

ASSEMBLY, No. 676

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BAGGER

1 AN ACT concerning the transportation of solid waste, amending  
2 P.L.1985, c.38, and amending and supplementing P.L.1971, c.198.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to read  
8 as follows:

9 2. As used in this [amendatory and supplementary] act:

10 [a.] "Contract file" means a file established and maintained by a  
11 contracting unit, in which the contracting unit shall maintain a copy of  
12 its request for qualifications issued pursuant to section 19 of [this  
13 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-154), a  
14 list of vendors responding to its request for qualifications, a copy of  
15 its request for proposals issued pursuant to section 20 of [this  
16 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-155), a  
17 list of qualified vendors submitting proposals, and a document  
18 outlining the general criteria used by the contracting unit in selecting  
19 a proposal;

20 [b.] "Contracting unit" means any county; any municipality; any  
21 bistate authority; or any [board, commission, committee, authority or  
22 agency, which is not a State board, commission, committee, authority  
23 or agency, and which has administrative jurisdiction over any district  
24 other than a school district, project, or facility, included or operating  
25 in whole or in part, within the territorial boundaries of any county or  
26 municipality, which exercises functions which are appropriate for the  
27 exercise by one or more units of local government, and] public  
28 authority which has statutory power to [make purchases and] enter  
29 into contracts or agreements [for the performance of any work or the  
30 furnishing or hiring of any materials or supplies usually required] for  
31 the design, financing, construction, operation, or maintenance, or any  
32 combination thereof, of a resource recovery facility, or for the

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 provision of resource recovery services;
- 2 [c.] "County" means any county of this State of whatever class;
- 3 [d.] "Department" means the Department of Environmental  
4 Protection;
- 5 [e.] "Director" means the Director of the Division of Taxation in  
6 the Department of Treasury;
- 7 [f.] "District" means a solid waste management district as  
8 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except  
9 that, as used in the provisions of [this amendatory and supplementary  
10 act] sections 3 through 17 of P.L.1985, c.38 (C.13:1E-138 through  
11 13:1E-152), "district" shall not include the Hackensack Meadowlands  
12 District;
- 13 [g.] "District investment tax fund" means a District Resource  
14 Recovery Investment Tax Fund established pursuant to subsection a.  
15 of section 15 of [this amendatory and supplementary act] P.L.1985,  
16 c.38 (C.13:1E-150);
- 17 [h.] "Division" means the Division of Taxation in the Department  
18 of Treasury;
- 19 [i.] "Division of Local Government Services" means the Division of  
20 Local Government Services in the Department of Community Affairs;
- 21 [j.] "Division of Rate Counsel" means the Division of Rate Counsel  
22 in the Department of the Public Advocate;
- 23 [k.] "Franchise" means the exclusive right to control and provide  
24 for the disposal of solid waste, except for designated recyclable  
25 materials as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12)  
26 or any other recyclable material whenever markets for those materials  
27 are available, within a district or districts as awarded by the [Board of  
28 Public Utilities] department;
- 29 [l.] "Independent public accountant" means a certified public  
30 accountant, a licensed public accountant or a registered municipal  
31 accountant;
- 32 [m.] "Investment tax" means the resource recovery investment tax  
33 imposed pursuant to subsection b. of section 3 of [this amendatory and  
34 supplementary act] P.L.1985, c.38 (C.13:1E-138);
- 35 [n.] "Investment tax fund" means the Resource Recovery  
36 Investment Tax Fund containing sub-accounts for each county  
37 established pursuant to the provisions of section 14 of [this  
38 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-149);
- 39 [o.] "Out-of-district solid waste" means any solid waste accepted  
40 for disposal in a district which was generated outside the receiving  
41 district;
- 42 [p.] "Person or party" means any individual, public or private  
43 corporation, company, partnership, firm, association, political  
44 subdivision of this State, or any State, bistate, or interstate agency or  
45 public authority;
- 46 [q.] "Proposed contract" means a contract negotiated by a

1 contracting unit pursuant to the provisions of [this amendatory and  
2 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.), or a  
3 substantial renegotiation of a contract previously approved pursuant  
4 to the provisions of [this amendatory and supplementary act] section  
5 28 of P.L.1985, c.38 (C.13:1E-163) if the renegotiation is determined  
6 to be substantial by the department[, the Board of Public Utilities,]or  
7 the Division of Local Government Services;

8 "Public authority" means any solid waste management authority  
9 created pursuant to the "solid waste management authorities law,"  
10 P.L.1968, c.249 (C.40:66A-32 et seq.); municipal or county utilities  
11 authority created pursuant to the "municipal and county utilities  
12 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); incinerator  
13 authority created pursuant to the "incinerator authorities law,"  
14 P.L.1948, c.348 (C.40:66A-1 et seq.); county improvement authority  
15 created pursuant to the "county improvement authorities law,"  
16 P.L.1960, c.183 (C.40:37A-44 et seq.); pollution control financing  
17 authority created pursuant to the "New Jersey Pollution Control  
18 Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.), or any other  
19 public body corporate and politic created for solid waste management  
20 purposes in any county or municipality, pursuant to the provisions of  
21 any law;

22 [r.] "Qualified vendor" means any person or party financially  
23 qualified for, and technically and administratively capable of,  
24 undertaking the design, financing, construction, operation, or  
25 maintenance, or any combination thereof, of a resource recovery  
26 facility or of providing resource recovery services, as provided in  
27 section 19 of [this amendatory and supplementary act] P.L.1985, c.38  
28 (C.13:1E-154);

29 [s.] "Recyclable material" means those materials which would  
30 otherwise become solid waste, which may be collected, separated or  
31 processed and returned to the economic mainstream in the form of raw  
32 materials or products;

33 [t.] "Recycling" means any process by which materials which would  
34 otherwise become solid waste are collected, separated or processed  
35 and returned to the economic mainstream in the form of raw materials  
36 or products;

37 [u. "Recycling facility" means a facility at 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 "Residual ash" means the bottom ash, fly ash, or any combination

1 thereof, resulting from the combustion of solid waste at a resource  
2 recovery facility:

3 [v.] "Resource recovery facility" means a solid waste facility  
4 constructed and operated for the incineration of solid waste for energy  
5 production and the recovery of metals and other materials for reuse;  
6 or a mechanized composting facility, or any other [solid waste] facility  
7 constructed or operated for the collection, separation, recycling, and  
8 recovery of metals, glass, paper, and other materials for reuse or for  
9 energy production;

10 "Resource recovery services" means any service provided by a  
11 qualified vendor, including but not limited to, the transportation or  
12 disposal of residual ash or the solid waste delivered to a resource  
13 recovery facility which cannot be processed at the resource recovery  
14 facility, including hazardous waste and recovered metals and other  
15 materials for reuse:

16 [w.] "Sanitary landfill facility" means a solid waste facility at which  
17 solid waste is deposited on or in the land as fill for the purpose of  
18 permanent disposal or storage for a period exceeding six months,  
19 except that it shall not include any waste facility approved for disposal  
20 of hazardous waste;

21 [x.] "Services tax" means the solid waste services tax imposed  
22 pursuant to subsection a. of section 3 of [this amendatory and  
23 supplementary act] P.L.1985, c.38 (C.13:1E-138);

24 [y.] "Services tax fund" means the Solid Waste Services Tax Fund  
25 established pursuant to section 12 of [this amendatory and  
26 supplementary act] P.L.1985, c.38 (C.13:1E-147);

27 [z.] "Vendor" means any person or party proposing to undertake  
28 the design, financing, construction, operation, or maintenance, or any  
29 combination thereof, of a resource recovery facility or of providing  
30 resource recovery services;

31 [aa.] "Waste importation tax" means the solid waste importation tax  
32 imposed pursuant to subsection c. of section 3 of [this amendatory and  
33 supplementary act] P.L.1985, c.38 (C.13:1E-138).

34 (cf: P.L.1985, c.38, s.2)

35

36 2. Section 18 of P.L.1985, c.38 (C.13:1E-153) is amended to read  
37 as follows:

38 18. The provisions of any other law, rule or regulation to the  
39 contrary notwithstanding, and as an alternative to any other procedure  
40 provided for by law or by order of the Board of Public Utilities, a  
41 contracting unit may enter into a contract with a vendor for the design,  
42 financing, construction, operation or maintenance, or any combination  
43 thereof, of a resource recovery facility, or for the provision of  
44 resource recovery services, pursuant to the provisions of [this

1 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-136 et  
2 al.). Any contracting unit intending to enter into a contract with a  
3 vendor pursuant to the provisions of [this amendatory and  
4 supplementary act] P.L.1985, c.38 shall establish a contract file, which  
5 shall be open to members of the public for inspection at the offices of  
6 the contracting unit. Any contract entered into pursuant to the  
7 provisions of [this amendatory and supplementary act] P.L.1985, c.38  
8 may be awarded for a period not to exceed 40 years.  
9 (cf: P.L.1985, c.38, s.18)

10

11 3. Section 19 of P.L.1985, c.38 (C.13:1E-154) is amended to read  
12 as follows:

13 19. a. A contracting unit which intends to enter into a contract with  
14 a vendor pursuant to the provisions of [this amendatory and  
15 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.) shall issue a  
16 request for qualifications of interested vendors. The request for  
17 qualifications shall include a general description of the resource  
18 recovery facility or resource recovery services required by the  
19 contracting unit, the minimum acceptable qualifications to be  
20 possessed by a vendor proposing to enter into a contract for the  
21 design, financing, construction, operation or maintenance, or any  
22 combination thereof, of a resource recovery facility, or for the  
23 provision of [these] resource recovery services, and the date by which  
24 vendors must submit their qualifications. If the resource recovery  
25 services required by the contracting unit include transportation and  
26 disposal of residual ash or nonprocessable solid waste, the contracting  
27 unit shall consider proposals for transportation and disposal by a single  
28 vendor. In addition to all other factors bearing on qualifications, the  
29 contracting unit shall consider the reputation and experience of the  
30 vendor, and may consider information which might result in debarment  
31 or suspension of a vendor from State contracting, and may disqualify  
32 a vendor if the vendor has been debarred or suspended by any State  
33 agency. The request for qualifications shall be published in at least one  
34 appropriate professional or trade journal, and in at least one  
35 newspaper of general circulation in the jurisdiction which would be  
36 served under the terms of the proposed contract.

37 b. After reviewing the qualifications submitted by vendors  
38 pursuant to subsection a. of this section, the contracting unit shall  
39 establish a list of qualified vendors, which shall include the criteria  
40 applied by the contracting unit in selecting the qualified vendors, and  
41 shall publish the list in the same publications in which the requests for  
42 qualifications were published pursuant to subsection a. of this section.  
43 Any vendor designated by a contracting unit as a qualified vendor shall  
44 be a person or party financially, technically and administratively  
45 capable of undertaking the design, financing, construction, operation,  
46 or maintenance, or any combination thereof, of a resource recovery

1 facility, or [for] of providing resource recovery services.  
2 (cf: P.L.1985, c.38, s.19)

3  
4 4. Section 20 of P.L.1985, c.38 (C.13:1E-155) is amended to read  
5 as follows:

6 20. Upon the selection of qualified vendors pursuant to the  
7 provisions of section 19 of [this amendatory and supplementary act]  
8 P.L.1985, c.38 (C.13:1E-154), the contracting unit shall issue a  
9 request for proposals to the qualified vendors, which shall include a  
10 detailed description of the resource recovery facility [and] or resource  
11 recovery services required, the format and procedure to be followed  
12 in submitting proposals, the specific information which qualified  
13 vendors must provide in the proposal, a statement setting forth the  
14 relative importance of factors, including cost, which the contracting  
15 unit will consider in evaluating a proposal submitted by a qualified  
16 vendor, and any other information which the contracting unit deems  
17 appropriate. A contracting unit issuing a request for proposals for the  
18 transportation and disposal of residual ash or nonprocessable solid  
19 waste to a designated out-of-state disposal facility shall consider the  
20 mode of transportation, and railroad as the most preferred mode. The  
21 request for proposals shall include the date and time of day by which,  
22 and the place at which, the proposals shall be submitted to the  
23 contracting unit. The contracting unit may extend the deadline for  
24 submission of proposals, but this extension shall apply to all qualified  
25 vendors, who shall be provided with simultaneous written notification  
26 of this extension.

27 (cf: P.L.1985, c.38, s.20)

28

29 5. Section 22 of P.L.1985, c.38 (C.13:1E-157) is amended to read  
30 as follows:

31 22. Upon a review of the proposals submitted by qualified vendors  
32 pursuant to section 21 of [this amendatory and supplementary act]  
33 P.L.1985, c.38 (C.13:1E-156) amendatory and supplementary act, a  
34 contracting unit shall designate one or more qualified vendors whose  
35 proposal or proposals the contracting unit finds in writing to be the  
36 most advantageous to the public, taking into consideration price and  
37 the evaluation factors set forth in the request for proposals. A  
38 contracting unit issuing a request for proposals for the transportation  
39 and disposal of residual ash or nonprocessable solid waste to a  
40 designated out-of-state disposal facility shall consider the mode of  
41 transportation, and railroad as the most preferred mode. Upon making  
42 this designation, the contracting unit may begin negotiations with the  
43 qualified vendor or vendors, and may negotiate a proposed contract  
44 with a qualified vendor or vendors, which shall include the accepted  
45 proposal.

46 (cf: P.L.1985, c.38, s.22)

1       6. Section 23 of P.L.1985, c.38 (C.13:1E-158) is amended to read  
2 as follows:

3       23. [a.] A contracting unit shall submit any proposed contract  
4 negotiated with a qualified vendor pursuant to the provisions of [this  
5 act] P.L.1985, c.38 (C.13:1E-136 et al.) to the Division of Rate  
6 Counsel for review, and to the department[, the Board of Public  
7 Utilities,]and the Division of Local Government Services for review  
8 and approval pursuant to the provisions of section [24] 25 through  
9 section 28 of [this amendatory and supplementary act] P.L.1985, c.38  
10 (C.13:1E-160 through 13:1E-163).

11 (cf: P.L.1985, c.38, s.23)

12

13       7. Section 24 of P.L.1985, c.38 (C.13:1E-159) is amended to read  
14 as follows:

15       24. Any contracting unit intending to submit a proposed contract  
16 to the department[, the Board of Public Utilities,]and the Division of  
17 Local Government Services for review and approval pursuant to the  
18 provisions of [this amendatory and supplementary act] section 25  
19 through section 28 of P.L.1985, c.38 (C.13:1E-160 through  
20 13:1E-163) shall notify the department, [the Board of Public  
21 Utilities,]the Division of Local Government Services, and the Division  
22 of Rate Counsel of its intention to submit its proposed contract for  
23 review and approval at least 10 days prior to the submission.

24 (cf: P.L.1985, c.38, s.24)

25

26       8. Section 25 of P.L.1985, c.38 (C.13:1E-160) is amended to read  
27 as follows:

28       25. The department, [the Board of Public Utilities,]the Division of  
29 Local Government Services, and the Division of Rate Counsel shall  
30 have 15 days from the date of receipt of a proposed contract submitted  
31 by a contracting unit for review and approval pursuant to the  
32 provisions of [this amendatory and supplementary act] P.L.1985, c.38  
33 (C.13:1E-136 et al.) to request the contracting unit to supply  
34 additional information or documentation concerning the proposed  
35 contract. The contracting unit shall provide written responses to these  
36 requests within 10 days of receipt of the request. Any supplemental  
37 requests for information shall be made within five days of receipt of  
38 the written responses to the initial requests. The contracting unit shall  
39 provide written responses to any supplemental requests within 10 days  
40 of receipt of the supplemental requests. The schedule may be modified  
41 by the mutual consent of the contracting unit and the department, the  
42 Division of Local Government Services, [the Board of Public  
43 Utilities,]or the Division of Rate Counsel, as the case may be.

44 (cf: P.L.1985, c.38, s.25)

1       9. Section 26 of P.L.1985, c.38 (C.13:1E-161) is amended to read  
2 as follows:

3       26. a. A contracting unit shall hold a public hearing on a proposed  
4 contract submitted to the department[, the Board of Public Utilities]  
5 and the Division of Local Government Services for review and  
6 approval pursuant to the provisions of [this amendatory and  
7 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.) no sooner  
8 than 30 days nor later than 45 days following submission of the  
9 proposed contract for review and [approval] approval. This public  
10 hearing shall be held in the area to be served under the terms of the  
11 proposed contract.

12       b. The contracting unit shall provide at least 20 days' advance  
13 written notice of a public hearing to be held on a proposed contract  
14 pursuant to the provisions of this section to the department, [the  
15 Board of Public Utilities,]the Division of Local Government Services,  
16 the Division of Rate Counsel, the clerk of each municipality within the  
17 area to be served under the terms of the proposed contract, and to the  
18 county clerk of each county in whole or in part within the area to be  
19 served under the terms of the proposed contract.

20       c. A contracting unit shall provide advance notice to the public of  
21 a public hearing to be held on a proposed contract pursuant to the  
22 provisions of this section. This notice shall be published once a week  
23 for two consecutive weeks in at least one newspaper of general  
24 circulation in the area to be served under the terms of the proposed  
25 contract. The second notice shall be published at least 10 days prior to  
26 the date of the public hearing. These notices shall include the date,  
27 time and location of the public hearing, a general description of the  
28 proposed contract, and shall inform the public of the availability of  
29 copies of the proposed contract for inspection by any interested party  
30 at the offices of the contracting unit. Upon request, the contracting  
31 unit shall provide any interested party with a copy of the proposed  
32 contract at a cost not to exceed the actual cost of reproducing the  
33 proposed contract and any supporting documentation.

34 (cf: P.L.1985, c.38, s.26)

35

36       10. Section 27 of P.L.1985, c.38 (C.13:1E-162) is amended to  
37 read as follows:

38       27. a. At the public hearing on the proposed contract held by the  
39 contracting unit pursuant to the provisions of section 26 of [this  
40 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161) any  
41 interested party may present statements or questions concerning the  
42 terms and conditions of the proposed contract. Prior to the conclusion  
43 of the public hearing, the contracting unit shall respond to questions  
44 concerning the proposed contract raised by any interested party. The  
45 contracting unit shall provide that a verbatim record be kept of the  
46 public hearing. The record of the public hearing shall be kept open for



1 a period of 15 days following the conclusion of the hearing, during  
2 which interested parties may submit written statements to be included  
3 in the hearing record. The contracting unit shall provide that a hearing  
4 report be printed, which shall include the verbatim record of the public  
5 hearing, written statements submitted by interested parties, and a  
6 statement prepared by the contracting unit summarizing the major  
7 issues raised at the public hearing and the contracting unit's specific  
8 response to these issues. The contracting unit shall make copies of the  
9 transcript of the hearing report available to interested parties upon  
10 request at a cost not to exceed the actual cost of printing.

11 b. Within 45 days of the close of a public hearing on a proposed  
12 contract held pursuant to this section, the contracting unit shall submit  
13 a copy of the hearing report to the department, [the Board of Public  
14 Utilities,]the Division of Local Government Services, and the Division  
15 of Rate Counsel.

16 (cf: P.L.1985, c.38, s.27)

17

18 11. Section 28 of P.L.1985, c.38 (C.13:1E-163) is amended to  
19 read as follows:

20 28. a. Within 30 days of receipt of the hearing report submitted by  
21 a contracting unit pursuant to the provisions of subsection b. of  
22 section 27 of [this amendatory and supplementary act] P.L.1985, c.38  
23 (C.13:1E-162), the department shall approve or conditionally approve  
24 the proposed contract submitted for review by the contracting unit  
25 pursuant to the provisions of [this amendatory and supplementary act]  
26 P.L.1985, c.38 (C.13:1E-136 et al.). The department shall approve the  
27 proposed contract if it finds that the environmental terms of the  
28 proposed contract are consistent with the district solid waste  
29 management plan adopted pursuant to the provisions of the "Solid  
30 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) by the  
31 [solid waste] district or districts to be served under the terms of the  
32 proposed contract.

33 If the department conditionally approves the proposed contract, it  
34 shall state in writing the revisions which must be made to the proposed  
35 contract to receive approval, and the contracting unit may prepare and  
36 submit to the department a revised proposed contract. If the  
37 department determines that the revisions are substantial, the  
38 contracting unit shall hold a public hearing on the revisions pursuant  
39 to the provisions of section 26 and section 27 of [this amendatory and  
40 supplementary act] P.L.1985, c.38 (C.13:1E-161 and 13:1E-162). In  
41 the alternative, the district solid waste management plan or plans may  
42 be amended pursuant to law so as to be consistent with the terms of  
43 the proposed contract.

44 b. Within 30 days of receipt of the hearing report submitted by a  
45 contracting unit pursuant to the provisions of subsection b. of section  
46 27 of [this amendatory and supplementary act] P.L.1985, c.38

1 (C.13:1E-162), the Division of Local Government Services shall  
2 approve or conditionally approve the proposed contract submitted by  
3 the contracting unit pursuant to the provisions of [this amendatory and  
4 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.). The division  
5 shall approve the proposed contract if it finds in writing that the terms  
6 of the proposed contract are in compliance with the provisions of  
7 section 29 of [this amendatory and supplementary act] P.L.1985, c.38  
8 (C.13:1E-164), [and] that the terms of the proposed contract will  
9 result in the provision of services or facilities necessary for the health,  
10 safety, welfare, convenience or betterment of the recipients or users of  
11 these services or facilities, that the terms and provisions of the  
12 proposed contract are not unreasonable, exorbitant or impracticable,  
13 would not impose an undue and unnecessary financial burden on the  
14 citizens residing in or served by the contracting unit, and will not  
15 materially impair the ability of the contracting unit to punctually pay  
16 the principal and interest on its outstanding indebtedness and to supply  
17 other essential public improvements and services, except that the  
18 division, in its review of the proposed contract, shall be bound by any  
19 applicable findings or determinations of the Local Finance Board made  
20 pursuant to the provisions of subsection d. of N.J.S.40A:2-7 or section  
21 7 of P.L.1983, c.313 (C.40A:5A-7). If the division conditionally  
22 approves the proposed contract, it shall state in writing the revisions  
23 which must be made to the proposed contract to receive approval, and  
24 the contracting unit may prepare and submit to the division a revised  
25 proposed contract. If the division determines that revisions are  
26 substantial, the contracting unit shall hold a public hearing on the  
27 revisions pursuant to the provisions of section 26 and section 27 of  
28 [this amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161  
29 and 13:1E-162).

30 c. Within 30 days of receipt of the hearing report submitted by a  
31 contracting unit pursuant to the provisions of subsection b. of section  
32 27 of [this amendatory and supplementary act] P.L.1985, c.38  
33 (C.13:1E-162), the [Board of Public Utilities] department shall  
34 approve or conditionally approve the proposed contract submitted by  
35 the contracting unit pursuant to the provisions of [this amendatory and  
36 supplementary act] P.L.1985, c.38 (C.13:1E-136 et al.). The [board]  
37 department shall approve the proposed contract if it finds in writing  
38 that the financial terms of the proposed contract are in the public  
39 interest.

40 If the [board] department conditionally approves the proposed  
41 contract, it shall state in writing the revisions which must be made to  
42 the proposed contract to receive approval, and the contracting unit  
43 may prepare and submit to the [board] department a revised proposed  
44 contract. If the [board] department determines that the revisions are  
45 substantial, the contracting unit shall hold a public hearing on the  
46 revisions pursuant to the provisions of section 26 and section 27 of

1 [this amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-161  
2 and 13:1E-162). In reviewing and approving the contract, the [Board  
3 of Public Utilities] department shall not determine a rate base for, or  
4 otherwise regulate the tariffs or return of, the proposed resource  
5 recovery facility. The [board] department shall not, thereafter, conduct  
6 any further review of the contract.

7 d. Notwithstanding the provisions of subsection c. of this section,  
8 all parties to any contract may request the [board] department to  
9 determine a rate base for the proposed resource recovery facility, in  
10 which case the [board] department may make that determination and  
11 the terms of any contract so approved shall remain subject to the  
12 continuing jurisdiction of the [board] department.

13 (cf: P.L.1985, c.38, s.28)

14  
15 12. Section 29 of P.L.1985, c.38 (C.13:1E-164) is amended to  
16 read as follows:

17 29. Any contract to be awarded to a vendor pursuant to the  
18 provisions of [this amendatory and supplementary act] P.L.1985, c.38  
19 (C.13:1E-136 et al.) or pursuant to the "Local Public Contracts Law,"  
20 P.L.1971, c.198 (C.40A:11-1 et seq.) or any other contracting  
21 procedure permitted by law for resource recovery facilities, or the  
22 provision of resource recovery services, shall include, where  
23 applicable, but need not be limited to, provisions concerning:

24 a. Allocation of the risks of financing and constructing a resource  
25 recovery facility, [such] which risks [to] shall include, but need not be  
26 limited to:

- 27 (1) Delays in project completion;
- 28 (2) Construction cost overruns and change orders;
- 29 (3) Changes necessitated by revisions in laws, rules or regulations;
- 30 (4) Failure to achieve the required operating performance;
- 31 (5) Loss of tax benefits; and
- 32 (6) The need for additional equity contributions;

33 b. Allocation of the risks of operating and maintaining a resource  
34 recovery facility, [such] which risks [to] shall include, but need not be  
35 limited to:

- 36 (1) Excess downtime or technical failure;
- 37 (2) Excess labor or materials costs due to underestimation;
- 38 (3) Changes in operating procedure necessitated by revisions in  
39 laws, rules or regulations;
- 40 (4) Changes in the amount or composition of the solid waste  
41 delivered for disposal;
- 42 (5) Excess operation or maintenance costs due to poor  
43 management;
- 44 (6) [Increased] The increased costs [of] associated with the  
45 disposal of the residual ash generated at a resource recovery facility  
46 [residue];

- 1 (7) The increased costs associated with the disposal of solid waste  
2 delivered to a resource recovery facility which cannot be processed at  
3 the facility; and
- 4 (8) The costs of disposal of recovered material which cannot be  
5 sold;
- 6 c. Allocation of the risks associated with circumstances beyond the  
7 control of any party to the contract;
- 8 d. Allocation of the revenues from the sale of energy or other  
9 recovered metals and other materials for reuse;
- 10 e. Default and termination of the contract;
- 11 f. The periodic preparation by the vendor of an operating  
12 performance report and an audited balance statement of the facility  
13 which shall be submitted to the contracting unit, the department and  
14 the Division of Local Government Services in the Department of  
15 Community Affairs;
- 16 g. The intervals at which the contract shall be renegotiated;
- 17 h. Employment of current employees of the contracting unit whose  
18 positions will be affected by the terms of the contract;
- 19 i. Competitive bidding procedures, or other methods of cost  
20 control, to be utilized by the vendor in obtaining any goods or services  
21 the cost of which will automatically be included, pursuant to the terms  
22 of the contract, in the rates to be charged at the resource recovery  
23 facility; and
- 24 j. The formulas to be used to determine the charges, rates, or fees  
25 to be charged for the resource recovery services, and the methodology  
26 or methodologies used to develop these formulas.
- 27 (cf: P.L.1985, c.38, s.29)

28  
29 13. Section 30 of P.L.1985, c.38 (C.13:1E-165) is amended to  
30 read as follows:

31 30. Whenever the Division of [Rate Counsel] the Ratepayer  
32 Advocate represents the public interest in a proceeding held pursuant  
33 to the provisions of [this amendatory and supplementary act]  
34 P.L.1985, c.38 (C.13:1E-136 et al.) to consider a proposed contract,  
35 the Director of the Division of [Rate Counsel] the Ratepayer Advocate  
36 may assess the vendor pursuant to the provisions of this section.

37 a. Whenever a contracting unit shall first submit a proposed  
38 contract for the provision of resource recovery services to the  
39 department and the Division of Local Government Services for review  
40 and approval pursuant to the provisions of P.L.1985, c.38  
41 (C.13:1E-136 et al.), the vendor shall be assessed an amount equal to  
42 one-tenth of 1% of the vendor's estimated annual gross revenues for  
43 the first year of the contract. Thereafter, the vendor shall be assessed  
44 in the manner provided for in section 20 of P.L.1974, c.27  
45 (C.52:27E-19).

46 b. Whenever a contracting unit shall first submit a proposed

1 contract for the design, financing, construction, operation, or  
2 maintenance, or any combination thereof, of a resource recovery  
3 facility to the department[, the Board of Public Utilities,]and the  
4 Division of Local Government Services for review and approval  
5 pursuant to the provisions of [this amendatory and supplementary act]  
6 P.L.1985, c.38 (C.13:1E-136 et al.), the vendor shall be assessed an  
7 amount equal to one-tenth of 1% of the estimated gross revenues of  
8 the resource recovery facility in the first year of its operation.  
9 Thereafter, the vendor shall be assessed in the manner provided for in  
10 section 20 of P.L.1974, c.27 (C.52:27E-19).  
11 (cf: P.L.1985, c.38, s.30)

12

13 14. Section 31 of P.L.1985, c.38 (C.13:1E-166) is amended to  
14 read as follows:

15 31. a. Any contracting unit which has issued a request for  
16 qualifications, a request for proposals, or both, as the case may be, or  
17 has initiated formal negotiations with a qualified vendor or two or  
18 more qualified vendors, within 30 days after [the effective date of this  
19 amendatory and supplementary act] February 4, 1985, may petition the  
20 department for an exemption from the provisions of section 19, section  
21 20, and section 21 of [this amendatory and supplementary act]  
22 P.L.1985, c.38 (C.13:1E-154, 13:1E-155 and 13:1E-156). Upon  
23 receiving an exemption authorized pursuant to this subsection, a  
24 contracting unit may negotiate a proposed contract with a vendor  
25 pursuant to the provisions of section 22 of [this amendatory and  
26 supplementary act] P.L.1985, c.38 (C.13:1E-157), and shall submit the  
27 proposed contract for review and approval pursuant to the provisions  
28 of section 23 through section 28 of [this amendatory and  
29 supplementary act] P.L.1985, c.38 (C.13:1E-158 through 13:1E-163).

30 b. Any contracting unit which has negotiated a contract for  
31 resource recovery facilities or services with a vendor prior to [the  
32 effective date of this amendatory and supplementary act] February 4,  
33 1985, and has held a public hearing on the contract, may petition the  
34 department for an exemption from the provisions of section 19  
35 through section 27 of [this amendatory and supplementary act]  
36 P.L.1985, c.38 (C.13:1E-154 through 13:1E-162). Upon receiving an  
37 exemption authorized pursuant to this subsection, the contracting unit  
38 shall submit the contract to the department[,]and the Division of Local  
39 Government Services[, and the Board of Public Utilities] for the  
40 review and approvals required pursuant to section 28 of [this  
41 amendatory and supplementary act] P.L.1985, c.38 (C.13:1E-163).  
42 The provisions of section 28 of [this amendatory and supplementary  
43 act] P.L.1985, c.38 (C.13:1E-163) to the contrary notwithstanding,  
44 the department[,] and the Division of Local Government Services[,  
45 and the Board of Public Utilities] shall approve or conditionally  
46 approve a contract submitted for review pursuant to the provisions of

1 this subsection within 60 days of the receipt of the contract.

2 If the department[,]or the Division of Local Government Services[,]  
3 or the Board of Public Utilities] conditionally approves the proposed  
4 contract, the department[,]or the Division of Local Government  
5 Services, [or the Board of Public Utilities,]as the case may be, shall  
6 state in writing the revisions which must be made to the proposed  
7 contract to receive approval, and the contracting unit may prepare and  
8 submit a revised proposed contract. If the department[,]or the Division  
9 of Local Government Services, [or the Board of Public Utilities,]as the  
10 case may be, determines that the necessary revisions are substantial,  
11 the contracting unit shall hold a public hearing on the revisions.

12 (cf: P.L.1985, c.38, s.31)

13

14 15. Section 33 of P.L.1985, c.38 (C.13:1E-168) is amended to  
15 read as follows:

16 33. a. (1) The department may adopt, pursuant to the provisions  
17 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
18 et seq.), any rules and regulations necessary to implement the  
19 provisions of [this amendatory and supplementary act] P.L.1985, c.38  
20 (C.13:1E-136 et al.).

21 (2) The department shall adopt rules and regulations for the  
22 engineering design of resource recovery facilities, to include a  
23 requirement that state-of-the-art air emission technology be installed  
24 to control the emission of hydrocarbons, particulates, dioxins, nitrogen  
25 oxides, carbon monoxide, heavy metals, hydrochloric acid, sulfur  
26 oxides and other acid gases and pollutants from each resource  
27 recovery facility which is expected to emit these pollutants.

28 b. [The Board of Public Utilities may adopt, pursuant to the  
29 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
30 (C.52:14B-1 et seq.), any rules and regulations necessary to implement  
31 the provisions of this amendatory and supplementary act.](~~deleted by~~  
32 ~~amendment, P.L. , c. )~~

33 c. The Division of Local Government Services may adopt, pursuant  
34 to the provisions of the "Administrative Procedure Act," P.L.1968,  
35 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to  
36 implement the provisions of [this amendatory and supplementary act]  
37 P.L.1985, c.38 (C.13:1E-136 et al.).

38 (cf: P.L.1985, c.38, s.33)

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

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

5       (1) "Contracting unit" means:

6       (a) Any county; or

7       (b) Any municipality; or

8       (c) Any board, commission, committee, authority or agency, which  
9 is not a State board, commission, committee, authority or agency, and  
10 which has administrative jurisdiction over any district other than a  
11 school district, project, or facility, included or operating in whole or  
12 in part, within the territorial boundaries of any county or municipality  
13 which exercises functions which are appropriate for the exercise by  
14 one or more units of local government, and which has statutory power  
15 to make purchases and enter into contracts or agreements for the  
16 performance of any work or the furnishing or hiring of any materials  
17 or supplies usually required, the cost or contract price of which is to  
18 be paid with or out of public funds.

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

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

26       (2) "Governing body" means:

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

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

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

35       (3) "Contracting agent" means the governing body of a contracting  
36 unit, or any board, commission, committee, officer, department,  
37 branch or agency which has the power to prepare the advertisements,  
38 to advertise for and receive bids and, as permitted by this act, to make  
39 awards for the contracting unit in connection with purchases, contracts  
40 or agreements.

41       (4) "Purchase" is a transaction, for a valuable consideration,  
42 creating or acquiring an interest in goods, services and property,  
43 except real property or any interest therein.

44       (5) "Materials" includes goods and property subject to chapter 2  
45 of Title 12A of the New Jersey Statutes, apparatus, or any other  
46 tangible thing, except real property or any interest therein.

1 (6) "Professional services" means services rendered or performed  
2 by a person authorized by law to practice a recognized profession,  
3 whose practice is regulated by law, and the performance of which  
4 services requires knowledge of an advanced type in a field of learning  
5 acquired by a prolonged formal course of specialized instruction and  
6 study as distinguished from general academic instruction or  
7 apprenticeship and training. Professional services may also mean  
8 services rendered in the performance of work that is original and  
9 creative in character in a recognized field of artistic endeavor.

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

13 (8) "Project" means any work, undertaking, program, activity,  
14 development, redevelopment, construction or reconstruction of any  
15 area or areas.

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

19 (10) "Homemaker--home health services" means at home personal  
20 care and home management provided to an individual or members of  
21 his family who reside with him, or both, necessitated by the individual's  
22 illness or incapacity. "Homemaker--home health services" includes, but  
23 is not limited to, the services of a trained homemaker.

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

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

32 (13) "Marketing" means the marketing of designated recyclable  
33 materials source separated in a municipality which entails a marketing  
34 cost less than the cost of transporting the recyclable materials to solid  
35 waste facilities and disposing of the materials as municipal solid waste  
36 at the facility utilized by the municipality.

37 (14) "Municipal solid waste" means all residential, commercial and  
38 institutional solid waste generated within the boundaries of a  
39 municipality.

40 (15) "Distribution" (when used in relation to electricity) means the  
41 process of conveying electricity from a contracting unit who is a  
42 generator of electricity or a wholesale purchaser of electricity to retail  
43 customers or other end users of electricity.

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



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

4 (18) "Cooperative marketing" means the joint marketing by two or  
5 more contracting units within the same county, or adjacent or  
6 proximate counties, of the source separated recyclable materials  
7 designated in a district recycling plan required pursuant to section 3 of  
8 P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative  
9 agreement entered into by the participating contracting units therefor.

10 (19) "Residual ash" means the bottom ash, fly ash, or any  
11 combination thereof, resulting from the combustion of solid waste at  
12 a resource recovery facility.

13 (20) "Resource recovery facility" means a solid waste facility  
14 constructed and operated for the incineration of solid waste for energy  
15 production and the recovery of metals and other materials for reuse;  
16 or a mechanized composting facility, or any other facility constructed  
17 or operated for the collection, separation, recycling, and recovery of  
18 metals, glass, paper, and other materials for reuse or for energy  
19 production.

20 (21) "Resource recovery services" means any service provided by  
21 a qualified vendor, including but not limited to, the transportation or  
22 disposal of residual ash or the solid waste delivered to a resource  
23 recovery facility which cannot be processed at the resource recovery  
24 facility, including hazardous waste and recovered metals and other  
25 materials for reuse.

26 (22) "Solid waste collection" means the activity related to pickup  
27 and transportation of solid waste from its source or location to an  
28 authorized solid waste facility, but does not include activity related to  
29 the pickup, transportation or unloading of septic waste.

30 (23) "Solid waste collection services" means the services provided  
31 by persons engaging in the business of solid waste collection.

32 (24) "Solid waste collector" means a person engaged in the  
33 collection of solid waste and holding a certificate of public  
34 convenience and necessity pursuant to sections 7 and 10 of P.L.1970,  
35 c.40 (C.48:13A-6 and 48:13A-9).

36 (cf: P.L.1995, c.216, s.10)

37  
38 17. Section 6 of P.L.1975, c.353 (C.40A:11-6.1) is amended to  
39 read as follows:

40 6. a. All purchases, contracts or agreements which require public  
41 advertisement for bids shall be awarded to the lowest responsible  
42 bidder.

43 Prior to the award of any other purchase, contract or agreement,  
44 the contracting agent shall, except in the case of the performance of  
45 professional services, solicit quotations, whenever practicable, on any  
46 such purchase, contract or agreement the estimated cost or price of

1 which is \$1,000.00 or more, and the award thereof shall be made, in  
2 accordance with sections 3 (C.40A:11-3) or 4 (C.40A:11-4), as the  
3 case may be, of the Local Public Contracts Law, on the basis of the  
4 lowest responsible quotation received, which quotation is most  
5 advantageous to the contracting unit, price and other factors  
6 considered; provided, however, that if the contracting agent deems it  
7 impracticable to solicit competitive quotations in the case of  
8 extraordinary, unspecifiable service, or, in the case of such or any  
9 other purchase, contract or agreement awarded hereunder, having  
10 sought such quotations determines that it should not be awarded on  
11 the basis of the lowest quotation received, the contracting agent shall  
12 file a statement of explanation of the reason or reasons therefor, which  
13 shall be placed on file with said purchase, contract or agreement.

14 b. Notwithstanding the provisions of subsection a. of this section  
15 to the contrary, a contracting unit shall, prior to the award of a  
16 contract for the provision of solid waste collection services to a  
17 responsible bidder for the transportation and disposal of solid waste to  
18 a designated out-of-state disposal facility by truck, provide a  
19 responsible bidder proposing to transport the solid waste by railroad  
20 the opportunity to match the bid of the lowest responsible bidder. If  
21 the responsible bidder proposing to transport the solid waste by  
22 railroad matches the lowest responsible bid, the contracting unit shall  
23 award the contract to that bidder. If the solid waste collection  
24 services required by the contracting unit include transportation and  
25 disposal of solid waste, the contracting unit shall consider bids for  
26 transportation and disposal by a single bidder.

27 c. Notwithstanding the provisions of subsection a. of this section  
28 to the contrary, a contracting unit shall, prior to the award of a  
29 contract for the provision of resource recovery services to a  
30 responsible bidder for the transportation and disposal of residual ash  
31 or nonprocessable solid waste to a designated out-of-state disposal  
32 facility by truck, provide a responsible bidder proposing to transport  
33 residual ash or nonprocessable solid waste by railroad the opportunity  
34 to match the bid of the lowest responsible bidder. If the responsible  
35 bidder proposing to transport the residual ash or nonprocessable solid  
36 waste by railroad matches the lowest responsible bid, the contracting  
37 unit shall award the contract to that bidder. If the resource recovery  
38 services required by the contracting unit include transportation and  
39 disposal of residual ash or nonprocessable solid waste, the contracting  
40 unit shall consider bids for transportation and disposal by a single  
41 bidder.

42 (cf: P.L.1983, c.418, s.1)

43

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

46 15. All purchases, contracts or agreements for the performing of

1 work or the furnishing of materials, supplies or services shall be made  
2 for a period not to exceed 12 consecutive months, except that  
3 contracts or agreements may be entered into for longer periods of time  
4 as follows:

5 (1) Supplying of:

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

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

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

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

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

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

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

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

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

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

- 1 (9) Any single project for the construction, reconstruction or  
2 rehabilitation of any public building, structure or facility, or any public  
3 works project, including the retention of the services of any architect  
4 or engineer in connection therewith, for the length of time authorized  
5 and necessary for the completion of the actual construction;
- 6 (10) The providing of food services for any term not exceeding  
7 three years;
- 8 (11) On-site inspections undertaken by private agencies pursuant  
9 to the "State Uniform Construction Code Act," P.L.1975, c.217  
10 (C.52:27D-119 et seq.) for any term of not more than three years;
- 11 (12) The performance of work or services or the furnishing of  
12 materials or supplies for the purpose of conserving energy in buildings  
13 owned by, or operations conducted by, the contracting unit, the entire  
14 price of which [to] shall be established as a percentage of the resultant  
15 savings in energy costs, for a term not to exceed 10 years; provided,  
16 however, that [such] these contracts shall be entered into only subject  
17 to and in accordance with rules and regulations [promulgated] by the  
18 Department of Environmental Protection establishing a methodology  
19 for computing energy cost savings;
- 20 (13) The performance of work or services or the furnishing of  
21 materials or supplies for the purpose of elevator maintenance for any  
22 term not exceeding three years;
- 23 (14) Leasing or servicing of electronic communications equipment  
24 for a period not to exceed five years; provided, however, such contract  
25 shall be entered into only subject to and in accordance with the rules  
26 and regulations promulgated by the Director of the Division of Local  
27 Government Services of the Department of Community Affairs;
- 28 (15) Leasing of motor vehicles, machinery and other equipment  
29 primarily used to fight fires, for a term not to exceed seven years,  
30 when the contract includes an option to purchase, subject to and in  
31 accordance with rules and regulations promulgated by the Director of  
32 the Division of Local Government Services of the Department of  
33 Community Affairs;
- 34 (16) The provision of water supply services or the designing,  
35 financing, construction, operation, or maintenance, or any combination  
36 thereof, of a water supply facility, or any component part or parts  
37 thereof, including a water filtration system, for a period not to exceed  
38 40 years, when the contract for these services is approved by the  
39 Division of Local Government Services in the Department of  
40 Community Affairs, the Board of Public Utilities, and the Department  
41 of Environmental Protection pursuant to P.L.1985, c.37 (C.58:26-1 et  
42 al.), except for those contracts otherwise exempted pursuant to  
43 subsection (30), (31), (34) or (35) of this section. For the purposes  
44 of this subsection, "water supply services" means any service provided  
45 by a water supply facility; "water filtration system" means any  
46 equipment, plants, structures, machinery, apparatus, or land, or any

1 combination thereof, acquired, used, constructed, rehabilitated, or  
2 operated for the collection, impoundment, storage, improvement,  
3 filtration, or other treatment of drinking water for the purposes of  
4 purifying and enhancing water quality and insuring its potability prior  
5 to the distribution of the drinking water to the general public for  
6 human consumption, including plants and works, and other personal  
7 property and appurtenances necessary for their use or operation; and  
8 "water supply facility" means and refers to the real property and the  
9 plants, structures, interconnections between existing water supply  
10 facilities, machinery and equipment and other property, real, personal  
11 and mixed, acquired, constructed or operated, or to be acquired,  
12 constructed or operated, in whole or in part by or on behalf of a  
13 political subdivision of the State or any agency thereof, for the  
14 purpose of augmenting the natural water resources of the State and  
15 making available an increased supply of water for all uses, or of  
16 conserving existing water resources, and any and all appurtenances  
17 necessary, useful or convenient for the collecting, impounding, storing,  
18 improving, treating, filtering, conserving or transmitting of water and  
19 for the preservation and protection of these resources and facilities and  
20 providing for the conservation and development of future water supply  
21 resources;

22 (17) The provision of solid waste disposal services by a resource  
23 recovery facility[, the furnishing of products of a resource recovery  
24 facility, the disposal of the solid waste delivered for disposal which  
25 cannot be processed by a resource recovery facility or the waste  
26 products resulting from the operation of a resource recovery facility,  
27 including hazardous waste and recovered metals and other materials  
28 for reuse.]; or the provision of resource recovery services by a  
29 qualified vendor, including but not limited to, the disposal of residual  
30 ash or the solid waste delivered to a resource recovery facility which  
31 cannot be processed at the resource recovery facility, including  
32 hazardous waste and recovered metals and other materials for reuse;  
33 or the design, financing, construction, operation or maintenance of a  
34 resource recovery facility for a period not to exceed 40 years when the  
35 contract is approved by the Division of Local Government Services in  
36 the Department of Community Affairs, the Board of Public Utilities,  
37 and the Department of Environmental Protection; and when the  
38 resource recovery facility is in conformance with a district solid waste  
39 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et  
40 seq.). For the purposes of this subsection, "resource recovery facility"  
41 means a solid waste facility constructed and operated for the  
42 incineration of solid waste for energy production and the recovery of  
43 metals and other materials for reuse; or a mechanized composting  
44 facility, or any other solid waste facility constructed or operated for  
45 the collection, separation, recycling, and recovery of metals, glass,  
46 paper, and other materials for reuse or for energy production;

1 (18) The sale of electricity or thermal energy, or both, produced by  
2 a resource recovery facility for a period not to exceed 40 years when  
3 the contract is approved by the Board of Public Utilities, and when the  
4 resource recovery facility is in conformance with a district solid waste  
5 management plan approved pursuant to P.L.1970, c.39 (C.13:1E-1 et  
6 seq.). For the purposes of this subsection, "resource recovery facility"  
7 means a solid waste facility constructed and operated for the  
8 incineration of solid waste for energy production and the recovery of  
9 metals and other materials for reuse; or a mechanized composting  
10 facility, or any other solid waste facility constructed or operated for  
11 the collection, separation, recycling, and recovery of metals, glass,  
12 paper, and other materials for reuse or for energy production;

13 (19) The provision of wastewater treatment services or the  
14 designing, financing, construction, operation, or maintenance, or any  
15 combination thereof, of a wastewater treatment system, or any  
16 component part or parts thereof, for a period not to exceed 40 years,  
17 when the contract for these services is approved by the Division of  
18 Local Government Services in the Department of Community Affairs  
19 and the Department of Environmental Protection pursuant to  
20 P.L.1985, c.72 (C.58:27-1 et al.), except for those contracts otherwise  
21 exempted pursuant to subsection (36) of this section. For the  
22 purposes of this subsection, "wastewater treatment services" means  
23 any services provided by a wastewater treatment system, and  
24 "wastewater treatment system" means equipment, plants, structures,  
25 machinery, apparatus, or land, or any combination thereof, acquired,  
26 used, constructed, or operated for the storage, collection, reduction,  
27 recycling, reclamation, disposal, separation, or other treatment of  
28 wastewater or sewage sludge, or for the final disposal of residues  
29 resulting from the treatment of wastewater, including, but not limited  
30 to, pumping and ventilating stations, facilities, plants and works,  
31 connections, outfall sewers, interceptors, trunk lines, and other  
32 personal property and appurtenances necessary for their operation;

33 (20) The supplying of materials or services for the purpose of  
34 lighting public streets, for a term not to exceed five years, provided  
35 that the rates, fares, tariffs or charges for the supplying of electricity  
36 for that purpose are approved by the Board of Public Utilities;

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

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

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

46 (24) The purchase of electricity or administrative or dispatching

1 services related to the transmission of such electricity, from a public  
2 utility company subject to the jurisdiction of the Board of Public  
3 Utilities, a similar regulatory body of another state, or a federal  
4 regulatory agency, or from a qualifying small power producing facility  
5 or qualifying cogeneration facility, as defined by 16 U.S.C. §796, by a  
6 contracting unit engaged in the generation of electricity for retail sale,  
7 as of the date of P.L.1991, c.407, for a term not to exceed 40 years;

8 (25) Basic life support services, for a period not to exceed five  
9 years. For the purposes of this subsection, "basic life support" means  
10 a basic level of prehospital care, which includes but need not be limited  
11 to patient stabilization, airway clearance, cardiopulmonary  
12 resuscitation, hemorrhage control, initial wound care and fracture  
13 stabilization;

14 (26) Claims administration services, for any term not to exceed  
15 three years;

16 (27) The provision of transportation services to elderly, disabled  
17 or indigent persons for any term of not more than three years. For the  
18 purposes of this subsection, "elderly persons" means persons who are  
19 60 years of age or older. "Disabled persons" means persons of any age  
20 who, by reason of illness, injury, age, congenital malfunction, or other  
21 permanent or temporary incapacity or disability, are unable, without  
22 special facilities or special planning or design to utilize mass  
23 transportation facilities and services as effectively as persons who are  
24 not so affected. "Indigent persons" means persons of any age whose  
25 income does not exceed 100 percent of the poverty level, adjusted for  
26 family size, established and adjusted under section 673(2) of subtitle  
27 B, the "Community Services Block Grant Act," Pub.L.97-35 (42  
28 U.S.C. §9902 (2));

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

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

36 (30) The acquisition of an equitable interest in a water supply  
37 facility pursuant to section 2 of P.L.1993, c.381 (C.58:28-2), or an  
38 agreement entered into pursuant to the "County and Municipal Water  
39 Supply Act," N.J.S.40A:31-1 et seq., if the agreement is entered into  
40 no more than six months after the effective date of this amendatory  
41 act, P.L.1994, c.71 (C.40A:11-15), for any term of not more than  
42 forty years;

43 (31) The provision of water supply services or the financing,  
44 construction, operation or maintenance or any combination thereof, of  
45 a water supply facility or any component part or parts thereof, by a  
46 partnership or copartnership established pursuant to a contract

1 authorized under section 2 of P.L.1993, c.381 (C.58:28-2) for a period  
2 not to exceed 40 years;

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

5 (33) The supplying of any product or the rendering of any service,  
6 including consulting services, by a cemetery management company for  
7 the maintenance and preservation of a municipal cemetery operating  
8 pursuant to the "New Jersey Cemetery Act," N.J.S.8A:1-1 et seq., for  
9 a term not exceeding 15 years;

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

14 (35) An agreement for the purchase of a supply of water from a  
15 public utility company subject to the jurisdiction of the Board of Public  
16 Utilities in accordance with tariffs and schedules of charges made,  
17 charged or exacted or contracts filed with the Board of Public  
18 Utilities, for any term of not more than 40 years; and

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

24 All multiyear leases and contracts entered into pursuant to this  
25 section, except contracts for the leasing or servicing of equipment  
26 supplied by a telephone company which is subject to the jurisdiction  
27 of the Board of Public Utilities, contracts involving the supplying of  
28 electricity for the purpose of lighting public streets and contracts for  
29 thermal energy authorized pursuant to subsection (1) above,  
30 construction contracts authorized pursuant to subsection (9) above,  
31 contracts and agreements for the provision of work or the supplying  
32 of equipment to promote energy conservation authorized pursuant to  
33 subsection (12) above, contracts for water supply services or for a  
34 water supply facility, or any component part or parts thereof  
35 authorized pursuant to subsection (16), ~~(34)~~, or (35) above, contracts  
36 for resource recovery services or a resource recovery facility  
37 authorized pursuant to subsection (17) above, contracts for the sale of  
38 energy produced by a resource recovery facility authorized pursuant  
39 to subsection (18) above, contracts for wastewater treatment services  
40 or for a wastewater treatment system or any component part or parts  
41 thereof authorized pursuant to subsection (19) or (36) above, and  
42 contracts for the purchase of electricity or administrative or  
43 dispatching services related to the transmission of such electricity  
44 authorized pursuant to subsection (24) above, shall contain a clause  
45 making them subject to the availability and appropriation annually of  
46 sufficient funds as may be required to meet the extended obligation, or



1 contain an annual cancellation clause.

2 The Division of Local Government Services shall adopt and  
3 promulgate rules and regulations concerning the methods of  
4 accounting for all contracts that do not coincide with the fiscal year.  
5 (cf: P.L.1995, c.216, s.12)

6

7 19. (New section) All existing contracts for the transportation of  
8 solid waste to a designated out-of-state disposal facility shall expire 90  
9 days after the effective date of this act.

10

11 20. This act shall take effect immediately.

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#### STATEMENT

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16 This bill would encourage the use of rail transportation for the  
17 movement of solid waste for disposal at out-of-state disposal facilities.  
18 The use of train transport, as compared to truck transport, would  
19 decrease traffic congestion, air pollution, energy use, and deterioration  
20 of State roads.

21 Specifically, a contracting unit issuing a request for proposals for  
22 the transportation and disposal of residual ash or nonprocessable solid  
23 waste to a designated out-of-state disposal facility pursuant to  
24 P.L.1985, c.38 (C.13:1E-136 et seq.) shall consider the mode of  
25 transportation, and railroad as the most preferred mode. In addition,  
26 the bill would require a contracting unit seeking to award a contract  
27 pursuant to the "Local Public Contracts Law" for the transportation  
28 and disposal of residual ash or nonprocessable solid waste to a  
29 designated out-of-state disposal facility to provide a responsible bidder  
30 proposing to provide those services by railroad the opportunity to  
31 match the lowest responsible bid if offered by a truck transporter. If  
32 the responsible bidder proposing to transport the residual ash or  
33 nonprocessable solid waste by railroad matches the lowest responsible  
34 bid, the contracting unit shall award the contract to that bidder.  
35 Finally, the bill would require the contracting unit to consider  
36 proposals for transportation and disposal by a single vendor when  
37 seeking proposals for transportation and disposal services.

38 Rail shipment is a more attractive transport mode in several  
39 respects. The most recent data suggest that trucks emit 12 times as  
40 much volatile organic compounds, ten times as much carbon  
41 monoxide, 11 times as much sulfur oxides and four times as much  
42 nitrogen oxide as rail transport. According to correspondence with  
43 the United States Environmental Protection Agency, air pollution  
44 emission credits may be available. The amount of credit would be  
45 based on the difference between the emissions from the historic  
46 implementation of the current program and what will happen after the

1 rail preference is instituted. Fuel savings would occur when rail is used  
2 because freight travels three times as far on a gallon of fuel by rail  
3 rather than truck. Finally, because one rail shipment is the equivalent  
4 of four tractor trailer shipments, traffic congestion and road wear are  
5 lessened when rail is used.

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10 Encourages the use of railroad for the transportation of solid waste to  
11 an out-of-state disposal facility.