

ASSEMBLY, No. 4959

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED MAY 7, 2026

Sponsored by:

Assemblywoman LISA SWAIN

District 38 (Bergen)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Co-Sponsored by:

**Assemblyman Kearney, Assemblywoman Kane and Assemblyman
Angelozzi**

SYNOPSIS

“Affordable Power Purchase Agreements Extension Act”; concerns extension of certain public entity contracts related to energy conservation and renewable energy production.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/18/2026)

1 AN ACT concerning certain public contracts, designated as the
2 “Affordable Power Purchase Agreements Extension Act,” and
3 amending various parts of the statutory law.

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

7
8 1. N.J.S.18A:18A-5 is amended to read as follows:

9 18A:18A-5. Exceptions to requirement for advertising. Any
10 contract, the amount of which exceeds the bid threshold, shall be
11 negotiated and awarded by the board of education by resolution at a
12 public meeting without public advertising for bids and bidding
13 therefor if:

14 a. The subject matter thereof consists of:

15 (1) Professional services. The board of education shall in each
16 instance state supporting reasons for its action in the resolution
17 awarding each contract and shall forthwith cause to be printed once,
18 in an official newspaper, a brief notice stating the nature, duration,
19 service, and amount of the contract and that the resolution and
20 contract are on file and available for public inspection in the office
21 of the board of education;

22 (2) Extraordinary unspecifiable services which cannot
23 reasonably be described by written specifications. The application
24 of this exception as to extraordinary unspecifiable services shall be
25 construed narrowly in favor of open competitive bidding where
26 possible and the Director of the Division of Local Government
27 Services in the Department of Community Affairs is authorized to
28 establish rules and regulations after consultation with the
29 Commissioner of Education limiting its use in accordance with the
30 intention herein expressed; and the board of education shall in each
31 instance state supporting reasons for its action in the resolution
32 awarding the contract for extraordinary unspecifiable services and
33 shall forthwith cause to be printed, in the manner set forth in
34 paragraph (1) of this subsection, a brief notice of the award of such
35 contract;

36 (3) The doing of any work by employees of the board of
37 education;

38 (4) The printing of all legal notices and legal briefs, records, and
39 appendices to be used in any legal proceeding in which the board of
40 education may be a party;

41 (5) Library and educational goods and services;

42 (6) Food supplies, including food supplies for home economics
43 classes, when purchased pursuant to rules and regulations of the
44 State board and in accordance with the provisions of
45 N.J.S.18A:18A-6;

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 (7) The supplying of any product or the rendering of any service
2 by a public utility, which is subject to the jurisdiction of the Board
3 of Public Utilities, in accordance with the tariffs and schedules of
4 charges made, charged and exacted, filed with said board;
- 5 (8) The printing of bonds and documents necessary to the
6 issuance and sale thereof by a board of education;
- 7 (9) Equipment repair service if in the nature of an extraordinary
8 unspecifiable service and necessary parts furnished in connection
9 with such services, which exception shall be in accordance with the
10 requirements for extraordinary unspecifiable services;
- 11 (10) Insurance, including the purchase of insurance coverage
12 and consultant services, which exception shall be in accordance
13 with the requirements for extraordinary unspecifiable services;
- 14 (11) Publishing of legal notices in newspapers as required by
15 law;
- 16 (12) The acquisition of artifacts or other items of unique
17 intrinsic, artistic or historic character;
- 18 (13) Those goods and services necessary or required to prepare
19 and conduct an election;
- 20 (14) (Deleted by amendment, P.L.1999, c.440【.】)
- 21 (15) (Deleted by amendment, P.L.1999, c.270)【.】
- 22 (16) (Deleted by amendment, P.L.1999, c.440【.】)
- 23 (17) The doing of any work by persons with disabilities
24 employed by a sheltered workshop;
- 25 (18) Expenses for travel and conferences;
- 26 (19) The provision or performance of goods or services for the
27 support or maintenance of proprietary computer hardware and
28 software, except that this provision shall not be utilized to acquire
29 or upgrade non-proprietary hardware or acquire or update non-
30 proprietary software;
- 31 (20) Purchases of goods and services at rates set by the
32 Universal Service Fund administered by the Federal
33 Communications Commission;
- 34 (21) Goods and services paid with funds that: are raised by or
35 collected from students to support the purchase of student-oriented
36 items or materials, such as yearbooks, class rings, and a class gift;
37 and are deposited in school or student activity accounts; and require
38 no budget appropriation from the board of education;
- 39 (22) Food services provided by food service management
40 companies pursuant to procedures established by the New Jersey
41 Department of Agriculture, Bureau of Child Nutrition Programs;
- 42 (23) Vending machines providing food or drink; **【or】**
- 43 (24) Preschool education services provided by a licensed
44 childcare provider or Head Start program and supported by
45 preschool education aid pursuant to section 12 of P.L.2007, c.260
46 (C.18A:7F-54); or
- 47 (25) The extension of the term of a renewable energy contract,
48 pursuant to subsection o. of N.J.S.18A:18A-42.

1 b. It is to be made or entered into with the United States of
2 America, the State of New Jersey, county, or municipality or any
3 board, body, officer, agency, authority, or board of education or any
4 other state or subdivision thereof.

5 c. Bids have been advertised pursuant to N.J.S.18A:18A-4 on
6 two occasions and (1) no bids have been received on both occasions
7 in response to the advertisement, or (2) the board of education has
8 rejected such bids on two occasions because it has determined that
9 they are not reasonable as to price, on the basis of cost estimates
10 prepared for or by the board of education prior to the advertising
11 therefor, or have not been independently arrived at in open
12 competition, or (3) on one occasion no bids were received pursuant
13 to (1) and on one occasion all bids were rejected pursuant to (2), in
14 whatever sequence; any such contract may then be negotiated and
15 may be awarded upon adoption of a resolution by a two-thirds
16 affirmative vote of the authorized membership of the board of
17 education authorizing such a contract, provided, however, that:

18 (a) A reasonable effort is first made by the board of education to
19 determine that the same or equivalent goods or services, at a cost
20 which is lower than the negotiated price, are not available from an
21 agency or authority of the United States, the State of New Jersey or
22 of the county in which the board of education is located, or any
23 municipality in close proximity to the board of education;

24 (b) The terms, conditions, restrictions, and specifications set
25 forth in the negotiated contract are not substantially different from
26 those which were the subject of competitive bidding pursuant to
27 N.J.S.18A:18A-4; and

28 (c) Any minor amendment or modification of any of the terms,
29 conditions, restrictions, and specifications which were the subject of
30 competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in
31 the resolution awarding the contract, provided further, however,
32 that if on the second occasion the bids received are rejected as
33 unreasonable as to price, the board of education shall notify each
34 responsible bidder submitting bids on the second occasion of its
35 intention to negotiate and afford each bidder a reasonable
36 opportunity to negotiate, but the board of education shall not award
37 such contract unless the negotiated price is lower than the lowest
38 rejected bid price submitted on the second occasion by a
39 responsible bidder, is the lowest negotiated price offered by any
40 responsible vendor, and is a reasonable price for such goods or
41 services.

42 d. Whenever a board of education shall determine that a bid
43 was not arrived at independently in open competition pursuant to
44 paragraph (2) of subsection c. of this section, it shall thereupon
45 notify the county prosecutor of the county in which the board of
46 education is located and the Attorney General of the facts upon
47 which its determination is based and when appropriate, it may
48 institute appropriate proceedings in any State or federal court of

1 competent jurisdiction for a violation of any State or federal
2 antitrust law or laws relating to the unlawful restraint of trade.

3 e. The board of education has solicited and received at least
4 three quotations on materials, supplies, or equipment for which a
5 State contract has been issued pursuant to N.J.S.18A:18A-10, and
6 the lowest responsible quotation is at least 10 percent less than the
7 price the board would be charged for the identical materials,
8 supplies, or equipment, in the same quantities, under the State
9 contract. Any such contract or agreement entered into pursuant to
10 subsection d. or subsection e. may be made, negotiated, or awarded
11 only upon adoption of a resolution by the affirmative vote of two-
12 thirds of the full membership of the board of education at a meeting
13 thereof authorizing such a contract or agreement. The purchase
14 order relating to any such contract shall include a notation that the
15 material, supplies, or equipment was purchased at least 10【%】
16 percent below the State contract price. The board of education shall
17 make available to the Director of the Division of Local Government
18 Services in the Department of Community Affairs, upon request,
19 any documents relating to the solicitation and award of the contract,
20 including, but not limited to, quotations, requests for quotations,
21 and resolutions.

22 (cf: P.L.2025, c.101, s.1)

23

24 2. N.J.S.18A:18A-42 is amended to read as follows:

25 18A:18A-42. All contracts for the provision or performance of
26 goods or services shall be awarded for a period not to exceed 24
27 consecutive months, except that contracts for professional services
28 pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall
29 be awarded for a period not to exceed 12 consecutive months. Any
30 board of education may award a contract for longer periods of time
31 as follows:

32 a. Supplying of:

33 (1) Fuel for heating purposes, for any term not exceeding in the
34 aggregate, three years;

35 (2) Fuel or oil for use of automobiles, autobuses, motor vehicles
36 or equipment, for any term not exceeding in the aggregate, three
37 years;

38 (3) Thermal energy produced by a cogeneration facility, for use
39 for heating or air conditioning or both, for any term not exceeding
40 40 years, when the contract is approved by the Board of Public
41 Utilities. For the purposes of this paragraph, "cogeneration" means
42 the simultaneous production in one facility of electric power and
43 other forms of useful energy such as heating or process steam; or

44 b. Plowing and removal of snow and ice, for any term not
45 exceeding in the aggregate, three years; or

46 c. Collection and disposal of garbage and refuse, for any term
47 not exceeding in the aggregate, three years; or

- 1 d. Data processing service, for any term of not more than seven
2 years; or
- 3 e. Insurance, including the purchase of insurance coverages,
4 insurance consultant or administrative services, and including
5 participation in a joint self-insurance fund, risk management
6 program or related services provided by a school board insurance
7 group, or participation in an insurance fund established by a county
8 pursuant to N.J.S.40A:10-6, or a joint insurance fund established
9 pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of
10 not more than three years; or
- 11 f. Leasing or servicing of automobiles, motor vehicles,
12 electronic communications equipment, machinery and equipment of
13 every nature and kind, and textbooks and non-consumable
14 instructional materials, for any term not exceeding in the aggregate,
15 five years, except that contracts for the leasing of fossil fuel school
16 buses may be awarded for any term not exceeding in the aggregate
17 10 years and contracts for the leasing of electric school buses and
18 related charging equipment and services may be awarded for any
19 term not exceeding the service life of the electric school buses.
20 Contracts awarded pursuant to this subsection shall be awarded only
21 subject to and in accordance with rules and regulations promulgated
22 by the State Board of Education; or
- 23 g. Supplying of any product or the rendering of any service by
24 a company providing voice, data, transmission, or switching
25 services, for a term not exceeding five years; or
- 26 h. (Deleted by amendment, P.L.1999, c.440【.】)
- 27 i. Driver education instruction conducted by private, licensed
28 driver education schools, for any term not exceeding in the
29 aggregate, three years; or
- 30 j. (Deleted by amendment, P.L.2009, c.4)【.】
- 31 k. Any single project for the construction, reconstruction, or
32 rehabilitation of any public building, structure, or facility, or any
33 public works project, including the retention of the services of any
34 architect or engineer in connection therewith, for the length of time
35 authorized and necessary for the completion of the actual
36 construction; or
- 37 l. Laundry service and the rental, supply, and cleaning of
38 uniforms for any term of not more than three years; or
- 39 m. Food supplies and food services for any term of not more
40 than three years; or
- 41 n. Purchases made under a contract awarded by the Director of
42 the Division of Purchase and Property in the Department of the
43 Treasury for use by counties, municipalities, or other contracting
44 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
45 term not to exceed the term of that contract; or
- 46 o. (1) The provision or performance of goods or services for
47 the purpose of producing **【class】** Class I renewable energy, as that
48 term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or

1 adjacent to, buildings owned by any local board of education, the
2 entire price of which is to be established as a percentage of the
3 resultant savings in energy costs, for a total term, including any
4 extensions, not to exceed ~~15~~ 30 years, provided ~~1~~, however, that
5 these contracts shall be entered into only subject to and in
6 accordance with guidelines promulgated by the Board of Public
7 Utilities establishing a methodology for computing energy cost
8 savings and energy generation costs. The initial term of the
9 contract shall not exceed 15 years. The contract may be extended
10 for up to one or more additional terms, provided that the total term
11 of the contract, including any extensions or renewals authorized by
12 paragraphs (2) or (3) of this subsection, shall not exceed 30 years.

13 (2) Notwithstanding any law, rule, or regulation to the contrary,
14 a contract with fixed rates or amounts may be extended beyond the
15 initial 15-year term limit for up to one or more additional terms,
16 provided that the total term of the contract, including any
17 extensions or renewals, shall not exceed 30 years and the extension
18 does not result in rates or amounts that are above the greater of:

19 (a) the previously contracted rates or amounts; or

20 (b) 20 percent below the volumetric retail rate, or charges that
21 would be applicable based upon such volumetric rate, applicable to
22 the customer for purchases of electricity from the applicable electric
23 public utility at the time the extension is authorized.

24 (3) Notwithstanding any law, rule, or regulation to the contrary,
25 a contract with de-escalating or escalating prices may be extended
26 beyond the initial 15-year term limit for up to one or more
27 additional terms, provided that the total term of the contract,
28 including any extensions or renewals, shall not exceed 30 years and
29 the extension does not result in prices above the greater of:

30 (a) the level that would occur if the annual rate of de-escalation
31 or escalation applied between the second to last and last year of the
32 original contract is applied to the price in the last year of the
33 original contract and thereafter into future years; or

34 (b) the price that would result from applying the rate that is 20
35 percent below the volumetric retail rate applicable to the customer
36 for the purchase of electricity from the applicable electric public
37 utility at the time the extension is authorized; or

38 p. The provision or performance of goods or services for the
39 purpose of providing electric school buses, on-site or off-site
40 electric school bus charging infrastructure, and related maintenance
41 and other related services, or any combination thereof for a
42 specified price for a term up to the service life of the vehicle being
43 contracted; or

44 q. Preschool education services provided by a licensed
45 childcare provider or Head Start program and supported by
46 preschool education aid pursuant to section 12 of P.L.2007, c.260
47 (C.18A:7F-54), for any term of not more than three years.

1 Any contract for services other than professional services, the
2 statutory length of which contract is for three years or less, may
3 include provisions for no more than one two-year, or two one-year,
4 extensions, subject to the following limitations: (1) the contract
5 shall be awarded by resolution of the board of education upon a
6 finding by the board of education that the services are being
7 performed in an effective and efficient manner; (2) no such contract
8 shall be extended so that it runs for more than a total of five
9 consecutive years; (3) any price change included as part of an
10 extension shall be based upon the price of the original contract as
11 cumulatively adjusted pursuant to any previous adjustment or
12 extension and shall not exceed the change in the index rate for the
13 12 months preceding the most recent quarterly calculation available
14 at the time the contract is renewed; and (4) the terms and conditions
15 of the contract remain substantially the same.

16 All multiyear leases and contracts entered into pursuant to this
17 section, including any two-year or one-year extensions, except
18 contracts for insurance coverages, insurance consultant or
19 administrative services, participation or membership in a joint self-
20 insurance fund, risk management programs or related services of a
21 school board insurance group, participation in an insurance fund
22 established by a county pursuant to N.J.S.40A:10-6 or contracts for
23 thermal energy authorized pursuant to subsection a. above, and
24 contracts for the provision or performance of goods or services to
25 promote energy conservation through the production of **[class]**
26 Class I renewable energy, authorized pursuant to subsection o. of
27 this section, shall contain a clause making them subject to the
28 availability and appropriation annually of sufficient funds as may
29 be required to meet the extended obligation, or contain an annual
30 cancellation clause. All contracts shall cease to have effect at the
31 end of the contracted period and shall not be extended by any
32 mechanism or provision, unless in conformance with the "Public
33 School Contracts Law," N.J.S.18A:18A-1 et seq., except that a
34 contract may be extended by mutual agreement of the parties to the
35 contract when a board of education has commenced rebidding prior
36 to the time the contract expires or when the awarding of a contract
37 is pending at the time the contract expires.

38 (cf: P.L.2025, c.101, s.2)

39

40 3. Section 5 of P.L.1982, c.189 (C.18A:64A-25.5) is amended
41 to read as follows:

42 5. Any purchase, contract or agreement of the character
43 described in section 4 may be made, negotiated or awarded by the
44 county college by resolution at a public meeting of its board of
45 trustees without public advertising for bids or bidding therefor if:

46 a. The subject matter thereof consists of:

47 (1) Professional services; or

- 1 (2) Extraordinary unspecifiable services and products which
2 cannot reasonably be described by written specifications, subject
3 however, to procedures consistent with open public bidding
4 whenever possible; or
- 5 (3) Materials or supplies which are not available from more than
6 one potential bidder, including without limitation materials or
7 supplies which are patented or copyrighted; or
- 8 (4) The doing of any work by employees of the county college;
9 or
- 10 (5) The printing of all legal notices and legal briefs, records and
11 appendices to be used in any legal proceeding to which the county
12 college may be a party; or
- 13 (6) Textbooks, copyrighted materials, **【student produced】**
14 student-produced publications and services incidental thereto,
15 library materials including without limitation books, periodicals,
16 newspapers, documents, pamphlets, photographs, reproductions,
17 microfilms, pictorial or graphic works, musical scores, maps,
18 charts, globes, sound recordings, slides, films, filmstrips, video and
19 magnetic tapes, other printed or published matter and audiovisual
20 and other materials of a similar nature, necessary binding or
21 rebinding of library materials and specialized library services; or
- 22 (7) Food supplies and services including food supplies and
23 management contracts for student centers, dining rooms and
24 cafeterias; or
- 25 (8) The supplying of any product or the rendering of any service
26 by the public utility which is subject to the jurisdiction of the Board
27 of Public Utilities, in accordance with tariffs and schedules of
28 charges made, charged and exacted, filed with said board; or
- 29 (9) Equipment repair service if in the nature of an extraordinary
30 unspecifiable service and necessary parts furnished in connection
31 with such services; or
- 32 (10) Specialized machinery or equipment of a technical nature
33 which will not reasonably permit the drawing of specifications, and
34 the procurement thereof without advertising is in the public interest;
35 or
- 36 (11) Insurance, including the purchase of insurance coverage
37 and consulting services, which exceptions shall be in accordance
38 with the requirements for extraordinary unspecifiable services; or
- 39 (12) Publishing of legal notices in newspapers, as required by
40 law; or
- 41 (13) The acquisition of artifacts or other items of unique
42 intrinsic, artistic or historic character; or
- 43 (14) The collection of amounts due on student loans, including
44 without limitation loans guaranteed by or made with funds of the
45 United States of America; or
- 46 (15) Professional consulting services; or

1 (16) Entertainment, including without limitation theatrical
2 presentations, band and other concerts, movies and other
3 audiovisual productions; or

4 (17) Contracts employing funds created by student activities
5 fees charged to students or otherwise raised by students, not under
6 the direct control of the college and expended by student
7 organizations; or

8 (18) Printing, including without limitation catalogs, yearbooks
9 and course announcements; or

10 (19) Providing goods or services for the use, support or
11 maintenance of proprietary computer hardware, software
12 peripherals and system development for the hardware; or

13 (20) Personnel recruitment and advertising, including without
14 limitation advertising seeking student enrollment; or

15 (21) Educational supplies, books, articles of clothing and other
16 miscellaneous articles purchased by a county college bookstore, or
17 by a service or management company under contract with a county
18 college to operate a county college **【book store】** bookstore for
19 resale to college students and employees; or

20 (22) Purchase or rental of graduation caps and gowns and award
21 certificates or plaques; or

22 (23) Expenses for travel or conferences; or

23 (24) Items available from vendors at costs below State contract
24 pricing for the same product or service, which meets or exceeds the
25 State contract terms or conditions; or

26 (25) The extension of the term of a renewable energy contract,
27 pursuant to subsection q. of section 28 of P.L.1982, c.189
28 (C.18A:64A-25.28).

29 b. It is to be made or entered into with the United States of
30 America, the State of New Jersey, a county or municipality or any
31 board, body, or officer, agency or authority or any other state or
32 subdivision thereof.

33 c. The county college has advertised for bids pursuant to
34 section 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions
35 and (i) has received no bids on both occasions in response to its
36 advertisement, or (ii) has rejected such bids on two occasions
37 because the county college has determined that they are not
38 reasonable as to price, on the basis of cost estimates prepared for or
39 by the county college prior to the advertising therefor, or have not
40 been independently arrived at in open competition, or (iii) on one
41 occasion no bids were received pursuant to (i) and on one occasion
42 all bids were rejected pursuant to (ii), in whatever sequence; any
43 such contract or agreement may then be negotiated by a two-thirds
44 affirmative vote of the authorized membership of the board of
45 trustees authorizing such contract or agreement; provided, however,
46 that:

47 (1) A reasonable effort is made by the contracting agent to
48 determine that the same or equivalent materials or supplies at a cost

1 which is lower than the negotiated price are not available from any
2 agency or authority of the United States, the State of New Jersey or
3 from the county in which the county college is located, or any
4 municipality in close proximity to the county college;

5 (2) The terms, conditions, restrictions and specifications set
6 forth in the negotiated contract or agreement are not substantially
7 different from those which were the subject of competitive bidding
8 pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

9 (3) Any relevant amendment or modification of any of the
10 terms, conditions, restrictions and specifications, which were the
11 subject of competitive bidding pursuant to section 4 of P.L.1982,
12 c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding
13 such contract or agreement; provided, further, however, that if on
14 the second occasion the bids received are rejected as unreasonable
15 as to price, the county college shall notify each responsible bidder
16 submitting bids on the second occasion of its intention to negotiate
17 and afford each such bidder a reasonable opportunity to negotiate,
18 but the county college shall not award such contract or agreement
19 unless the negotiated price is lower than the lowest rejected bid
20 price submitted on the second occasion by a responsible bidder, is
21 the lowest negotiated price offered by any responsible vendor, and
22 is a reasonable price for such work, materials, supplies or services.

23 Whenever a county college shall determine that a bid was not
24 arrived at independently in open competition pursuant to subsection
25 c. (ii) of this section, it shall thereupon notify the county prosecutor
26 of the county in which the county college is located and the
27 Attorney General of the facts upon which its determination is based
28 and, when appropriate, it may institute appropriate proceedings in
29 any State or federal court of competent jurisdiction for a violation
30 of any State or federal antitrust law or laws relating to the unlawful
31 restraint of trade.

32 (cf: P.L.2001, c.281, s.2)

33

34 4. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is
35 amended to read as follows:

36 28. Duration of certain contracts. A county college may only
37 enter into a contract exceeding 24 consecutive months for the:

38 a. Supplying of:

39 (1) Fuel for heating purposes for any term not exceeding in the
40 aggregate three years; or

41 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles
42 or equipment for any term not exceeding in the aggregate three
43 years; or

44 b. Plowing and removal of snow and ice for any term not
45 exceeding in the aggregate three years; or

46 c. Collection and disposal of garbage and refuse for any term
47 not exceeding in the aggregate three years; or

- 1 d. Providing goods or services for the use, support or
2 maintenance of proprietary computer hardware, software
3 peripherals and system development for the hardware for any term
4 of not more than five years; or
- 5 e. Insurance, including the purchase of insurance coverages,
6 insurance consultant or administrative services, and including
7 participation in a joint self-insurance fund, risk management
8 programs or related services provided by a county college insurance
9 group, or participation in an insurance fund established by a county
10 pursuant to N.J.S.40A:10-6, for any term of not more than three
11 years; or
- 12 f. Leasing or service of automobiles, motor vehicles, electronic
13 communications equipment, machinery and equipment of every
14 nature and kind for any term not exceeding in the aggregate five
15 years; or
- 16 g. Supplying of any product or rendering of any service by a
17 company providing voice, data, transmission or switching services,
18 for a term not exceeding five years; or
- 19 h. The providing of food supplies and services, including food
20 supplies and management contracts for student centers, dining
21 rooms and cafeterias, for a term not exceeding 30 years; or
- 22 i. (Deleted by amendment, P.L.2009, c.4).
- 23 j. Any single project for the construction, reconstruction or
24 rehabilitation of a public building, structure or facility, or a public
25 works project including the retention of the services of an architect
26 or engineer in connection with the project, for the length of time
27 necessary for the completion of the actual construction; or
- 28 k. The management and operation of bookstores for a term not
29 exceeding 30 years; or
- 30 l. Custodial or janitorial services for any term not exceeding in
31 the aggregate three years; or
- 32 m. Child care services for a term not exceeding three years; or
- 33 n. Security services for a term not exceeding three years; or
- 34 o. Ground maintenance services for a term not exceeding three
35 years; or
- 36 p. Laundering, dry-cleaning or rental of uniforms for a term not
37 exceeding three years; or
- 38 q. (1) The performance of work or services or the furnishing of
39 materials and supplies for the purpose of producing **Class I**
40 renewable energy, as that term is defined in section 3 of P.L.1999,
41 c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or
42 operations conducted by, the contracting unit, the entire price of
43 which is to be established as a percentage of the resultant savings in
44 energy costs, for a total term, including any extensions, not to
45 exceed 30 years; provided~~], however,~~ that these contracts shall be
46 entered into only subject to and in accordance with guidelines
47 promulgated by the Board of Public Utilities establishing a
48 methodology for computing energy cost savings and energy

1 generation costs. The initial term of the contract shall not exceed
2 15 years. The contract may be extended for up to one or more
3 additional terms, provided that the total term of the contract,
4 including any extensions or renewals authorized by paragraphs (2)
5 or (3) of this subsection, shall not exceed 30 years.

6 (2) Notwithstanding any law, rule, or regulation to the contrary,
7 a contract with fixed rates or amounts may be extended beyond the
8 initial 15-year term limit for up to one or more additional terms,
9 provided that the total term of the contract, including any
10 extensions or renewals, shall not exceed 30 years and the extension
11 does not result in rates or amounts that are above the greater of:

12 (a) the previously contracted rates or amounts; or

13 (b) 20 percent below the volumetric retail rate, or charges that
14 would be applicable based upon such volumetric rate, applicable to
15 the customer for purchases of electricity from the applicable electric
16 public utility at the time the extension is authorized.

17 (3) Notwithstanding any law, rule, or regulation to the contrary,
18 a contract with de-escalating or escalating prices may be extended
19 beyond the initial 15-year term limit for up to one or more
20 additional terms, provided that the total term of the contract,
21 including any extensions or renewals, shall not exceed 30 years and
22 the extension does not result in prices above the greater of:

23 (a) the level that would occur if the annual rate of de-escalation
24 or escalation applied between the second to last and last year of the
25 original contract is applied to the price in the last year of the
26 original contract and thereafter into future years; or

27 (b) the price that would result from applying the rate that is 20
28 percent below the volumetric retail rate applicable to the customer
29 for the purchase of electricity from the applicable electric public
30 utility at the time the extension is authorized.

31 All multi-year leases and contracts entered into pursuant to this
32 section, except contracts and agreements for the provision of work
33 or the supplying of equipment to promote energy conservation
34 through the production of **Class I** renewable energy and
35 authorized pursuant to subsection q. of this section, and except
36 contracts for insurance coverages, insurance consultant or
37 administrative services, participation or membership in a joint self-
38 insurance fund, risk management programs or related services of a
39 county college insurance group, and participation in an insurance
40 fund established by a county pursuant to N.J.S.40A:10-6 or a joint
41 insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-
42 36 et seq.), shall contain a clause making them subject to the
43 availability and appropriation annually of sufficient funds to meet
44 the extended obligation or contain an annual cancellation clause.

45 (cf: P.L.2009, c.90, s.45)

46
47 5. Section 5 of P.L.1971, c.198 (C.40A:11-5) is amended to
48 read as follows:

1 5. Any contract the amount of which exceeds the bid threshold,
2 may be negotiated and awarded by the governing body without
3 public advertising for bids and bidding therefor and shall be
4 awarded by resolution of the governing body if:

5 (1) The subject matter thereof consists of:

6 (a) (i) Professional services. The governing body shall in each
7 instance state supporting reasons for its action in the resolution
8 awarding each contract and shall forthwith cause to be printed once,
9 in the official newspaper, a brief notice stating the nature, duration,
10 service and amount of the contract, and that the resolution and
11 contract are on file and available for public inspection in the office
12 of the clerk of the county or municipality, or, in the case of a
13 contracting unit created by more than one county or municipality, of
14 the counties or municipalities creating the contracting unit; or (ii)
15 Extraordinary unspecifiable services. The application of this
16 exception shall be construed narrowly in favor of open competitive
17 bidding, whenever possible, and the Division of Local Government
18 Services is authorized to adopt and promulgate rules and regulations
19 after consultation with the Commissioner of Education limiting the
20 use of this exception in accordance with the intention herein
21 expressed. The governing body shall in each instance state
22 supporting reasons for its action in the resolution awarding each
23 contract and shall forthwith cause to be printed, in the manner set
24 forth in subsection (1) (a) (i) of this section, a brief notice of the
25 award of the contract;

26 (b) The doing of any work by employees of the contracting unit;

27 (c) The printing of legal briefs, records, and appendices to be
28 used in any legal proceeding in which the contracting unit may be a
29 party;

30 (d) The furnishing of a tax map or maps for the contracting unit;

31 (e) The purchase of perishable foods as a subsistence supply;

32 (f) The supplying of any product or the rendering of any service
33 by a public utility, which is subject to the jurisdiction of the Board
34 of Public Utilities or the Federal Energy Regulatory Commission or
35 its successor, in accordance with tariffs and schedules of charges
36 made, charged or exacted, filed with the board or commission;

37 (g) The acquisition, subject to prior approval of the Attorney
38 General, of special equipment for confidential investigation;

39 (h) The printing of bonds and documents necessary to the
40 issuance and sale thereof by a contracting unit;

41 (i) Equipment repair service if in the nature of an extraordinary
42 unspecifiable service and necessary parts furnished in connection
43 with the service, which exception shall be in accordance with the
44 requirements for extraordinary unspecifiable services;

45 (j) The publishing of legal notices in newspapers as required by
46 law;

47 (k) The acquisition of artifacts or other items of unique intrinsic,
48 artistic or historical character;

- 1 (l) Those goods and services necessary or required to prepare
2 and conduct an election;
- 3 (m) Insurance, including the purchase of insurance coverage and
4 consultant services, which exception shall be in accordance with the
5 requirements for extraordinary unspecifiable services;
- 6 (n) The doing of any work by persons with disabilities
7 employed by a sheltered workshop;
- 8 (o) The provision of any goods or services including those of a
9 commercial nature, attendant upon the operation of a restaurant by
10 any nonprofit, duly incorporated, historical society at or on any
11 historical preservation site;
- 12 (p) (Deleted by amendment, P.L.1999, c.440【.】)
- 13 (q) Library and educational goods and services;
- 14 (r) (Deleted by amendment, P.L.2005, c.212)【.】
- 15 (s) The marketing of recyclable materials recovered through a
16 recycling program, or the marketing of any product intentionally
17 produced or derived from solid waste received at a resource
18 recovery facility or recovered through a resource recovery program,
19 including, but not limited to, refuse-derived fuel, compost materials,
20 methane gas, and other similar products;
- 21 (t) (Deleted by amendment, P.L.1999, c.440【.】)
- 22 (u) Contracting unit towing and storage contracts, provided that
23 all of the contracts shall be pursuant to reasonable non-exclusionary
24 and non-discriminatory terms and conditions, which may include
25 the provision of the services on a rotating basis, at the rates and
26 charges set by the municipality pursuant to section 1 of P.L.1979,
27 c.101 (C.40:48-2.49). All contracting unit towing and storage
28 contracts for services to be provided at rates and charges other than
29 those established pursuant to the terms of this paragraph shall only
30 be awarded to the lowest responsible bidder in accordance with the
31 provisions of the "Local Public Contracts Law," P.L.1971, c.198
32 (C.40A:11-1 et seq.) and without regard for the value of the
33 contract therefor;
- 34 (v) The purchase of steam or electricity from, or the rendering
35 of services directly related to the purchase of steam or electricity
36 from a qualifying small power production facility or a qualifying
37 cogeneration facility as defined pursuant to 16 U.S.C. s.796;
- 38 (w) The purchase of electricity or administrative or dispatching
39 services directly related to the transmission of purchased electricity
40 by a contracting unit engaged in the generation of electricity;
- 41 (x) The printing of municipal ordinances or other services
42 necessarily incurred in connection with the revision and
43 codification of municipal ordinances;
- 44 (y) An agreement for the purchase of an equitable interest in a
45 water supply facility or for the provision of water supply services
46 entered into pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or
47 an agreement entered into pursuant to N.J.S.40A:31-1 et al., so long

- 1 as the agreement is entered into no later than six months after the
2 effective date of P.L.1993, c.381 (C.58:28-1 et al.);
- 3 (z) A contract for the provision of water supply services entered
4 into pursuant to P.L.1995, c.101 (C.58:26-19 et al.);
- 5 (aa) The cooperative marketing of recyclable materials
6 recovered through a recycling program;
- 7 (bb) A contract for the provision of wastewater treatment
8 services entered into pursuant to P.L.1995, c.216 (C.58:27-19 et
9 al.);
- 10 (cc) Expenses for travel and conferences;
- 11 (dd) The provision or performance of goods or services for the
12 support or maintenance of proprietary computer hardware and
13 software, except that this provision shall not be utilized to acquire
14 or upgrade non-proprietary hardware or to acquire or update non-
15 proprietary software;
- 16 (ee) The management or operation of an airport owned by the
17 contracting unit pursuant to R.S.40:8-1 et seq.;
- 18 (ff) Purchases of goods and services at rates set by the Universal
19 Service Fund administered by the Federal Communications
20 Commission;
- 21 (gg) A contract for the provision of water supply services or
22 wastewater treatment services entered into pursuant to section 2 of
23 P.L.2002, c.47 (C.40A:11-5.1), or the designing, financing,
24 construction, operation, or maintenance, or any combination
25 thereof, of a water supply facility as defined in subsection (16) of
26 section 15 of P.L.1971, c.198 (C.40A:11-15) or a wastewater
27 treatment system as defined in subsection (19) of section 15 of
28 P.L.1971, c.198 (C.40A:11-15), or any component part or parts
29 thereof, including a water filtration system as defined in subsection
30 (16) of section 15 of P.L.1971, c.198 (C.40A:11-15); or
- 31 (hh) The purchase of electricity generated from a power
32 production facility that is fueled by methane gas extracted from a
33 landfill in the county of the contracting unit ; or
- 34 (ii) The extension of the term of a renewable energy contract
35 pursuant to subsection (45) of section 15 of P.L.1971, c.198
36 (C.40A:11-15).
- 37 (2) It is to be made or entered into with the United States of
38 America, the State of New Jersey, county, or municipality, or any
39 board, body, officer, agency, or authority thereof, or any other state
40 or subdivision thereof.
- 41 (3) Bids have been advertised pursuant to section 4 of P.L.1971,
42 c.198 (C.40A:11-4) on two occasions and (a) no bids have been
43 received on both occasions in response to the advertisement, or (b)
44 the governing body has rejected the bids on two occasions because
45 it has determined that they are not reasonable as to price, on the
46 basis of cost estimates prepared for or by the contracting agent prior
47 to the advertising therefor, or have not been independently arrived
48 at in open competition, or (c) on one occasion no bids were received

1 pursuant to (a) and on one occasion all bids were rejected pursuant
2 to (b), in whatever sequence; a contract may then be negotiated and
3 may be awarded upon adoption of a resolution by a two-thirds
4 affirmative vote of the authorized membership of the governing
5 body authorizing the contract; provided, however, that:

6 (i) A reasonable effort is first made by the contracting agent to
7 determine that the same or equivalent goods or services, at a cost
8 which is lower than the negotiated price, are not available from an
9 agency or authority of the United States, the State of New Jersey or
10 of the county in which the contracting unit is located, or any
11 municipality in close proximity to the contracting unit;

12 (ii) The terms, conditions, restrictions, and specifications set
13 forth in the negotiated contract are not substantially different from
14 those which were the subject of competitive bidding pursuant to
15 section 4 of P.L.1971, c.198 (C.40A:11-4); and

16 (iii) Any minor amendment or modification of any of the terms,
17 conditions, restrictions, and specifications, which were the subject
18 of competitive bidding pursuant to section 4 of P.L.1971, c.198
19 (C.40A:11-4), shall be stated in the resolution awarding the
20 contract; provided further, however, that if on the second occasion
21 the bids received are rejected as unreasonable as to price, the
22 contracting agent shall notify each responsible bidder submitting
23 bids on the second occasion of its intention to negotiate, and afford
24 each bidder a reasonable opportunity to negotiate, but the governing
25 body shall not award the contract unless the negotiated price is
26 lower than the lowest rejected bid price submitted on the second
27 occasion by a responsible bidder, is the lowest negotiated price
28 offered by any responsible vendor, and is a reasonable price for
29 goods or services.

30 Whenever a contracting unit shall determine that a bid was not
31 arrived at independently in open competition pursuant to subsection
32 (3) of this section it shall thereupon notify the county prosecutor of
33 the county in which the contracting unit is located and the Attorney
34 General of the facts upon which its determination is based, and
35 when appropriate, it may institute appropriate proceedings in any
36 State or federal court of competent jurisdiction for a violation of
37 any State or federal antitrust law or laws relating to the unlawful
38 restraint of trade.

39 (4) The contracting unit has solicited and received at least three
40 quotations on materials, supplies, or equipment for which a State
41 contract has been issued pursuant to section 12 of P.L.1971, c.198
42 (C.40A:11-12), and the lowest responsible quotation is at least 10
43 percent less than the price the contracting unit would be charged for
44 the identical materials, supplies, or equipment, in the same
45 quantities, under the State contract. A contract entered into
46 pursuant to this subsection may be awarded only upon adoption of a
47 resolution by the affirmative vote of two-thirds of the full
48 membership of the governing body of the contracting unit at a

1 meeting thereof authorizing the contract. A copy of the purchase
2 order relating to the contract, the requisition for purchase order, if
3 applicable, and documentation identifying the price of the materials,
4 supplies or equipment under the State contract and the State
5 contract number shall be filed with the director within five working
6 days of the award of the contract by the contracting unit. The
7 director shall notify the contracting unit of receipt of the material
8 and shall make the material available to the State Treasurer. The
9 contracting unit shall make available to the director upon request
10 any other documents relating to the solicitation and award of the
11 contract, including, but not limited to, quotations, requests for
12 quotations, and resolutions. The director periodically shall review
13 material submitted by contracting units to determine the impact of
14 the contracts on local contracting and shall consult with the State
15 Treasurer on the impact of the contracts on the State procurement
16 process. The director may, after consultation with the State
17 Treasurer, adopt rules in accordance with the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to limit the
19 use of this subsection, after considering the impact of contracts
20 awarded under this subsection on State and local contracting, or
21 after considering the extent to which the award of contracts
22 pursuant to this subsection is consistent with and in furtherance of
23 the purposes of the public contracting laws.

24 (5) Notwithstanding any provision of law, rule, or regulation to
25 the contrary, the subject matter consists of the combined collection
26 and marketing, or the cooperative combined collection and
27 marketing of recycled material recovered through a recycling
28 program, or any product intentionally produced or derived from
29 solid waste received at a resource recovery facility or recovered
30 through a resource recovery program including, but not limited to,
31 refuse-derived fuel, compost materials, methane gas, and other
32 similar products, provided that in lieu of engaging in public
33 advertising for bids and the bidding therefor, the contracting unit
34 shall, prior to commencing the procurement process, submit for
35 approval to the Director of the Division of Local Government
36 Services, a written detailed description of the process to be
37 followed in securing the services. Within 30 days after receipt of
38 the written description the director shall, if the director finds that
39 the process provides for fair competition and integrity in the
40 negotiation process, approve, in writing, the description submitted
41 by the contracting unit. If the director finds that the process does
42 not provide for fair competition and integrity in the negotiation
43 process, the director shall advise the contracting unit of the
44 deficiencies that must be remedied. If the director fails to respond
45 in writing to the contracting unit within 30 days, the procurement
46 process as described shall be deemed approved. As used in this
47 section, "collection" means the physical removal of recyclable

1 materials from curbside or any other location selected by the
2 contracting unit.

3 (6) Notwithstanding any provision of law, rule, or regulation to
4 the contrary, the contract is for the provision of electricity by a
5 contracting unit engaged in the distribution of electricity for retail
6 sale, for the provision of wholesale electricity by a municipal
7 shared services energy authority as defined pursuant to section 3 of
8 P.L.2015, c.129 (C.40A:66-3), or for the provision of administrative
9 or dispatching services related to the transmission of electricity,
10 provided that in lieu of engaging in public advertising for bids and
11 the bidding therefor, the contracting unit shall, prior to commencing
12 the procurement process, submit for approval to the Director of the
13 Division of Local Government Services, a written detailed
14 description of the process to be followed in securing these services.
15 The process shall be designed in a way that is appropriate to and
16 commensurate with industry practices, and the integrity of the
17 government contracting process. Within 30 days after receipt of the
18 written description, the director shall, if the director finds that the
19 process provides for fair competition and integrity in the
20 negotiation process, approve, in writing, the description submitted
21 by the contracting unit. If the director finds that the process does
22 not provide for fair competition and integrity in the negotiation
23 process, the director shall advise the contracting unit of the
24 deficiencies that must be remedied. If the director fails to respond
25 in writing to the contracting unit within 30 days, the procurement
26 process, as submitted to the director pursuant to this section, shall
27 be deemed approved.

28 (cf: P.L.2017, c.131, s.174)

29

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

32 15. All contracts for the provision or performance of goods or
33 services shall be awarded for a period not to exceed 24 consecutive
34 months, except that contracts for professional services pursuant to
35 subparagraph (i) of paragraph (a) of subsection (1) of section 5 of
36 P.L.1971, c.198 (C.40A:11-5) shall be awarded for a period not to
37 exceed 12 consecutive months. Contracts may be awarded for
38 longer periods of time as follows:

39 (1) Supplying of:

40 (a) (Deleted by amendment, P.L.1996, c.113[.])

41 (b) (Deleted by amendment, P.L.1996, c.113[.])

42 (c) Thermal energy produced by a cogeneration facility, for use
43 for heating or air conditioning or both, for any term not exceeding
44 40 years, when the contract is approved by the Board of Public
45 Utilities.

46 For the purposes of this paragraph, "cogeneration" means the
47 simultaneous production in one facility of electric power and other
48 forms of useful energy such as heating or process steam;

1 (2) (Deleted by amendment, P.L.1977, c.53 [.])

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

6 (4) The collection and recycling of methane gas from a sanitary
7 landfill facility, for any term not exceeding 25 years, when the
8 contract is in conformance with a district solid waste management
9 plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.), and
10 with the approval of the Division of Local Government Services in
11 the Department of Community Affairs and the Department of
12 Environmental Protection. The contracting unit shall award the
13 contract to the highest responsible bidder, notwithstanding that the
14 contract price may be in excess of the amount of any necessarily
15 related administrative expenses; except that if the contract requires
16 the contracting unit to expend funds only, the contracting unit shall
17 award the contract to the lowest responsible bidder. The approval
18 by the Division of Local Government Services of public bidding
19 requirements shall not be required for those contracts exempted
20 therefrom pursuant to section 5 of P.L.1971, c.198 (C.40A:11-5);

21 (5) Data processing service, for any term of not more than seven
22 years;

23 (6) Insurance, including the purchase of insurance coverages,
24 insurance consulting or administrative services, claims
25 administration services, including participation in a joint self-
26 insurance fund, risk management program or related services
27 provided by a contracting unit insurance group, or participation in
28 an insurance fund established by a local unit pursuant to
29 N.J.S.40A:10-6, or a joint insurance fund established pursuant to
30 P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more
31 than three years;

32 (7) Leasing or servicing of (a) automobiles, motor vehicles,
33 machinery, and equipment of every nature and kind, for a period not
34 to exceed five years, or (b) machinery and equipment used in the
35 generation of electricity by a municipal shared services energy
36 authority established pursuant to section 4 of P.L.2015, c.129
37 (C.40A:66-4), or a contracting unit engaged in the generation of
38 electricity, for a period not to exceed 20 years; provided, however, a
39 contract shall be awarded only subject to and in accordance with the
40 rules and regulations promulgated by the Director of the Division of
41 Local Government Services in the Department of Community
42 Affairs;

43 (8) The supplying of any product or the rendering of any service
44 by a company providing voice, data, transmission, or switching
45 services for a term not exceeding five years;

46 (9) Any single project for the construction, reconstruction, or
47 rehabilitation of any public building, structure, or facility, or any
48 public works project, including the retention of the services of any

1 architect or engineer in connection therewith, for the length of time
2 authorized and necessary for the completion of the actual
3 construction;

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

6 (11) On-site inspections and plan review services undertaken by
7 private agencies pursuant to the "State Uniform Construction Code
8 Act," P.L.1975, c.217 (C.52:27D-119 et seq.) for any term of not
9 more than three years;

10 (12) (Deleted by amendment, P.L.2009, c.4)【.】

11 (13) (Deleted by amendment, P.L.1999, c.440【.】)

12 (14) (Deleted by amendment, P.L.1999, c.440【.】)

13 (15) Leasing of motor vehicles, machinery, and other equipment
14 primarily used to fight fires, for a term not to exceed **【ten】 10**
15 years, when the contract includes an option to purchase, subject to
16 and in accordance with rules and regulations promulgated by the
17 Director of the Division of Local Government Services in the
18 Department of Community Affairs;

19 (16) The provision of water supply services or the designing,
20 financing, construction, operation, or maintenance, or any
21 combination thereof, of a water supply facility, or any component
22 part or parts thereof, including a water filtration system, for a period
23 not to exceed 40 years, when the contract for these services is
24 approved by the Division of Local Government Services in the
25 Department of Community Affairs, the Board of Public Utilities,
26 and the Department of Environmental Protection pursuant to
27 P.L.1985, c.37 (C.58:26-1 et al.), except that no approvals shall be
28 required for those contracts otherwise exempted pursuant to
29 subsection (30), (31), (34), (35) or (43) of this section.

30 For the purposes of this subsection, "water supply services"
31 means any service provided by a water supply facility; "water
32 filtration system" means any equipment, plants, structures,
33 machinery, apparatus, or land, or any combination thereof,
34 acquired, used, constructed, rehabilitated, or operated for the
35 collection, impoundment, storage, improvement, filtration, or other
36 treatment of drinking water for the purposes of purifying and
37 enhancing water quality and insuring its potability prior to the
38 distribution of the drinking water to the general public for human
39 consumption, including plants and works, and other personal
40 property and appurtenances necessary for their use or operation; and
41 "water supply facility" means and refers to the real property and the
42 plants, structures, or interconnections between existing water
43 supply facilities, machinery and equipment and other property, real,
44 personal, and mixed, acquired, constructed, or operated, or to be
45 acquired, constructed, or operated, in whole or in part by or on
46 behalf of a political subdivision of the State or any agency thereof,
47 for the purpose of augmenting the natural water resources of the
48 State and making available an increased supply of water for all

1 uses, or of conserving existing water resources, and any and all
2 appurtenances necessary, useful, or convenient for the collecting,
3 impounding, storing, improving, treating, filtering, conserving, or
4 transmitting of water and for the preservation and protection of
5 these resources and facilities and providing for the conservation and
6 development of future water supply resources;

7 (17) The provision of resource recovery services by a qualified
8 vendor, the disposal of the solid waste delivered for disposal which
9 cannot be processed by a resource recovery facility or the residual
10 ash generated at a resource recovery facility, including hazardous
11 waste and recovered metals and other materials for reuse, or the
12 design, financing, construction, operation, or maintenance of a
13 resource recovery facility for a period not to exceed 40 years when
14 the contract is approved by the Division of Local Government
15 Services in the Department of Community Affairs, and the
16 Department of Environmental Protection pursuant to P.L.1985, c.38
17 (C.13:1E-136 et al.); and when the resource recovery facility is in
18 conformance with a district solid waste management plan approved
19 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.).

20 For the purposes of this subsection, "resource recovery facility"
21 means a solid waste facility constructed and operated for the
22 incineration of solid waste for energy production and the recovery
23 of metals and other materials for reuse, or a mechanized composting
24 facility, or any other facility constructed or operated for the
25 collection, separation, recycling, and recovery of metals, glass,
26 paper, and other materials for reuse or for energy production; and
27 "residual ash" means the bottom ash, fly ash, or any combination
28 thereof, resulting from the combustion of solid waste at a resource
29 recovery facility;

30 (18) The sale of electricity or thermal energy, or both, produced
31 by a resource recovery facility for a period not to exceed 40 years
32 when the contract is approved by the Board of Public Utilities, and
33 when the resource recovery facility is in conformance with a district
34 solid waste management plan approved pursuant to P.L.1970, c.39
35 (C.13:1E-1 et seq.).

36 For the purposes of this subsection, "resource recovery facility"
37 means a solid waste facility constructed and operated for the
38 incineration of solid waste for energy production and the recovery
39 of metals and other materials for reuse, or a mechanized composting
40 facility, or any other facility constructed or operated for the
41 collection, separation, recycling, and recovery of metals, glass,
42 paper, and other materials for reuse or for energy production;

43 (19) The provision of wastewater treatment services or the
44 designing, financing, construction, operation, or maintenance, or
45 any combination thereof, of a wastewater treatment system, or any
46 component part or parts thereof, for a period not to exceed 40 years,
47 when the contract for these services is approved by the Division of
48 Local Government Services in the Department of Community

1 Affairs and the Department of Environmental Protection pursuant to
2 P.L.1985, c.72 (C.58:27-1 et al.), except that no approvals shall be
3 required for those contracts otherwise exempted pursuant to
4 subsection (36) or (43) of this section.

5 For the purposes of this subsection, "wastewater treatment
6 services" means any services provided by a wastewater treatment
7 system; and "wastewater treatment system" means equipment,
8 plants, structures, machinery, apparatus, or land, or any
9 combination thereof, acquired, used, constructed, or operated for
10 the storage, collection, reduction, recycling, reclamation, disposal,
11 separation, or other treatment of wastewater or sewage sludge, or
12 for the final disposal of residues resulting from the treatment of
13 wastewater, including, but not limited to, pumping and ventilating
14 stations, facilities, plants and works, connections, outfall sewers,
15 interceptors, trunk lines, and other personal property and
16 appurtenances necessary for their operation;

17 (20) The supplying of goods or services for the purpose of
18 lighting public streets, for a term not to exceed five years;

19 (21) The provision of emergency medical services for a term not
20 to exceed five years;

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

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

26 (24) The purchase of electricity or administrative or dispatching
27 services related to the transmission of electricity, from a supplier of
28 electricity subject to the jurisdiction of a federal regulatory agency,
29 from a qualifying small power producing facility or qualifying
30 cogeneration facility, as defined by 16 U.S.C. s.796, or from any
31 supplier of electricity within any regional transmission organization
32 or independent system operator or from an organization or operator
33 or their successors, by a contracting unit engaged in the generation
34 of electricity for retail sale, as of May 24, 1991, for a term not to
35 exceed 40 years; or by a contracting unit engaged solely in the
36 distribution of electricity for retail sale for a term not to exceed
37 **ten** 10 years, except that a contract with a contracting unit,
38 engaged solely in the distribution of electricity for retail sale, in
39 excess of **ten** 10 years, shall require the written approval of the
40 Director of the Division of Local Government Services. If the
41 director fails to respond in writing to the contracting unit within 10
42 business days, the contract shall be deemed approved;

43 (25) Basic life support services, for a period not to exceed five
44 years.

45 For the purposes of this subsection, "basic life support" means a
46 basic level of prehospital care, which includes but need not be
47 limited to patient stabilization, airway clearance, cardiopulmonary

1 resuscitation, hemorrhage control, initial wound care, and fracture
2 stabilization;

3 (26) (Deleted by amendment, P.L.1999, c.440[.])

4 (27) The provision of transportation services to an elderly
5 person, an individual with a disability, or an indigent person for any
6 term of not more than three years.

7 For the purposes of this subsection, "elderly person" means a
8 person who is 60 years of age or older. "Individual with a
9 disability" means a person of any age who, by reason of illness,
10 injury, age, congenital malfunction, or other permanent or
11 temporary incapacity or disability, is unable, without special
12 facilities or special planning or design to utilize mass transportation
13 facilities and services as effectively as persons who are not so
14 affected. "Indigent person " means a person of any age whose
15 income does not exceed 100 percent of the poverty line, adjusted
16 for family size, established and adjusted under section 2 of the
17 "Community Services Block Grant Act," (42 U.S.C. s.9902);

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

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

25 (30) The acquisition of an equitable interest in a water supply
26 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or a
27 contract entered into pursuant to the "County and Municipal Water
28 Supply Act," N.J.S.40A:31-1 et seq., if the contract is entered into
29 no later than January 7, 1995, for any term of not more than forty
30 years;

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

37 (32) Laundry service and the rental, supply, and cleaning of
38 uniforms for any term of not more than three years;

39 (33) The supplying of any product or the rendering of any
40 service, including consulting services, by a cemetery management
41 company for the maintenance and preservation of a municipal
42 cemetery operating pursuant to the "New Jersey Cemetery Act,
43 2003," P.L.2003, c.261 (C.45:27-1 et seq.), for a term not exceeding
44 15 years;

45 (34) A contract between a public entity and a private firm
46 pursuant to P.L.1995, c.101 (C.58:26-19 et al.) for the provision of
47 water supply services may be entered into for any term which, when
48 all optional extension periods are added, may not exceed 40 years;

1 (35) A contract for the purchase of a supply of water from a
2 public utility company subject to the jurisdiction of the Board of
3 Public Utilities in accordance with tariffs and schedules of charges
4 made, charged or exacted or contracts filed with the Board of Public
5 Utilities, for any term of not more than 40 years;

6 (36) A contract between a public entity and a private firm or
7 public authority pursuant to P.L.1995, c.216 (C.58:27-19 et al.) for
8 the provision of wastewater treatment services may be entered into
9 for any term of not more than 40 years, including all optional
10 extension periods;

11 (37) The operation and management of a facility under a license
12 issued or permit approved by the Department of Environmental
13 Protection, including a wastewater treatment system, a stormwater
14 management system, or a water supply or distribution facility, as
15 the case may be, for any term of not more than ~~ten~~ 10 years.

16 For the purposes of this subsection, "wastewater treatment
17 system" refers to facilities operated or maintained for the storage,
18 collection, reduction, disposal, or other treatment of wastewater or
19 sewage sludge, remediation of groundwater contamination,
20 stormwater runoff, or the final disposal of residues resulting from
21 the treatment of wastewater; "stormwater management system"
22 means the same as that term is defined in section 3 of P.L.2019,
23 c.42 (C.40A:26B-3); and "water supply or distribution facility"
24 refers to facilities operated or maintained for augmenting the
25 natural water resources of the State, increasing the supply of water,
26 conserving existing water resources, or distributing water to users;

27 (38) Municipal solid waste collection from facilities owned by a
28 contracting unit, for any term of not more than three years;

29 (39) Fuel for heating purposes, for any term of not more than
30 three years;

31 (40) Fuel or oil for use in motor vehicles for any term of not
32 more than three years;

33 (41) Plowing and removal of snow and ice for any term of not
34 more than three years;

35 (42) Purchases made under a contract awarded by the Director
36 of the Division of Purchase and Property in the Department of the
37 Treasury for use by counties, municipalities, or other contracting
38 units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a
39 term not to exceed the term of that contract;

40 (43) A contract between the governing body of a city of the first
41 class and a duly incorporated nonprofit association for the provision
42 of water supply services as defined in subsection (16) of this
43 section, or wastewater treatment services as defined in subsection
44 (19) of this section, may be entered into for a period not to exceed
45 40 years;

46 (44) The purchase of electricity generated through Class I
47 renewable energy or from a power production facility that is fueled

1 by methane gas extracted from a landfill in the county of the
2 contacting unit for any term not exceeding 25 years;

3 (45) (a) The provision or performance of goods or services for
4 the purpose of producing Class I renewable energy or Class II
5 renewable energy, as those terms are defined in section 3 of
6 P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by,
7 or operations conducted by, the contracting unit, the entire price of
8 which is to be established as a percentage of the resultant savings in
9 energy costs, for a total term, including any extensions, not to
10 exceed ~~15~~ 30 years; provided ~~1~~, however, that a contract shall
11 be entered into only subject to and in accordance with guidelines
12 promulgated by the Board of Public Utilities establishing a
13 methodology for computing energy cost savings and energy
14 generation costs. The initial term of the contract shall not exceed
15 15 years. The contract may be extended for up to one or more
16 additional terms, provided that the total term of the contract,
17 including any extensions or renewals authorized by subparagraphs
18 (b) or (c) of this paragraph, shall not exceed 30 years.

19 (b) Notwithstanding any law, rule, or regulation to the contrary,
20 a contract with fixed rates or amounts may be extended beyond the
21 initial 15-year term limit for up to one or more additional terms,
22 provided that the total term of the contract, including any
23 extensions or renewals, shall not exceed 30 years and the extension
24 does not result in rates or amounts that are above the greater of:

25 (i) the previously contracted rates or amounts; or

26 (ii) 20 percent below the volumetric retail rate, or charges that
27 would be applicable based upon such volumetric rate, applicable to
28 the customer for purchases of electricity from the applicable electric
29 public utility at the time the extension is authorized.

30 (c) Notwithstanding any law, rule, or regulation to the contrary,
31 a contract with de-escalating or escalating prices may be extended
32 beyond the initial 15-year term limit for up to one or more
33 additional terms, provided that the total term of the contract,
34 including any extensions or renewals, shall not exceed 30 years and
35 the extension does not result in prices above the greater of:

36 (i) the level that would occur if the annual rate of de-escalation
37 or escalation applied between the second to last and last year of the
38 original contract is applied to the price in the last year of the
39 original contract and thereafter into future years; or

40 (ii) the price that would result from applying the rate that is 20
41 percent below the volumetric retail rate applicable to the customer
42 for the purchase of electricity from the applicable electric public
43 utility at the time the extension is authorized.

44 (46) A power supply contract, as defined pursuant to section 3
45 of P.L.2015, c.129 (C.40A:66-3), between a member municipality
46 as defined pursuant to section 3 of P.L.2015, c.129 (C.40A:66-3),
47 and the municipal shared services energy authority established
48 pursuant to the provisions of P.L.2015, c.129 (C.40A:66-1 et al.) to

1 meet the electric power needs of its members, for the lease,
2 operation, or management of electric generation within a member
3 municipality's corporate limits and franchise area or the purchase of
4 electricity, or the purchase of fuel for generating units for a term not
5 to exceed 40 years;

6 (47) A contract entered into pursuant to paragraph (2) of
7 subsection a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) between
8 a county hospital authority and a manager for the management,
9 operation, and maintenance of a hospital owned by the authority or
10 the county for a term not to exceed 20 years, provided, however,
11 that a contract entered into pursuant to paragraph (2) of subsection
12 a. of section 6 of P.L.2006, c.46 (C.30:9-23.20) may be renewed for
13 two additional periods, not to exceed five years each; and

14 (48) (a) A lease agreement that provides for the use, lease, lease-
15 back, acquisition, operation, or maintenance of ferry boats and
16 related facilities and services, for a period not to exceed 20 years,
17 except as provided by paragraph (b) of this subsection. For the
18 purposes of this subsection, "related facilities and services"
19 includes, but is not limited to, docks and terminals, parking
20 facilities, intermodal facilities, ingress and egress to the parking and
21 terminal facilities, and the provision of goods and services to the
22 public, provided that a contract for the provision or performance of
23 such goods or services is related to ferry services and requires:

24 (1) a total capital expenditure exceeding \$300,000, as certified
25 by the chief financial officer of the contracting unit, including but
26 not limited to capital expenditures made by the lessee; or

27 (2) a capital improvement that has a life expectancy upon
28 completion exceeding 20 years, as certified by the chief financial
29 officer of the contracting unit.

30 (b) A lease agreement for a capital improvement under
31 subparagraph (2) of paragraph (a) of this subsection may be
32 awarded for a period not to exceed 50 years.

33 (c) Each worker employed in a construction project under a
34 contract executed pursuant to this subsection shall be paid not less
35 than the prevailing wage rate for the worker's craft or trade as
36 determined by the Commissioner of Labor and Workforce
37 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

38 Any contract for services other than professional services, the
39 statutory length of which contract is for three years or less, may
40 include provisions for no more than one two-year, or two one-year,
41 extensions, subject to the following limitations: a. The contract
42 shall be awarded by resolution of the governing body upon a
43 finding by the governing body that the services are being performed
44 in an effective and efficient manner; b. No contract shall be
45 extended so that it runs for more than a total of five consecutive
46 years; c. Any price change included as part of an extension shall be
47 based upon the price of the original contract as cumulatively
48 adjusted pursuant to any previous adjustment or extension and shall

1 not exceed the change in the index rate for the 12 months preceding
2 the most recent quarterly calculation available at the time the
3 contract is renewed; and d. The terms and conditions of the contract
4 remain substantially the same.

5 All multiyear leases and contracts entered into pursuant to this
6 section, including any two-year or one-year extensions, except
7 contracts involving the supplying of electricity for the purpose of
8 lighting public streets and contracts for thermal energy authorized
9 pursuant to subsection (1) above, construction contracts authorized
10 pursuant to subsection (9) above, contracts for the provision or
11 performance of goods or services or the supplying of equipment to
12 promote energy conservation through the production of Class I
13 renewable energy or Class II renewable energy authorized pursuant
14 to subsection (45) above, contracts for water supply services or for
15 a water supply facility, or any component part or parts thereof
16 authorized pursuant to subsection (16), (30), (31), (34), (35), (37),
17 or (43) above, contracts for resource recovery services or a resource
18 recovery facility authorized pursuant to subsection (17) above,
19 contracts for the sale of energy produced by a resource recovery
20 facility authorized pursuant to subsection (18) above, contracts for
21 wastewater treatment services or for a wastewater treatment system
22 or any component part or parts thereof authorized pursuant to
23 subsection (19), (36), (37), or (43) above, contracts for the
24 operation and maintenance of a stormwater management system
25 authorized pursuant to subsection (37) above, and contracts for the
26 purchase of electricity or administrative or dispatching services
27 related to the transmission of electricity authorized pursuant to
28 subsection (24) above, contracts for the purchase of electricity
29 generated from a power production facility that is fueled by
30 methane gas authorized pursuant to subsection (44) above, and
31 power supply contracts authorized pursuant to subsection (46)
32 respectively, shall contain a clause making them subject to the
33 availability and appropriation annually of sufficient funds as may
34 be required to meet the extended obligation, or contain an annual
35 cancellation clause.

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

40 All contracts shall cease to have effect at the end of the
41 contracted period and shall not be extended by any mechanism or
42 provision, unless in conformance with the "Local Public Contracts
43 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), except that a contract
44 may be extended by mutual agreement of the parties to the contract
45 when a contracting unit has commenced rebidding prior to the time
46 the contract expires or when the awarding of a contract is pending
47 at the time the contract expires.

48 (cf: P.L.2019, c.79, s.1)

1 7. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill, which is designated as the “Affordable Power Purchase
7 Agreements Extension Act,” amends current law regarding
8 renewable energy power purchase agreements (energy contracts).
9 Under current law, certain public entities are authorized to enter
10 into energy contracts for a term not to exceed 15 years. The bill
11 authorizes certain public entities to extend, without public
12 advertising for bids and bidding, existing energy contracts for a
13 term not to exceed 30 years in the aggregate.

14 It is the sponsor’s intent that amending current law to allow
15 certain energy contracts to be extended, subject to safeguards that
16 preserve the ratepayer benefits of the original agreements, is in the
17 public interest.