

ASSEMBLY, No. 2079

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman CLINTON CALABRESE
District 36 (Bergen and Passaic)

SYNOPSIS

Requires shared service agreements to include certain provisions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT requiring certain provisions in shared service agreements
2 and amending P.L.2007, c.63.

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

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7 1. Section 7 of P.L.2007, c.63 (C.40A:65-7) is amended to read
8 as follows:

9 7. a. An agreement made pursuant to section 4 of P.L.2007,
10 c.63 (C.40A:65-4) shall specify:

11 (1) the specific services to be performed by one or more of the
12 parties as agent for any other party or parties;

13 (2) standards of the level, quality, and scope of performance,
14 including performance evaluation criteria, with assignment and
15 allocation of responsibility for meeting those standards between or
16 among the parties;

17 (3) the estimated cost of the services throughout the duration of
18 the agreement, with allocation of those costs to the parties, in dollar
19 amounts or by formula, including a time schedule for periodic
20 payment of installments for those allocations, and in the case of a
21 shared service agreement between pilot municipalities, an estimate
22 of the cost savings anticipated to be achieved by the local units that
23 are the parties to the agreement. The specification may provide for
24 the periodic modification of estimates or formulas contained therein
25 in the light of actual experience and in accordance with procedures
26 **【to】** for determining any changes in costs, which procedures shall
27 be specified in the agreement;

28 (4) the duration of the agreement, which shall be 10 years,
29 unless otherwise agreed upon by the parties, but in no case shall the
30 duration of any agreement between pilot municipalities be less than
31 two years; **【and】**

32 (5) the procedure for payments to be made under the contract;

33 (6) alternative dispute resolution procedures; and

34 (7) exit procedures to govern the dissolution of the agreement.

35 b. In the case when all of the participating local units are
36 municipalities, the agreement may provide that it shall not take
37 effect until submitted to the voters of each municipality, and
38 approved by a majority of the voters of each municipality voting at
39 the referendum.

40 c. The agreement may provide for binding arbitration or for
41 binding fact-finding procedures to settle any disputes or questions
42 which may arise between the parties as to the interpretation of the
43 terms of the agreement or the satisfactory performance by any of
44 the parties of the services and other responsibilities required by the
45 agreement.

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 d. For the purposes of sections 4 through 13 of P.L.2007, c.63
2 (C.40A:65-4 through C.40A:65-13), any party performing a service
3 under a shared service agreement is the general agent of any other
4 party on whose behalf that service is performed pursuant to the
5 agreement, and that agent-party has full powers of performance and
6 maintenance of the service contracted for, and full powers to
7 undertake any ancillary operation reasonably necessary or
8 convenient to carry out its duties, obligations and responsibilities
9 under the agreement. These powers include all powers of
10 enforcement and administrative regulation which are, or may be,
11 exercised by the party on whose behalf the agent-party acts
12 pursuant to the agreement, except as the powers are limited by the
13 terms of the agreement itself, and except that no contracting party
14 shall be liable for any part or share of the cost of acquiring,
15 constructing, or maintaining any capital facility acquired or
16 constructed by an agent-party unless that part or share is provided
17 for in the agreement, or in an amendment thereto ratified by the
18 contracting parties in the manner provided in sections 1 to 37 of
19 P.L.2007, c.63 (C.40A:65-1 et al.) for entering into an agreement.

20 e. Except as the terms of any agreement may explicitly or by
21 necessary implication provide, any party to an agreement entered
22 into pursuant to section 4 of P.L.2007, c.63 (C.40A:65-4) may enter
23 into another agreement or agreements with any other eligible parties
24 for the performance of any service or services pursuant to sections 1
25 to 37 of P.L.2007, c.63 (C.40A:65-1 et al.). The participation in
26 one agreement shall not bar participation with the same or other
27 parties in any other agreement.

28 f. Payment for services performed pursuant to an agreement
29 shall be made by and to the parties, and at such intervals, as shall be
30 provided in the agreement.

31 g. In the event of any dispute as to the amount to be paid, the
32 full amount to be paid as provided in subsection a. of this section
33 shall be paid; but if through subsequent negotiation, arbitration or
34 other alternative dispute resolution mechanism, or litigation the
35 amount due shall be determined, agreed, or adjudicated to be less
36 than was actually so paid, then the party having received the
37 payment shall forthwith repay the excess.

38 (cf: P.L.2013, c.166, s.6)

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40 2. This act shall take effect immediately.

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STATEMENT

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45 This bill would require that shared service agreements between
46 local governments include certain provisions. Specifically, and in
47 addition to provisions required under current law, the bill requires
48 such an agreement to include: (1) performance evaluation criteria;

- 1 (2) procedures for determining any fee adjustments; (3) alternative
- 2 dispute resolution procedures; and (4) exit procedures to govern the
- 3 dissolution of the agreement. Requiring these items to be addressed
- 4 at the outset will help avoid, and make easier to resolve, potential
- 5 issues that may arise over the course of such an agreement.