.198.

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

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

10 2. As used herein the following words have the following  
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19 in part, within the territorial boundaries of any county or municipality  
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25 contract with a public entity for the provision of water supply services  
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37 (a) The governing body of the county, when the purchase is to be  
38 made or the contract or agreement is to be entered into by, or in behalf  
39 of, a county; or

40 (b) The governing body of the municipality, when the purchase is  
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42 behalf of, a municipality; or

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**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

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13 whose practice is regulated by law, and the performance of which  
14 services requires knowledge of an advanced type in a field of learning  
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27 agreement with a contracting unit.

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6 circumstances, all residential, commercial and institutional solid waste  
7 generated within the boundaries of a municipality; or the formal  
8 collection of such solid wastes or recyclable material in any  
9 combination thereof when collected through a system of routes by  
10 local government unit employees or under a contract administered by  
11 a local government unit.

12 (15) "Distribution" (when used in relation to electricity) means the  
13 process of conveying electricity from a contracting unit that is a  
14 generator of electricity or a wholesale purchaser of electricity to retail  
15 customers or other end users of electricity.

16 (16) "Transmission" (when used in relation to electricity) means  
17 the conveyance of electricity from its point of generation to a  
18 contracting unit that purchases it on a wholesale basis for resale.

19 (17) "Disposition" means the transportation, placement, reuse, sale,  
20 donation, transfer or temporary storage of recyclable materials for all  
21 possible uses except for disposal as municipal solid waste.

22 (18) "Cooperative marketing" means the joint marketing by two or  
23 more contracting units of the source separated recyclable materials  
24 designated in a district recycling plan required pursuant to section 3 of  
25 P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative  
26 agreement entered into by the participating contracting units thereof.

27 (19) "Aggregate" means the sums expended or to be expended for  
28 the provision or performance of any goods or services in connection  
29 with the same immediate purpose or task, or the furnishing of similar  
30 goods or services, during the same contract year through a contract  
31 awarded by a contracting agent.

32 (20) "Bid threshold" means the dollar amount set in section 3 of  
33 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall  
34 advertise for and receive sealed bids in accordance with procedures set  
35 forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

36 (21) "Contract" means any agreement, including but not limited to  
37 a purchase order or a formal agreement, which is a legally binding  
38 relationship enforceable by law, between a vendor who agrees to  
39 provide or perform goods or services and a contracting unit which  
40 agrees to compensate a vendor, as defined by and subject to the terms  
41 and conditions of the agreement. A contract also may include an  
42 arrangement whereby a vendor compensates a contracting unit for the  
43 vendor's right to perform a service, such as, but not limited to,  
44 operating a concession.

45 (22) "Contract year" means the period of 12 consecutive months  
46 following the award of a contract.

1 (23) "Competitive contracting" means the method described in  
2 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru  
3 40A:11-4.5) of contracting for specialized goods and services in which  
4 formal proposals are solicited from vendors; formal proposals are  
5 evaluated by the purchasing agent or counsel or administrator; and the  
6 governing body awards a contract to a vendor or vendors from among  
7 the formal proposals received.

8 (24) "Goods and services" or "goods or services" means any work,  
9 labor, commodities, equipment, materials, or supplies of any tangible  
10 or intangible nature, except real property or any interest therein,  
11 provided or performed through a contract awarded by a contracting  
12 agent, including goods and property subject to N.J.S.12A:2-101 et  
13 seq.

14 (25) "Library and educational goods and services" means  
15 textbooks, copyrighted materials, student produced publications and  
16 services incidental thereto, including but not limited to books,  
17 periodicals, newspapers, documents, pamphlets, photographs,  
18 reproductions, microfilms, pictorial or graphic works, musical scores,  
19 maps, charts, globes, sound recordings, slides, films, filmstrips, video  
20 and magnetic tapes, other printed or published matter and audiovisual  
21 and other materials of a similar nature, necessary binding or rebinding  
22 of library materials, and specialized computer software used as a  
23 supplement or in lieu of textbooks or reference material.

24 (26) "Lowest price" means the least possible amount that meets all  
25 requirements of the request of a contracting agent.

26 (27) "Lowest responsible bidder or vendor" means the bidder or  
27 vendor: (a) whose response to a request for bids offers the lowest  
28 price and is responsive; and (b) who is responsible.

29 (28) "Official newspaper" means any newspaper designated by the  
30 contracting unit pursuant to R.S.35:1-1 et seq.

31 (29) "Purchase order" means a document issued by the contracting  
32 agent authorizing a purchase transaction with a vendor to provide or  
33 perform goods or services to the contracting unit, which, when  
34 fulfilled in accordance with the terms and conditions of a request of a  
35 contracting agent and other provisions and procedures that may be  
36 established by the contracting unit, will result in payment by the  
37 contracting unit.

38 (30) "Purchasing agent" means the individual duly assigned the  
39 authority, responsibility, and accountability for the purchasing activity  
40 of the contracting unit, and who has such duties as are defined by an  
41 authority appropriate to the form and structure of the contracting unit,  
42 and P.L.1971, c.198 (C.40A:11-1 et seq.).

43 (31) "Quotation" means the response to a formal or informal  
44 request made by a contracting agent by a vendor for provision or  
45 performance of goods or services, when the aggregate cost is less than  
46 the bid threshold. Quotations may be in writing, or taken verbally if  
47 a record is kept by the contracting agent.

1 (32) "Responsible" means able to complete the contract in  
2 accordance with its requirements, including but not limited to  
3 requirements pertaining to experience, moral integrity, operating  
4 capacity, financial capacity, credit, and workforce, equipment, and  
5 facilities availability.

6 (33) "Responsive" means conforming in all material respects to the  
7 terms and conditions, specifications, legal requirements, and other  
8 provisions of the request.

9 (34) "Public works" means building, altering, repairing, improving  
10 or demolishing any public structure or facility constructed or acquired  
11 by a contracting unit to house local government functions or provide  
12 water, waste disposal, power, transportation, and other public  
13 infrastructures.

14 (35) "Director" means the Director of the Division of Local  
15 Government Services in the Department of Community Affairs.

16 (36) "Administrator" means a municipal administrator appointed  
17 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business  
18 administrator, a municipal manager or a municipal administrator  
19 appointed pursuant to the "Optional Municipal Charter Law,"  
20 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed  
21 pursuant to "the municipal manager form of government law,"  
22 R.S.40:79-1 et seq.; or the person holding responsibility for the overall  
23 operations of an authority that falls under the "Local Authorities Fiscal  
24 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

25 (37) "Concession" means the granting of a license or right to act  
26 for or on behalf of the contracting unit, or to provide a service  
27 requiring the approval or endorsement of the contracting unit, and  
28 which may or may not involve a payment or exchange, or provision of  
29 services by or to the contracting unit.

30 (38) "Index rate" means the rate of annual percentage increase,  
31 rounded to the nearest half-percent, in the Implicit Price Deflator for  
32 State and Local Government Purchases of Goods and Services,  
33 computed and published quarterly by the United States Department of  
34 Commerce, Bureau of Economic Analysis.

35 (39) "Proprietary" means goods or services of a specialized nature,  
36 that may be made or marketed by a person or persons having the  
37 exclusive right to make or sell them, when the need for such goods or  
38 services has been certified in writing by the governing body of the  
39 contracting unit to be necessary for the conduct of its affairs.

40 (40) "Service or services" means the performance of work, or the  
41 furnishing of labor, time, or effort, or any combination thereof, not  
42 involving or connected to the delivery or ownership of a specified end  
43 product or goods or a manufacturing process. Service or services may  
44 also include an arrangement in which a vendor compensates the  
45 contracting unit for the vendor's right to operate a concession.





**A2809 STENDER, GREEN**

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1 for the purpose of achieving the essential functions of the contract at  
2 the lowest life-cycle cost consistent with required performance,  
3 reliability, quality, and safety. The contracting unit would have the  
4 sole discretion to approve or disapprove a value engineering proposal.  
5 If a value engineering proposal is approved by the contracting unit, the  
6 contractor and the contracting unit would share equally in any cost  
7 savings generated on the contract as a result of the proposal. The  
8 contractor would have no claim against the contracting unit as a result  
9 of the disapproval of a value engineering proposal. The bill authorizes  
10 a contracting unit to utilize value engineering procedures established  
11 by the New Jersey Department of Transportation or any other  
12 appropriate State agency.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2809**

**STATE OF NEW JERSEY**

DATED: MAY 27, 2004

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2809.

This bill requires that specifications and bid proposal documents for the erection, alteration or repair of a building, structure or other improvement to real property, when the total price of the contract equals or exceeds \$2,000,000, must include a value engineering clause stating that after the contract is awarded, the contractor may submit a value engineering proposal for consideration by the contracting unit. A value engineering proposal is a cost reduction proposal that results in savings to the contracting unit based upon a value engineering analysis, without impairing any of the essential functions or characteristics of the project or any portion of the work involved. A value engineering analysis is an analysis by a contractor of the functions, systems, equipment, facilities, services, supplies, and any other item needed for the performance of a contract for the purpose of achieving the essential functions of the contract at the lowest life-cycle cost consistent with required performance, reliability, quality, and safety. The contracting unit would have the sole discretion to approve or disapprove a value engineering proposal. If a value engineering proposal is approved by the contracting unit, the contractor and the contracting unit would share equally in any cost savings generated on the contract as a result of the proposal. The contractor would have no claim against the contracting unit as a result of the disapproval of a value engineering proposal. The bill authorizes a contracting unit to utilize value engineering procedures established by the New Jersey Department of Transportation or any other appropriate State agency.

**STATEMENT TO**  
**ASSEMBLY, No. 2809**

with Assembly Floor Amendments  
(Proposed By Assemblywoman STENDER)

ADOPTED: JUNE 17, 2004

This amendment would require the inclusion of a value engineering clause in contract specifications and bid proposal documents for the erection, alteration, or repair of a structure or other improvement to real property, other than the construction, reconstruction, demolition or renovation of a public building, when the total price of the contract equals or exceeds \$2,000,000.

The amendment also clarifies that if a contractor submits a value engineering proposal, then the contractor assumes all reasonable costs associated with the local unit's technical evaluation and engineering review of the value engineering proposal.

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 2809**

with Assembly Floor Amendments  
(Proposed By Assemblywoman STENDER)

ADOPTED: JUNE 21, 2004

These amendments, suggested by the Department of Transportation, would clarify that a contracting unit may develop its own value engineering procedures based on those established by the New Jersey Department of Transportation or any other appropriate State agency rather than utilizing the State's procedures in full.

STATEMENT TO  
[Second Reprint]  
**ASSEMBLY, No. 2809**

with Senate Floor Amendments  
(Proposed By Senator SARLO)

ADOPTED: OCTOBER 25, 2004

These floor amendments would require that construction contracts issued by a contracting unit under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), allow for value engineering construction change orders that could be approved after the award of the contract, when the total price of the originally awarded contract equals or exceeds \$5 million. These floor amendments increase the contract threshold amount in previous version of the bill from \$2 million to \$5 million and specifically set forth the following rules governing those change orders:

- ! Value engineering construction change orders shall not be used to impair any of the essential functions, or characteristics of the project, or any portion of the work involved.
- ! The contractor shall submit a value engineering construction proposal that completely describes the changes to the original specifications or proposal, impact on other project components, advantages and disadvantages of the proposed change, cost estimates and calculations on which they are based, any impact on the contract time schedule, and any other relevant information that the contracting unit may require in order to review the value engineering construction proposal. The contractor's cost for developing the value engineering construction proposal **shall not** be eligible for reimbursement by the contracting unit.
- ! The contractor shall be liable for all reasonable costs incurred by the contracting unit for the technical evaluation and engineering review of a value engineering construction proposal presented by the contractor.
- ! The contracting unit's engineer shall prepare a written report for the governing body that shall evaluate the value engineering construction proposal, make a recommendation on whether or not it should be accepted, rejected, or modified, and state to the contracting unit and contractor the amount of any projected cost savings.
- ! The proposal shall not be approved unless the engineer reports to the governing body that the proposal appears consistent with the required performance, quality, reliability, and safety of the project and does not impair any of the essential functions, or characteristics of the project, or any portion of the work involved.

- ! The contracting unit shall have the sole discretion to approve or disapprove a value engineering construction proposal.
- ! The contractor and the contracting unit shall equally share in the cost savings generated on the contract as a result of an approved value engineering construction change order. Once the project is completed, the contracting unit's engineer shall verify the cost savings to reflect the actual cost of the work, and such verified cost saving shall be the basis for the savings shared equally with the contractor.
- ! The contractor shall have no claim against the contracting unit as a result of the contracting unit's disapproval of a value engineering construction proposal.
- ! A contracting unit shall include in its bid specifications and contract documents procedures to regulate the value engineering construction change order process. Such procedures shall be based on procedures established by the New Jersey Department of Transportation, or any other appropriate State agency, or rules adopted by the director of the Division of Local Government Services.

# SENATE, No. 297

## STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Senator ANDREW R. CIESLA**

**District 10 (Monmouth and Ocean)**

**Senator PAUL SARLO**

**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Requires value engineering clause in specifications for certain construction contracts under Local Public Contracts Law.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 5/14/2004)**



1 AN ACT requiring a value engineering clause in the specifications for  
2 certain public contracts and amending and supplementing P.L.1971,  
3 c.198.

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

7  
8 1. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read  
9 as follows:

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

12 (1) "Contracting unit" means:

13 (a) Any county; or

14 (b) Any municipality; or

15 (c) Any board, commission, committee, authority or agency, which  
16 is not a State board, commission, committee, authority or agency, and  
17 which has administrative jurisdiction over any district other than a  
18 school district, project, or facility, included or operating in whole or  
19 in part, within the territorial boundaries of any county or municipality  
20 which exercises functions which are appropriate for the exercise by  
21 one or more units of local government, and which has statutory power  
22 to make purchases and enter into contracts awarded by a contracting  
23 agent for the provision or performance of goods or services.

24 The term shall not include a private firm that has entered into a  
25 contract with a public entity for the provision of water supply services  
26 pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

27 "Contracting unit" shall not include a private firm or public  
28 authority that has entered into a contract with a public entity for the  
29 provision of wastewater treatment services pursuant to P.L.1995,  
30 c.216 (C.58:27-19 et al.).

31 "Contracting unit" shall not include a duly incorporated nonprofit  
32 association that has entered into a contract with the governing body  
33 of a city of the first class for the provision of water supply services or  
34 wastewater treatment services pursuant to section 2 of P.L.2002, c.47  
35 (C.40A:11-5.1).

36 (2) "Governing body" means:

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

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

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

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 (3) "Contracting agent" means the governing body of a contracting  
2 unit, or its authorized designee, which has the power to prepare the  
3 advertisements, to advertise for and receive bids and, as permitted by  
4 this act, to make awards for the contracting unit in connection with  
5 purchases, contracts or agreements.

6 (4) "Purchase" means a transaction, for a valuable consideration,  
7 creating or acquiring an interest in goods, services and property,  
8 except real property or any interest therein.

9 (5) (Deleted by amendment, P.L.1999, c.440.)

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

20 (7) "Extraordinary unspecifiable services" means services which are  
21 specialized and qualitative in nature requiring expertise, extensive  
22 training and proven reputation in the field of endeavor.

23 (8) (Deleted by amendment, P.L.1999, c.440.)

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

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

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

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

41 (13) "Marketing" means the sale, disposition, assignment, or  
42 placement of designated recyclable materials with, or the granting of  
43 a concession to, a reseller, processor, materials recovery facility, or  
44 end-user of recyclable material, in accordance with a district solid  
45 waste management plan adopted pursuant to P.L.1970, c.39  
46 (C.13:1E-1 et seq.) and shall not include the collection of such

1 recyclable material when collected through a system of routes by local  
2 government unit employees or under a contract administered by a local  
3 government unit.

4 (14) "Municipal solid waste" means, as appropriate to the  
5 circumstances, all residential, commercial and institutional solid waste  
6 generated within the boundaries of a municipality; or the formal  
7 collection of such solid wastes or recyclable material in any  
8 combination thereof when collected through a system of routes by  
9 local government unit employees or under a contract administered by  
10 a local government unit.

11 (15) "Distribution" (when used in relation to electricity) means the  
12 process of conveying electricity from a contracting unit that is a  
13 generator of electricity or a wholesale purchaser of electricity to retail  
14 customers or other end users of electricity.

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16 the conveyance of electricity from its point of generation to a  
17 contracting unit that purchases it on a wholesale basis for resale.

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19 donation, transfer or temporary storage of recyclable materials for all  
20 possible uses except for disposal as municipal solid waste.

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22 more contracting units of the source separated recyclable materials  
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24 P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative  
25 agreement entered into by the participating contracting units thereof.

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27 the provision or performance of any goods or services in connection  
28 with the same immediate purpose or task, or the furnishing of similar  
29 goods or services, during the same contract year through a contract  
30 awarded by a contracting agent.

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32 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall  
33 advertise for and receive sealed bids in accordance with procedures set  
34 forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

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36 a purchase order or a formal agreement, which is a legally binding  
37 relationship enforceable by law, between a vendor who agrees to  
38 provide or perform goods or services and a contracting unit which  
39 agrees to compensate a vendor, as defined by and subject to the terms  
40 and conditions of the agreement. A contract also may include an  
41 arrangement whereby a vendor compensates a contracting unit for the  
42 vendor's right to perform a service, such as, but not limited to,  
43 operating a concession.

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11 provided or performed through a contract awarded by a contracting  
12 agent, including goods and property subject to N.J.S.12A:2-101 et  
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16 services incidental thereto, including but not limited to books,  
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18 reproductions, microfilms, pictorial or graphic works, musical scores,  
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12 water, waste disposal, power, transportation, and other public  
13 infrastructures.

14 (35) "Director" means the Director of the Division of Local  
15 Government Services in the Department of Community Affairs.

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19 appointed pursuant to the "Optional Municipal Charter Law,"  
20 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager appointed  
21 pursuant to "the municipal manager form of government law,"  
22 R.S.40:79-1 et seq.; or the person holding responsibility for the overall  
23 operations of an authority that falls under the "Local Authorities Fiscal  
24 Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

25 (37) "Concession" means the granting of a license or right to act  
26 for or on behalf of the contracting unit, or to provide a service  
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28 which may or may not involve a payment or exchange, or provision of  
29 services by or to the contracting unit.

30 (38) "Index rate" means the rate of annual percentage increase,  
31 rounded to the nearest half-percent, in the Implicit Price Deflator for  
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37 exclusive right to make or sell them, when the need for such goods or  
38 services has been certified in writing by the governing body of the  
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40 (40) "Service or services" means the performance of work, or the  
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42 involving or connected to the delivery or ownership of a specified end  
43 product or goods or a manufacturing process. Service or services may  
44 also include an arrangement in which a vendor compensates the  
45 contracting unit for the vendor's right to operate a concession.



**S297 CIESLA, SARLO**

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1 for the purpose of achieving the essential functions of the contract at  
2 the lowest life-cycle cost consistent with required performance,  
3 reliability, quality, and safety. The contracting unit would have the  
4 sole discretion to approve or disapprove a value engineering proposal.  
5 If a value engineering proposal is approved by the contracting unit, the  
6 contractor and the contracting unit would share equally in any cost  
7 savings generated on the contract as a result of the proposal. The  
8 contractor would have no claim against the contracting unit as a result  
9 of the disapproval of a value engineering proposal. The bill authorizes  
10 a contracting unit to utilize value engineering procedures established  
11 by the New Jersey Department of Transportation or any other  
12 appropriate State agency.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 297**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 21, 2004

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 297.

As amended by the committee, this bill would require that specifications and bid proposal documents for the erection, alteration, or repair of a structure or other improvement to real property, other than the construction, reconstruction, demolition, or renovation of a public building, when the total price of the contract equals or exceeds \$2,000,000, must include a value engineering clause stating that after the contract is awarded, the contractor may submit a value engineering proposal for consideration by the contracting unit. A value engineering proposal is a cost reduction proposal based upon a value engineering analysis that could result in savings to the contracting unit without impairing any of the essential functions or characteristics of the project or any portion of the work involved. A value engineering analysis is an analysis by a contractor of the functions, systems, equipment, facilities, services, supplies, and any other item needed for the performance of a contract for the purpose of achieving the essential functions of the contract at the lowest life-cycle cost consistent with required performance, reliability, quality, and safety. The costs of reviewing a value engineering proposal would be borne by the contractor.

The contracting unit would have the sole discretion to approve or disapprove a value engineering proposal. If a value engineering proposal is approved by the contracting unit, the contractor and the contracting unit would share equally in any cost savings generated on the contract as a result of the proposal. The contractor would have no claim against the contracting unit as a result of the disapproval of a value engineering proposal. The bill, as amended, authorizes a contracting unit to utilize value engineering procedures established by the New Jersey Department of Transportation (DOT) or any other appropriate State agency, or to develop their own procedures based upon those established by DOT or a State agency.

The committee amended the bill to:

- \* limit applicability of the bill to construction projects that do not



involve the construction, reconstruction, demolition, or renovation of a public building;

- \* ensure that the costs of reviewing a value engineering proposal would be borne by the contractor; and
- \* clarify that a contracting unit may develop its own value engineering procedures based on those established by the New Jersey Department of Transportation or any other appropriate State agency rather than utilizing the State's procedures in full.

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

# STATEMENT TO

[First Reprint]

## **SENATE, No. 297**

with Senate Floor Amendments  
(Proposed By Senator SARLO)

ADOPTED: OCTOBER 25, 2004

These floor amendments would require that construction contracts issued by a contracting unit under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), allow for value engineering construction change orders that could be approved after the award of the contract, when the total price of the originally awarded contract equals or exceeds \$5 million. These floor amendments increase the contract threshold amount in previous version of the bill from \$2 million to \$5 million and specifically set forth the following rules governing those change orders:

- ! Value engineering construction change orders shall not be used to impair any of the essential functions, or characteristics of the project, or any portion of the work involved.
- ! The contractor shall submit a value engineering construction proposal that completely describes the changes to the original specifications or proposal, impact on other project components, advantages and disadvantages of the proposed change, cost estimates and calculations on which they are based, any impact on the contract time schedule, and any other relevant information that the contracting unit may require in order to review the value engineering construction proposal. The contractor's cost for developing the value engineering construction proposal **shall not** be eligible for reimbursement by the contracting unit.
- ! The contractor shall be liable for all reasonable costs incurred by the contracting unit for the technical evaluation and engineering review of a value engineering construction proposal presented by the contractor.
- ! The contracting unit's engineer shall prepare a written report for the governing body that shall evaluate the value engineering construction proposal, make a recommendation on whether or not it should be accepted, rejected, or modified, and state to the contracting unit and contractor the amount of any projected cost savings.
- ! The proposal shall not be approved unless the engineer reports to the governing body that the proposal appears consistent with the required performance, quality, reliability, and safety of the project and does not impair any of the essential functions, or characteristics of the project, or any portion of the work involved.

- ! The contracting unit shall have the sole discretion to approve or disapprove a value engineering construction proposal.
- ! The contractor and the contracting unit shall equally share in the cost savings generated on the contract as a result of an approved value engineering construction change order. Once the project is completed, the contracting unit's engineer shall verify the cost savings to reflect the actual cost of the work, and such verified cost saving shall be the basis for the savings shared equally with the contractor.
- ! The contractor shall have no claim against the contracting unit as a result of the contracting unit's disapproval of a value engineering construction proposal.
- ! A contracting unit shall include in its bid specifications and contract documents procedures to regulate the value engineering construction change order process. Such procedures shall be based on procedures established by the New Jersey Department of Transportation, or any other appropriate State agency, or rules adopted by the director of the Division of Local Government Services.