

**Center for Government Services**

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N.J. Association of County Purchasing Officials

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**LEGISLATIVE UPDATE**

April 2016 – April 2017

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Atlantic City, New Jersey

Presenters:

Joseph A. Valenti & “The Shout-Outs”

## LEGISLATIVE UPDATE

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## Bills Signed Into Law Since May 2016 - Local Public Contracting Units

| Bill #   | Sponsor   | Bill Description   |
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| <p>A-3851(1R)<br/>(P.L.2016,c.29,08/18/16)</p> | <p>Assemblywoman<br/>QUIJANO and<br/>Assemblyman<br/>O'SCANLON, JR.<br/>and Senators<br/>WEINBERG &amp;<br/>OROHO</p> | <p>This law authorizes certain local units to adopt policies for the payment of certain claims through the use of standard electronic funds transfer technologies. The purpose of this law is to simplify the procedures that must be followed by local units seeking to implement the use of modern payment methods in place of more costly paper alternatives.</p> <p>Under the law, the governing body of a local unit may adopt policies, by ordinance or resolution, as appropriate, for the payment of claims pursuant to <u>N.J.S.A. 40A:5-17</u>, <u>N.J.S.A. 18A:19-2</u>, or other applicable law, through the use of one or more standard electronic funds transfer technologies in lieu of payment through the use of signed checks or warrants. The law requires any policies adopted by local units to explicitly list the forms of standard electronic funds transfer technologies that may be used by that local unit.</p> <p>In addition, the law requires policies adopted by local units for the payment of claims through standard electronic funds transfer technologies to designate the chief financial officer of the local unit as being responsible for the oversight and administration of the disbursement policy and associated systems. In furtherance of this duty, the law requires the chief financial officer to document and implement internal controls sufficient to ensure safe and proper use of the system and mitigate the potential for fraud and abuse.</p> <p>The Local Finance Board, in consultation with the Commissioner of Education and the Secretary of Higher Education, may adopt rules and regulations to clarify the implementation and use of standard electronic funds transfer technologies. The law shall take effect on the first day of the eighth month following the date of enactment. (The law supplements chapter 5 of Title 40A).</p> |

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| <p>S-1880<br/>(P.L.2016,c.37,08/31/16)</p> | <p>Senators TURNER &amp; JOHNSON</p> | <p>This law imposes certain requirements on telephone service contracts for inmates in State and county correctional facilities.</p> <p>The new law requires the State Treasurer or county or private correctional facility to contract with a bidder whose rate for inmate telephone calls does not exceed 11 cents per minute for domestic debit, prepaid, and collect calls. Additionally, the measure prohibits a bidder to impose a service charge or additional fee exceeding the per-minute rate, including a per call surcharge, account set up fee, bill statement fee, monthly account maintenance charge or refund fee. The law further prohibits a State department, county, or private correctional facility from accepting or receiving a commission or imposing a surcharge for telephone usage by inmates. The measure defines a “commission” as any form of monetary payment, in-kind payment requirement, gift, exchange of services or goods, fee, technology allowance, product, or the like that is not related to the completion of voice-only calls, inmate telephone service maintenance, or the analysis of telephone records and related financial data for investigative or other purposes, or security enhancements, including, but not limited, to voice recognition software, text analytics, or aggregate data analytical software.</p> <p>The law also requires the Department of Corrections (DOC), counties, and private correctional facilities to make available a prepaid or collect call system, or a combination of the two, for telephone services for inmates. Under a prepaid or “debit” system, funds may be deposited into an inmate account to pay for telephone calls, as long as the DOC, county or private correctional facility is not required to provide for or administer that prepaid system.</p> <p>Under the new law county correctional facilities are subject to the provisions of the LPCL. The law also directs the DOC to establish rules and regulations. (Law amends <u>N.J.S.A.</u> 30:4-91.9 et seq.).</p> |
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| A-3540 (1R)<br>(P.L.2016,c.43,08/31/16) | Assemblymen<br>HOLLEY,<br>SCHAER, &<br>KENNEDY | <p>Current law requires a corporation or partnership that is awarded a public contract, which is paid with or out of any public funds by the State, a local government, or a school district, to submit the names and addresses of all stockholders in the corporation who own 10 percent or more of the stock or of all individual partners who own a 10 percent or greater interest in the partnership. If a stockholder or partner is itself a corporation or partnership, then the disclosure must list all stockholders owning 10 percent or more of that corporation's stock or all partners owning a 10 percent or greater interest in that partnership. As amended, the law requires limited liability companies bidding for public contracts to disclose the names and addresses of all members who own a 10 percent or greater interest in the limited liability company in the same manner as a corporation or partnership.</p> |
| S-2310(1R)                              | Senators<br>DIEGNAN, JR. &<br>OROHO            | <p>To comply with the disclosure requirement, this law allows a bidder, whose direct or indirect parent entity is publicly traded, to submit the name and address of the publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent. If there is any person that holds a 10 percent or greater beneficial interest, the bidder must submit a link to the website containing the last annual filing with the federal Securities and Exchange Commission, or the foreign equivalent, and the relevant page number of the filing that contains the information on each person that holds a 10 percent or greater beneficial interest. (The law amends <u>N.J.S.A. 52:25-24.2</u>).</p>  |

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| <p>A-3043<br/>(P.L.2015,c.281,01/19/16)</p>     | <p>Assemblymen<br/>SPACE &amp;<br/>DEANGELO and<br/>12 Others</p> | <p>This law provides the Commissioner of the Department of Labor and Workforce Development with the authority to obtain proof of, and question, a worker's identity in order to determine whether the worker is accurately included or reported in an employer's wage records for purposes of enforcing the requirements of the New Jersey Prevailing Wage Act.</p> <p>Currently, the Commissioner is allowed to inspect and copy books, registers, payrolls, and other records of any employer engaged in public work subject to the New Jersey Prevailing Wage Act as the Commissioner or the Commissioner's authorized representative may deem necessary or appropriate for the purposes of enforcing that act. The law also allows the Commissioner to question the workers of any employer on public work projects. However, current law does not explicitly authorize the Commissioner, or designee of the Commissioner, to obtain proof of a worker's identity in order to cross-check the worker's identity with the employer's wage records.</p> <p>The law, by granting the Commissioner the authority to obtain proof of a worker's identity, would help to prevent fraudulent employment activity on public work projects and ensure fair employment opportunities for employers and workers alike. [Law amends <u>N.J.S.A.</u> 34:11-56.31(b)].</p> |
| <p>A-3044(3R)<br/>(P.L.2015,c.282,01/19/16)</p> | <p>Assemblymen<br/>SPACE &amp;<br/>DEANGELO and<br/>12 Others</p> | <p>This law requires the Commissioner of the Department of Labor and Workforce Development to disseminate an informational list on a website to contractors and subcontractors who bid on or perform prevailing wage public work. The distribution also includes public bodies. The law requires the Commissioner to create, maintain and distribute an informational list for contractors and subcontractors who bid on and perform public work, which includes, but not limited to, wage payment record keeping, registration requirements and applicable penalties. The informational list also includes the names of contractors and subcontractors who have failed to pay prevailing wages and any state employer payroll tax. (The law amends <u>N.J.S.A.</u> 34:11-56.37b).</p>   |
| <p>A-3405<br/>(P.L.2016,c.50,09/06/16)</p>      | <p>Assemblymen<br/>COUGHLIN &amp;<br/>SCHAER</p>                  | <p>This law permits certain public institutions of higher education (a State college or university, a county college, NJIT, and Rowan University) to act as participating contracting units in a cooperative pricing system established pursuant to State law.</p> <p>This law also authorizes public institutions of higher education to make purchases and contract for services through the use of a nationally-recognized and accepted cooperative purchasing agreement, including cooperative purchasing agreements in existence on the effective date of the law, in accordance with paragraph (3) of subsection b. of <u>N.J.S.A.</u> 52:34-6.2. (Law amends various sections of public institutions of higher education law, as well as <u>N.J.S.A.</u> 52:34-6.2).</p>  |

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| S-123 (2R)<br>(P.L.2016,c.84,01/4/2017) | Senators<br>PENNACCHIO &<br>RICE and Others | <p>The law creates the Small Business Bonding Readiness Assistance Program within the State's Economic Development Authority, which provides millions of dollars in financing and billions in tax credits to businesses in the Garden State.</p> <p>The new program within the EDA is intended to help small businesses secure surety bonds so they can easily bid on state and federal work. EDA is also going to provide support services to small businesses. (The law will supplement <u>N.J.S.A.</u> 34:1B-1 et seq.).</p> |
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## Local Public Contracts Law

Key: O – Opposition, A - Approved, H - Hold

| <u>Bill #</u>         | <u>Sponsor</u>                                 | <u>Bill Description</u>  | <u>Comments</u>                                       |
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| S-648<br><br>(A-3486) | Senator TURNER<br><br>Assemblywoman<br>HANDLIN | <p>This bill would require counties and municipalities, and their agencies and authorities, and boards of education to use the established competitive contracting process, and to follow new supplemental requirements, for procuring any insurance products and insurance consulting services. Under current law, such contracts are exempt from public bidding requirements.</p> <p>Specifically, the bill would require boards of education and local contracting units seeking to procure any insurance products and insurance consulting services to do so by the award of a contract through the competitive contracting process.</p> <p>This bill would supplement the competitive contracting provisions with respect to insurance product and insurance consulting service contracts as follows:</p> <p>First, an insurance consultant providing any insurance consultant services to a board of education or local contracting unit would be required to be compensated directly and exclusively by the board of education or local contracting unit at a fixed amount, an hourly rate, or on another common and readily comparable basis, provided that the compensation shall not be determined as a percentage of any insurance product costs, and would not be permitted to accept any commission or other form of compensation from an insurer for any insurance consultant services provided to the board of education or local contracting unit. Compensating insurance consultants in this manner is intended to help ensure that their interests are solely aligned with those of the board of education or local contracting unit.</p> <p>Second, insurance consultants and insurers would both be subject to several certification and disclosure requirements related to the restrictions on insurance consultant compensation. (Bill amends <u>N.J.S.A. 40A:11-4.1</u> et al and <u>N.J.S.A. 18A:18A-4.1</u>).</p> | A-Good basis for omnibus bill. Still needs some work. |



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| <p>S-661<br/>(A-1497)</p> | <p>Senator RICE<br/><br/>Assemblyman<br/>MCKEON</p> | <p>This bill reestablishes and revises public contract set-aside programs. The head of each State department or contracting agency, as well as the contracting agent of any unit of local government, shall be responsible for meeting all applicable minority business, female business, or small business set-aside goals. A State or local government agency that fails to meet any applicable set-aside goal may be permitted to backlog the unmet goals for one year adding the unmet percentages into the following year's goal. A State or local government agency that fails to meet any applicable set-aside goal for two consecutive years shall have appropriated funds for operations withheld by 10% until such a time as it demonstrates that it has met the requirement. A party awarded any State or local government contract to which a set-aside requirement applies shall have 10% of any amount payable to it under the contract withheld until such time as it demonstrates that it has met that requirement. (Amending and supplementing Title 52).</p> | <p>O – Drafting of bill needs to be further reviewed.</p> |
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| <p>S-693</p> <p>(A-1730) (1R)</p> <p>(A-1895)</p> | <p>Senator GORDON</p> <p>Assemblymen GREENWALD, SINGLETON &amp; PRIETO</p> <p>Assemblymen WISNIEWSKI &amp; GIBLIN</p> | <p>This bill, known as the “Design-Build Construction Services Procurement Act,” sets forth the procedures for the awarding of design-build contracts.</p> <p>A design-build contract is a unique type of project delivery system used in construction and renovation projects. Traditional contracts are awarded using a design-bid-build system, where the project contracting unit starts by hiring an architect. Once the architect has finished the design phase, the project is put out for bid to general contracting companies. The contractor with the lowest bid is awarded the project, and is responsible for completing the job according to the plans created by the architect.</p> <p>With a design-build contract, the contracting unit awards the entire project to a single company. It is typically awarded to a contractor, though architects or engineers may be awarded a design-build contract in some specialized cases. Once the contract is signed, the contractor is responsible for all design and construction work required to complete the project. This system allows the contracting unit to deal with a single source throughout the duration of the job, rather than coordinating between various parties, and is intended to provide cost savings to the contracting unit.</p> <p>When a design-build contract is awarded to a builder, he must hire all architects and engineers required to complete design work. The contracting unit is still given the right to approve or reject design options, but is no longer responsible for coordinating or managing the design team. Once the contracting unit approves the design, the same contractor then oversees the construction process, hiring subcontractors as needed. (This bill will supplement Title 40A).</p> | <p>O-Potential to under design the project to satisfy low price. Architect and engineer hired and controlled by General Contractor. Governing body lacks architect and engineer quality reviews of project.</p> |
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| <p>S-728 (1R)</p> <p>(A-1118)</p> | <p>Senators CRUZ-PEREZ &amp; BEACH</p> <p>Assemblywomen OLIVER, PINTOR MARIN, JASEY &amp; TUCKER, and Assemblyman MCKEON</p> | <p>An unintended consequence of two bodies of law, the Pay to Play laws, and the New Jersey Prevailing Wage Act is to make it difficult for small, local businesses to contract with municipalities and counties. These bodies of law impose requirements and costs on businesses which contract with public entities for relatively modest dollar amounts. The threshold dollar amounts set under these laws are lower than the bid threshold amounts authorized under the Local Public Contracts Law.</p> <p>This bill amends the threshold amounts under the pay to play (the LPCL and CCCL) and prevailing wage laws (the LPCL, PSCL and CCCL) to make them the same as the amount applicable to the contract under the LPCL. (Amends various provisions of Pay-To-Play Laws, and the NJ Prevailing Wage Law and 18A:20-4.4).</p> | <p>A-Should include all local contracting units, not only those covered under the LPCL.</p> |
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| S-1592                 | Senator RICE   | <p>This bill permits counties to establish a county-wide purchasing system to provide custodial or food services, or both, to school districts within the county. These contracts would be awarded to contractors using the competitive contracting process set forth in the Local Public Contracts Law. If a county establishes a county-wide purchasing system and a school district in the county is currently using a private contractor for the service, the district will be required to participate in the county-wide contract. “Eligible county” means Camden County, Gloucester County, Middlesex County, Passaic County and Union County.</p> <p>In addition, a district that is using its own employees to provide custodial or food services will be required to participate in a county-wide contract if it determines to privatize the service. Prior to participating in the county-wide contract, however, the district will be required to meet certain criteria, including holding a public hearing on the proposal to participate, providing a period during which the public will have the opportunity to submit comments on the proposal, and providing written responses to the comments. A district in these circumstances will not be permitted to participate in the county-wide contract during the term of an existing collective bargaining agreement with employees who will be affected by the participation in the county-wide contract, and after the term of the agreement, the district may participate only after meeting certain terms and conditions.</p> <p>Each employee replaced or displaced as a result of the district’s participation in the county-wide contract would retain all previously acquired seniority and would have recall rights whenever the district’s participation in the county-wide contract terminates.</p> <p>Any administrator whose position is eliminated due to a county-wide purchasing system will receive terminal leave pay pursuant to <u>N.J.S.A. 40A:65-19</u> of the “Uniform Shared Services and Consolidation Act.” (Bill would supplement the LPCL).</p> | O-Takes away option for school boards to sub-contract. Competitive contracting is not the best method for Janitorial Services. |
| S-1624<br><br>(A-3159) | Senator VAN DREW<br><br>Assemblymen ANDRZEJCZAK & LAND | This bill permits municipalities to contract with animal and humane societies which engage in animal foster care. ( <u>N.J.S.A. 40:48-5.1</u> )   | A  |

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| <p>SJR No. 75</p> | <p>Senators RICE &amp; CODEY, and<br/>Co-sponsored by Senators CUNNINGHAM &amp; POU</p> | <p>This joint resolution establishes the Disparity in State Procurement Study Commission, to consist of 15 members. Of the total membership, four would be appointed by the President of the Senate; two by the Senate Minority Leader; four by the Speaker of the General Assembly; two by the Assembly Minority Leader and one member would be appointed by the Governor. The Commission would also consist of the Director of the Division of Purchase and Property in the Department of the Treasury and the Director of the Division of Local Government Services in the Department of Community Affairs, or their respective designees, who will serve ex officio.</p> <p>Under the resolution, the Commission would assess the procurement of goods and services by State departments and agencies, including independent State authorities, and local government units to determine disparities, if any, between the availability and utilization of small, disadvantaged, and minority-and women-owned business enterprises in particular market areas. The Commission would also recommend policies, practices, and programs that further this State’s efforts to promote opportunities for small, disadvantaged, and minority-and women-owned business enterprises in purchasing and procurement by state departments and agencies, including independent state authorities, and local government units.</p> <p>The resolution further provides that the members of the Commission would be appointed within 30 days from the enactment of the resolution, and would issue a report one year from the date of its initial organizational meeting. The Commission would submit the report, together with any recommendations it may have for legislative or regulatory action, to the Governor and the Legislature, and would expire 30 days after the issuance of its report.</p> | <p>O-With reservation under present format. Portion of SJR No. 75 should be combined with A-4166. Local government units would be at a disadvantage.</p> |
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| A-1111 | Assemblywoman OLIVER and Assemblymen GIBLIN & CAPUTO | This bill provides that the governing body of a county or municipality may, by ordinance or resolution, as appropriate, establish a qualified prisoner re-entry employer set-aside program. In authorizing such a program, the governing body shall establish a goal for its contracting agencies of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified business enterprises that employ former prisoners. (Amends <u>N.J.S.A.</u> 40A:11-42).  | O-Preference bill. A similar bill was conditionally vetoed by the Governor on 02/22/11.  |
| A-1947 | Assemblyman COUGHLIN                                 | <p>This bill would permit local units to award public contracts to start-up manufacturers that make investments in struggling parts of the local unit without public advertising for bids and bidding, which is generally required under current law.</p> <p>The bill's provisions are limited to new, small manufacturers in order to attract businesses with significant growth potential in a struggling sector of the economy. The bill would also provide environmental benefits through greater transportation efficiencies that would be realized from encouraging manufacturers to move closer to purchasers and major transportation networks.</p> <p>For a contract to be awarded without public bidding under the bill, (1) a manufacturer would have to be a start-up business; (2) a manufacturer's offices and manufacturing facility would have to be located in an area within the local unit determined to be in need of redevelopment pursuant to the Local Redevelopment and Housing Law, (C.40A:12A-1 et al.); (3) the manufacturing facility would have to be either newly constructed or substantially refurbished; (4) the manufacturer may not have been a previous owner or tenant of the manufacturing facility; (5) the manufacturer would have to invest at least \$1 million in the manufacturing facility; (6) the manufacturer may not have already been awarded 10 years' worth of such contracts without public bidding; and (7) the purchase price would have to be less than 15 percent over the fair market value for equivalent purchases. (Bill amends <u>N.J.S.A.</u> 40A:11-5).</p> | O-This economic development preference bill will cost more public dollars. The bill does away with the public bidding process. |

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| A-2026                 | Assemblyman<br>GREEN   | This bill would amend current law to require contracting units to credit contractors with interest earned on certain retained payments that are released to the contractor upon completion of a project. Current law provides that contracting units may keep interest earned on the retained two percent of payments paid to the contractor. This bill would provide that interest on such withheld payments shall be paid to the contractor upon completion of a project. This bill would further amend current law to provide for release of the portion of a subcontractor's retained funds upon that subcontractor's completion of its portion of an entire project. Under current law, the contractor has to wait until completion of the entire project before release of the retained funds for the completed work of one of its subcontractors. ( <u>N.J.S.A.</u> 40A:11-16.1, 16.3, 18A:18A-40.2 & 40.3). | O – Should remain as local contracting unit funds.<br><br>Previous legislative period bill, S-317 (1R), was pocket vetoed by the Governor on 01/16/12. |
| A-2139<br><br>(S-2230) | Assemblymen<br>DIEGNAN, JR. &<br>BRAMNICK<br><br>Senator<br>DIEGNAN, JR. | The bill requires the State Treasurer to follow the usual procurement process prior to entering into cooperative purchasing agreements. The State's commitment under such agreements would not exceed two years. (Bill amends <u>N.J.S.A.</u> 52:34-6.2).   | A-Concept good. Allowing NJ businesses the opportunity to compete for procurement every 2 years.   |

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| A-2220 (2R)   | Assemblymen<br>BENSON &<br>WEBBER | This bill permits contracting units, under the Local Public Contracts Law, to conduct the procurement of goods and services, including the solicitation, bidding, award, execution, and administration of a contract, by electronic bidding through an electronic bidding system established by the contracting unit pursuant to the provisions of the bill.   | A-Local contracting units should be aware of adding their own internal controls. |
| (S-1729) (1R) | Senators WHELAN<br>& OROHO        | <p>Under the provisions of the bill, a contracting unit may require all of its bids to be submitted exclusively through an electronic bidding system of its choice. A contracting unit may provide assistance or training to interested bidders on the proper use of the electronic bidding system, and must include a notice of the availability of electronic bidding in any legal notice or advertisement soliciting bids.</p> <p>A contracting unit's electronic bidding system shall allow interested bidders to submit, resubmit, and withdraw a bid prior to the bid deadline; keep all electronic information submitted by interested bidders protected from view by any other bidder or the contracting unit prior to the bid deadline; authenticate the identity of the sender; and document the time and date of receipt of each bid and offer received electronically.</p> <p>After the bid deadline, a contracting unit must publicly issue the bid tabulation by electronic means.</p> <p>The bill requires that a contracting unit must establish a process to verify when bid information, and other relevant data, are received, in order to address any bid protests due to technical issues encountered in submitting electronic bids. Under the bill, a contracting unit cannot be held liable if an interested bidder is unable to submit a complete bid prior to the published deadline due to technical issues or obstructions, and the inability or failure of an interested bidder to submit a complete bid shall not constitute sufficient grounds for a bid protest by a disappointed bidder seeking award of a contract. (Bill amends <u>N.J.S.A.</u> 40A:11-2, 40A:11-4.5, 40A:11-5 and 40A:11-23).</p> |  |



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| A-2250 | Assemblyman<br>DEANGELO | <p>This bill would eliminate the exception for contracts involving routine insurance from the public advertising and bidding requirements of the LPCL and the PSCL, for such contracts that exceed the bid threshold. Under current law, contracts involving all types of insurance are exempt from the public advertising and bidding requirements for local public contracts and public schools contracts. This bill would limit that exemption to those contracts involving insurance that is not commonly available in a competitive market and would require contracts involving common insurance, such as health, life, and accident, to be publicly advertised and bid. This bill would also revise the exemption for contracts involving professional services to exclude contracts involving broker, consultant, or related services for common insurance products, to clarify that such contracts would not be exempt under that provision.</p> <p>Extending the public advertising and bidding requirements to these insurance contracts would help protect against mismanagement and misconduct, and ultimately save local unit and school district taxpayer money by providing an open, transparent, and competitive process for the award of these contracts. (This bill amends <u>N.J.S.A. 40A:11-5</u> and <u>N.J.S.A. 18A:18A-5</u>).</p> | O-This bill should be consolidated with S-648. |
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| A-2886 | Assemblyman<br>DANCER | <p>This bill would clarify that local units may purchase gasoline and related items and services and obtain fuel credit card services under a State contract or cooperative purchasing agreement and make payments for those goods and services. Although <u>N.J.S.A. 40A:11-12</u> clearly authorizes local units to “piggy-back” on State contracts, <u>N.J.S.A. 40A:5-16</u> has been interpreted as precluding local units from using credit cards because that section requires the person claiming payment to present a detailed bill and a certification of the party claiming payment that the bill is correct. Credit card transactions generally do not comply with these requirements.</p> <p><u>N.J.S.A. 40A:5-16</u> authorizes the Local Finance Board to adopt rules to permit local units to pay out monies without requiring a certification of the party claiming payment. Pursuant to this authority, the Local Finance Board has adopted rules permitting local units to use procurement cards and electronic fund transfers under specific circumstances. This bill would resolve the conflicting provisions of law by amending <u>N.J.S.A. 40A:5-16</u> to provide that local units may purchase gasoline and related items and services and obtain fuel credit card service under a State contract and make payments for those goods and services. The bill directs the Local Finance Board to adopt rules pursuant to the Administrative Procedure Act, (C.52:14B-1 et seq.) that it deems appropriate to effectuate these provisions.</p> <p>This bill will enable municipalities and other local units subject to the Local Fiscal Affairs Law, <u>N.J.S.A. 40A:5-1 et seq.</u>, to obtain fuel and common motor vehicle-related goods and services at local service stations. Many municipalities purchase motor fuel in bulk and then fuel municipal vehicles at municipally-run fueling stations. The sponsor believes that this practice may not be the best alternative for all municipalities for a variety of reasons. (Bill would amend <u>N.J.S.A. 40A:5-16</u>).</p> | O-In current form. Should delete 3,d,1,a and related items. |
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| <p>A-3485</p> | <p>Assemblywoman<br/>HANDLIN</p> | <p>This bill would allow local contracting units, including municipalities and counties, and boards of education to disqualify a public contract bidder, that otherwise qualifies as the lowest responsible bidder, if any contracting unit or board of education ever had a prior negative experience with that bidder. Under current law, the governing body of a contracting unit may only disqualify a lowest responsible bidder for a prior negative experience if that contracting unit itself had a prior negative experience with the bidder, and a board of education may only disqualify a bidder if any board of education had a prior negative experience with the bidder within the past 10 years. This bill would allow contracting units and boards of education to look at the prior negative bidder experiences of any and all other contracting units and boards of education. Providing these local governments with the ability to exercise more comprehensive due diligence in evaluating bidders will help ensure that contracts are awarded to truly responsible bidders, which would in turn increase reliability in contracting at the local level.</p> <p>To facilitate this purpose, the bill also requires contracting units and boards of education to report prior negative bidder experiences to the Division of Local Government Services in the Department of Community Affairs, which will use that information to create and maintain a searchable Internet database of these prior negative experiences that contracting units and boards of education may use to learn whether other contracting units and boards of education had a prior negative experience with a particular bidder. This database would also have to include bidders that are currently debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State, which is another prior negative experience that can serve as the basis for a contracting unit or board of education to disqualify a lowest responsible bidder.(This bill amends <u>N.J.S.A. 18A:18A-4</u> and <u>N.J.S.A. 40A:11-4</u>).</p> | <p>A-With certain amendments needed. Present LPCL and PSCL Laws are different regarding the number of years which constitute the periods of 5 and 10 years respectively.</p> <p>The amended versions of both laws must be carefully done to maintain consistency in both provisions of the law.</p> |
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| <p>A-3997</p> | <p>Assemblywoman<br/>OLIVER and<br/>Assemblymen<br/>CAPUTO &amp; GIBLIN</p> | <p>This bill would revise the process for advertising, bidding and awarding contracts under the Local Public Contracts Law. The following areas of the Law would be subject to amendments:</p> <ul style="list-style-type: none"> <li>• Professional Service Contracts</li> <li>• Prior Negative Experience</li> <li>• Certification of Availability of Adequate Funds</li> <li>• Use of Competitive Contracting/Request for Quotations</li> <li>• Statement of Corporate Ownership</li> <li>• Award of Contracts without Solicitation</li> <li>• Internet Advertising</li> <li>• Publication of Bid List</li> <li>• Deadlines</li> <li>• Set-Aside Programs</li> </ul> <p>Bill would amend major provisions of the LPCL.</p> | <p>H-Great intent. Will meet with legislators.</p> |
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| <p>A-4021</p> | <p>Assemblyman<br/>RIBLE</p> | <p>This bill would allow local contracting units under the LPCL to disqualify a local public contract bidder, that otherwise qualifies as the lowest responsible bidder, if any contracting unit ever had a prior negative experience with that bidder. Under current law, a contracting unit may only disqualify a lowest responsible bidder for a prior negative experience if that contracting unit itself had a prior negative experience with the bidder. By contrast, current law permits boards of education to disqualify a bidder if any board of education had a prior negative experience with the bidder within the past 10 years. This bill would allow contracting units to look at the prior negative bidder experiences of any and all other contracting units. Providing these local governments with the ability to exercise more comprehensive due diligence in evaluating bidders will help ensure that contracts are awarded to truly responsible bidders, which would in turn increase reliability in contracting at the local level.</p> <p>To facilitate this purpose, the bill also requires contracting units to report prior negative bidder experiences to the Division of Local Government Services for inclusion in a searchable Internet database of these prior negative experiences which contracting units may use to learn whether other contracting units had a prior negative experience with a particular bidder. This database would also have to include bidders that are currently debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State, which is another prior negative experience that can serve as the basis for a contracting unit to disqualify a lowest responsible bidder. (This bill amends <u>N.J.S.A. 40A:11-4</u>).</p> | <p>O-Should use A-3485 as the basis for “prior negative experience.”</p> |
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| <p>A-4022</p> | <p>Assemblyman<br/>RIBLE</p> | <p>This bill would permit a local contracting unit, including each municipality and county, to disqualify a local public contract bidder that otherwise qualifies as the lowest responsible bidder, if that bidder was a participant in conduct that resulted in a conflict of interest with respect to a contract that was previously awarded by that contracting unit. Current law does not permit local contracting units to disqualify a local public contract bidder on that basis. This bill would enable local contracting units to reject bidders that have previously engaged in unethical conduct in order to help ensure that local public contracts are awarded to truly responsible bidders.</p> <p>For a bidder to have participated in conduct resulting in a conflict of interest under the bill, the bidder's actions must have facilitated a violation of either the Local Government Ethics Law, (C.40A:9-22.1 et seq.) or a county or municipal code of ethics adopted pursuant to that law, or the applicable "Pay-to-Play" laws, P.L.2004,c.19 (C.19:44A-20.4 et al.) and P.L.2005,c.271 (C.40A:11-51 et al.). (Bill amends <u>N.J.S.A.</u> 40A:11-4).</p> | <p>O-Should use A-3485 as the basis for "prior negative experience."</p> |
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## Public School Contracts Law

Key: O-Opposition, A-Approved, H-Hold

| <u>Bill #</u>   | <u>Sponsor</u>                                       | <u>Bill Description</u>  | <u>Comments</u>  |
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| <p>S-783</p> <p>(A-2983)</p> <p>(A-2983 is a three-year pupil transp. contract pilot program)</p> | <p>Senator SARLO</p> <p>Assemblyman DIEGNAN, JR.</p> | <p>Under the bill’s provisions, when a board of education elects to award a pupil transportation contract in response to a request for proposals, the board will evaluate each proposal from a responding contractor in accordance with criteria established by the Commissioner of Education. The bill stipulates that the criteria must include at a minimum:</p> <ol style="list-style-type: none"> <li>(1) The previous experience of the contractor in transporting pupils;</li> <li>(2) The name of each transportation company of which the contractor has been an owner or manager;</li> <li>(3) A description of any safety programs implemented by the contractor;</li> <li>(4) A record of accidents of the school buses under the control of the contractor;</li> <li>(5) The driving history of the employees of the contractor;</li> <li>(6) The inspection records and model year of the school buses under the control of the contractor;</li> <li>(7) The maintenance schedule of the school buses under the control of the contractor;</li> <li>(8) A financial analysis of the contractor; and</li> <li>(9) Compliance with insurance requirements.</li> </ol> <p>Under current law at <u>N.J.S.A. 18A:39-3</u>, if the amount of a contract for pupil transportation services will exceed the public bidding threshold, the board of education is required to advertise and publicly bid the contract. This bill provides the board of education with the option of entering into such a contract through a request for proposals process. (Bill amends <u>N.J.S.A. 18A:39-3</u> and <u>18A:39-3.1</u>).</p> | <p>O-No reason to do a RFP if this has always been bid. The boards of education have always been responsible for bidding non-public school transportation contracts.</p> |

**Legislative Bills Affecting (Various) Public Purchasing Laws**

Key: O – Opposition, A – Approved, H - Hold

| <b><u>Bill #</u></b>  | <b><u>Sponsor</u></b>                                    | <b><u>Bill Description</u></b>  | <b><u>Comments</u></b>  |
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| S-641<br><br>(A-2629) | Senators TURNER & GREENSTEIN<br><br>Assemblyman GUSCIORA | <p>Under existing law, contracts for professional and technical services to be awarded by State agencies, including independent authorities, or by counties, municipalities, and school districts may be negotiated and awarded without being publicly advertised for bids. This bill would provide, instead, that these contracts would be subject to a competitive bidding process.</p> <p>Contracts for architectural, engineering, and land surveying services of local governments and school boards will be awarded pursuant to a competitive contracting process on the basis of demonstrated competence and qualifications that is similar to the process for awarding of such contracts by State agencies.</p> <p>The bill allows the continuation of a professional services contract for legal services beyond the contract’s expiration date when the expertise of that particular provider of legal services is essential for the completion of pending litigation, any construction contract, or other legal services, and any potential change in the provider would be detrimental to the public interest.</p> <p>The bill also provides that school board contracts for school photographs or portraits, like similar items that are paid with funds raised by or collected from students such as yearbooks and class rings, will not be required to be publicly advertised for bids. (The bill would amend <u>N.J.S.A.</u> 40A:11-4.1, <u>N.J.S.A.</u> 40A:11-5, <u>N.J.S.A.</u> 18A:18A-4.1, and <u>N.J.S.A.</u> 18A:18A-5).</p> | O-All professional services should be subject to competitive contracting. Certain sections of the bill appear to create a new process to include “negotiations” which are not authorized under competitive contracting. |



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| <p>S-1196<br/>(A-2521)</p> | <p>Senator BECK<br/><br/>Assemblyman DEANGELO</p>                             | <p>This bill amends <u>N.J.S.A. 2A:30A-2</u>, which provides for the prompt payment of a prime contractor, subcontractor, or subsubcontractor in connection with a public or private contract. This bill requires, with regard to a contract for the improvement of real property, that all money paid by an owner to a prime contractor, by a prime contractor to a subcontractor, or by a subcontractor to a subsubcontractor, constitutes a trust fund in the hands of the prime contractor, subcontractor, or subsubcontractor, until all claims for labor, materials and other charges incurred in connection with the performance of the contract have been fully paid.</p> <p>The bill prohibits any contract for the improvement of real property to include a provision allowing any party to the contract to deviate from the imposition of a trust fund as required by the bill.</p> <p>(Bill amends <u>N.J.S.A. 2A:30A-2</u>).</p>   | <p>O-Is this bill redundant? How does a “Trust Fund” prevent subs and subsubcontractors from filing mechanic liens? At least, subs could still file with the contracting units if they have not been paid.</p>      |
| <p>S-1527<br/>(A-3863)</p> | <p>Senator VAN DREW<br/><br/>Assemblymen ANDRZEJCZAK, LAND&amp; DE ANGELO</p> | <p>This bill clarifies that when the State, or any county, municipality or board of education purchases goods or farm products, the products must be assembled, and farm products must be grown and packaged, in the United States whenever available.</p> <p>New Jersey, like many states, has enacted laws that require the use of American products or goods in the performance of certain public contracts, whenever available. In addition to the provisions in New Jersey statutes for purchases and contracts at the State level, there are also similar provisions specific to the Public School Contracts Law and the Local Public Contracts Law.</p> <p>There has been some confusion at the State level and in some local units that products owned by an American company but assembled somewhere else in the world would qualify under these provisions. This bill amends those various provisions to eliminate any such confusion. (Bill amends <u>N.J.S.A. 40A:11-18</u> and <u>N.J.S.A. 18A:18A-20</u>).</p> | <p>O-Previous bills were vetoed by the Governor on 02/05/15. What do local contracting units do with current federal trade agreements? Does this bill conflict with the federal constitution’s commerce clause?</p> |

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| S-2779 | Senator<br>SWEENEY | <p>This bill requires the use of United States made goods for public contracts, requires businesses that receive public contracts or development assistance to disclose job exportation information, and establishes a joint task force to conduct a study of the impact of job exportation on the State economy.</p> <p>The bill applies only to contracts which exceed the applicable bid threshold, which is the dollar amount above which a particular contracting public agency is required to advertise for and receive bids. As to the bill's U.S. made goods requirement for public contracts, public entities are allowed to issue a waiver if products manufactured or farmed in the U.S. are unavailable or are too costly. If a public entity seeks a waiver, the information will be made public, reported to relevant State agencies, and there will be a 15-day comment period. If after public notice and an opportunity for public comment the waiver is to be issued, then before the waiver takes effect the waiver and a detailed justification to any public comments shall be posted prominently on public Internet websites and made available upon request. The purpose of this waiver is to recognize that it is not always possible or practical to use products manufactured or farmed in the U.S. However, the 15-day public comment period is also included as a safeguard to prevent abuse of the waiver system. If there are products reasonably available that are manufactured or farmed in the U.S., the 15-day comment period will allow American companies to come forward and provide products manufactured or farmed in the U.S. that may have been overlooked or ignored.</p> <p>The bill's made in the U.S. purchase and use requirements do not apply to replacement parts or components for equipment or systems provided under a contract approved prior to the effective date of the bill; equipment or systems for which a waiver was provided under the bill; information technology, electronic, digital, computing, or other sophisticated technology articles, materials or supplies that are generally imported into the U.S. and their parts or components for assembly in the U.S.; to any product approved or legally marketed under the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. s.301 et seq.) and the biologics regulated by section 351 of the Public Health Service Act (Title 42 U.S.C. s.262); or satellite and cable television and broadband communication services.</p> | O-Not workable, too analytical. |
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| <p>S-2779<br/>(Continued)</p> | <p>This bill includes a penalty for contractors that knowingly supply procured products that are not manufactured or farmed in the U.S. in violation of the bill's requirements. The penalty bars the contractor from obtaining State contracts for a period of three years, permits the public entity to void the contract, and provides a civil remedy for the public entity to recover damages equal to two times the cost incurred by the public entity.</p> <p>The bill also requires businesses that receive public contracts or development assistance to disclose job exportation information. The disclosure requirements of the bill serve two primary purposes. First, they provide for greater transparency for the State contracting process. Second, they will allow the State to compile data so that accurate studies may be done to investigate the true impact that job exportation has on the State economy.</p> <p>The bill creates a bi-partisan joint task force of members of the Legislature to conduct a study into the economic effects of job exportation and how pervasive the problem is within the State, ultimately providing the State with a more informed way to approach the issue of job exportation. The bill requires the information compiled by the joint task force to be made available to the public and the Legislature. Accordingly, both the public and the Legislature will be able to review the data and discuss how to counteract any problems associated with job exportation. (This bill amends <u>N.J.S.A.</u> 40A:11-18, <u>N.J.S.A.</u> 18A:18A-20, State agencies, public institutions of higher education and development assistance applicants).</p> |  |
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| S-2921 | Senator RICE | <p>This bill requires State agencies and local government units to report certain information concerning bids on public contracts submitted by minority- and women-owned business enterprises and prohibits discrimination in contracting against such enterprises by State agencies and local government units.</p> <p>Every State agency or local government unit having contracting authority is to examine the opportunity of qualified minority- and women-owned business enterprises to bid on any contract awarded by that agency or unit. Those agencies and units are to issue a report detailing the findings of the examination, which must include: (1) the total number of the agency's or unit's contracts and the dollar value thereof; (2) the total number of the agency's or unit's contracts in which qualified minority- and women-owned business enterprises submitted a bid and the dollar value thereof; (3) the total number of qualified minority- and women-owned business enterprises that submitted a bid on each contract awarded by the agency or unit; (4) the total number of the agency's or unit's contracts that were awarded to qualified minority- and women-owned business enterprises and the dollar value thereof; and (5) the total number of the agency's or unit's contracts, and the dollar value thereof, for which qualified minority- and women-owned business enterprises submitted the lowest bid but were not awarded the contract, the reason therefor, and the business to which the contract was awarded. These agencies and units must give due consideration to any qualified minority- and women-owned business enterprises bidding on a public contract, and may not discriminate against those businesses in the awarding of any contract.</p> <p>The Director of the Division of Revenue, the Director of the Division of Local Government Services in the Department of Community Affairs, and the Commissioner of the Department of Education are to submit to the Governor and the Legislature a report detailing the information included in the reports by State agencies and local government units submitted pursuant to this bill. (This bill would supplement Title 52).</p> | <p>O-Administratively burdensome, i.e. necessary additional staff and support resources. Possible application of State mandate State pay.</p> |
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| A-489 | Assemblyman<br>RUSSO | <p>This bill provides that the provisions of Senate, No.2 of 2004, enacted June 16, 2004, or any other law, should not be construed to supersede or preempt any ordinance, resolution or regulation of a local government unit that limits political contributions by business entities performing or seeking to perform contracts for those units. Any ordinance, resolution or regulation in effect on the effective date of that act would remain in effect and those adopted after the effective date would be valid and enforceable.</p> <p>This bill also establishes limits on the amount of money and other things of value that a county committee of a political party and a municipal committee of a political party can give per election or per year to candidates and certain political committees. Specifically, the bill limits a county committee of a political party:</p> <ol style="list-style-type: none"> <li>1) other than the county committee of the county in which the candidate or candidates resides, from giving to a candidate committee, a joint candidates committee or both a contribution, which in the aggregate exceeds \$7,200 per election;</li> <li>2) from giving to a political committee a contribution, which in the aggregate exceeds \$7,200 per election;</li> <li>3) from giving to a continuing political committee a contribution, which in the aggregate exceeds \$7,200 per year;</li> <li>4) from giving to a legislative leadership committee or the State committee of a political party a contribution, which in the aggregate exceeds \$25,000 per year;</li> <li>5) from giving to another county committee a contribution, which in the aggregate exceeds \$7,200 per year; and</li> <li>6) from giving to a municipal committee of a political party, other than the municipal committee of a municipality located in the same county as the county committee, a contribution, which in the aggregate exceeds \$7,200 per year.</li> </ol> <p>In regard to a municipal committee of a political party, the bill limits a committee:</p> <ol style="list-style-type: none"> <li>1) other than a municipal committee of the county in which the candidate or candidates reside, from giving to a candidate committee, a joint candidates committee or both a contribution, which in the aggregate exceeds \$7,200 per election;</li> <li>2) from giving to a political committee a contribution, which in the aggregate exceeds \$7,200 per election;</li> </ol> | H-This bill should be reviewed with A-487 & A-488. |
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| A-489<br>(continued)                | Assemblyman<br>RUSSO  | <ul style="list-style-type: none"> <li>3) from giving to a continuing political committee a contribution, which in the aggregate exceeds, \$7,200 per year;</li> <li>4) from giving to a legislative leadership committee or the State committee of a political party a contribution, which in the aggregate exceeds \$25,000 per year;</li> <li>5) from giving to another municipal committee a contribution, which in the aggregate exceeds \$7,200 per year; and</li> <li>6) from giving to a county committee of a political party, other than the county committee of the county in which the municipality is located, a contribution, which in the aggregate exceeds \$7,200 per year.</li> </ul>   |  |
| A-581<br><br>A-2345<br><br>(S-1747) | Assemblywoman<br>HANDLIN<br><br>Assemblyman<br>BENSON<br><br>Senator TURNER | <p>This bill provides that any person who is convicted under subsection a. or b. of <u>N.J.S.A. 17:27C:21-34</u> will be permanently debarred from contracting or from working as a key employee of a contractor, or any affiliate, that is contracting with a government entity. These subsections involve fraudulent activity in relation to government contracts.</p> <p>The bill requires the State Treasurer to publish and maintain a list on the Internet of permanently debarred persons. Persons or entities wishing to contract with a government entity will be required to file a written certification stating that the person or entity and any key employees are not permanently debarred pursuant to this bill. In some emergency situations, the contractor may submit the written certification after the contract has been awarded. The contracting agency will have the right to rely solely on the contractor's certification and the list provided by the State Treasurer.</p> <p>This bill does not apply to purchases from federal supply schedules or cooperative purchasing agreements with one or more states. (Bill supplements chapter 32 of Title 52, and chapter 21 of Title 2C.).</p> | <p>O-Good intent. Do not need two certificates. If this information will be on the State Treasurer's website, why is a second certification needed at time of award from vendor? Delays award. If we do need to receive a 2nd cert. should be mandatory with bid submission. Should apply to both in and out of state vendors.</p> |

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| <p>A-1601</p> <p>(S-1783)</p> | <p>Assemblymen<br/>RUMANA &amp;<br/>BURZICHELLI, and<br/>Assemblywoman<br/>QUIJANO</p> <p>Senator BUCCO</p> | <p>Currently, a number of states and their political subdivisions give a preference to in-state or resident businesses when awarding public contracts. This policy places New Jersey businesses at a disadvantage when bidding on those contracts. In an effort to discourage this practice, this State enacted a reciprocal limitations statute in 1985 which provides that in awarding public contracts this State will apply “like conditions” to businesses from states that give an in-state preference “when bidding for a public contract in this State.” This bill amends the existing law to clarify that it applies when such preference is given by a political subdivision of another state. (This bill amends <u>N.J.S.A. 52:32-1.3</u> and 1.4).</p> | <p>A</p> |
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| A-1737 | Assemblymen<br>GREENWALD &<br>RIBLE | <p>This bill, designated as the Fairness in Bidding Act, would amend advertising and notice provisions of the Local Public Contracts Law; the State College Contracts Law; the County College Contracts Law; the Public School Contracts Law; P.L. 2007, c.137 and P.L. 1954, c.48. This bill would require contracting units requesting bids for construction projects projected to cost in excess of \$500,000 to advertise their projected cost estimate ranges of the contract and any alternate. The highest amount of a cost estimate range would be limited to no greater than five percent more than the lowest amount. The cost estimate ranges would be required to be attested as reasonable by the individual or firm preparing them.</p> <p>The bill would also revise the laws authorizing the contracting units to reject, for any of various statutorily specified reasons, all construction project bids. These revisions would (1) limit the grounds for such rejection to those currently specified, (2) require any such rejection to be done in good faith, and (3) require a unit to state publicly its grounds for such a rejection.</p> <p>The bill would also permit contracting units to require a bidder to provide a guaranty in the amount of 50% of the bid but not in excess of \$100,000 payable to the contracting unit, to ensure that if the contract is awarded to the bidder, the bidder will enter into a contract. Currently contracting units are only permitted to require a guaranty of 10% but not in excess of \$20,000.</p> <p>The bill also provides that only one copy of all bid documents shall be required when bids are accepted by mail or hand delivery.</p> <p>This bill would help ensure greater openness in the bidding process and further ensure careful deliberation before a decision is reached to reject all bids. (This bill amends <u>N.J.S.A.</u> 40A:11-13.2, 40A:11-21, and <u>N.J.S.A.</u> 18A:18A-21, 18A:18A-22 and 18A:18A-24).</p> | <p>O-Increased cost to contracting units.<br/>Little incentive to submit proposal below project cost estimates.<br/>Change in bid guarantee eliminates smaller contractors.<br/>This does not address impact of addenda.</p> |
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| A-2201                | Assemblyman<br>EUSTACE  | <p>This bill would require that after its effective date, local contracting units, boards of education, and county colleges, shall only purchase vehicles that are either hybrid electric vehicles or electric vehicles, unless no such vehicle exists and is commonly available in the vehicle class being purchased.</p> <p>The bill defines “hybrid electric vehicle” as a motor vehicle propelled by both an internal combustion engine and an electric motor or energy storage device; and</p> <p>“Electric vehicle” means a motor vehicle propelled solely by an electric motor or energy storage device. (This bill will supplement <u>N.J.S.A. 40A:11-1 et seq.</u>, <u>N.J.S.A. 18A:18A-1 et seq.</u> and <u>N.J.S.A. 18A:64A-1 et seq.</u>).</p>  | O-There are technical challenges to implement this bill if it becomes law (Electrical Fields).  |
| A-2300<br><br>(S-798) | Assemblywoman<br>VAINIERI-HUTTLE<br><br>Senators<br>WEINBERG,<br>TURNER, &<br>SWEENEY | <p>The purpose of this bill is to ensure that no public services are privatized unless there are cost savings which are not based on increased charges or reduced services to the public, or lowered workforce standards. Each prospective private contractor would be required to demonstrate cost reductions based on improvements such as management efficiencies or technical innovation, not based on added burdens imposed on the members of the public using the services or the employees producing them. The bill requires that a contract for the privatization of public services not be entered into without cost analyses demonstrating that there will be actual cost savings for the public agency and the taxpayers without increased fees, fares, or other charges to the public, reduced quantity or quality of services, or lowered workforce standards, including reduced staff qualifications and remuneration.</p> <p>The bill also prohibits any agency of the State or political subdivision from entering into a contract of \$250,000 or more to purchase from private entities services previously performed by agency employees, other than legal, management consulting, planning, engineering or design services, unless certain procedures are met. One is the solicitation of competitive sealed bids for contracts based on a comprehensive statement of requirements. (Supplements Title 52).</p> | O – Concept to save public jobs is good, but how would there be any savings?<br>Administrative work and related costs would fall to Local Contracting Unit. |

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| A-3182 | Assemblyman<br>RUMPF and<br>Assemblywoman<br>GOVE | <p>This bill attempts to respond to the need for an economic stimulus in New Jersey and an increase in employment in the State by requiring State departments and agencies, or political subdivisions of the State, to give a limited preference to qualified businesses located within the State of New Jersey that employ New Jersey residents when awarding or making public contracts on critical infrastructure projects financed from State funds. A critical infrastructure project is a transportation or highway project; sewerage project; water supply project; or building project constructed by the State or political subdivision thereof, including but not limited to, a school district, which is sited, recommended, or promoted by the Executive Branch as a project of economic necessity.</p> <p>Under the bill, the Department of the Treasury is to be responsible for identifying qualified businesses and establishing preference limits on the amount of preference granted to New Jersey businesses.</p> <p>The Governor has stated in his address to a joint session of the Legislature that there exists an economic emergency in the State, and that these public projects are necessary to revive and advance New Jersey's economy. The hiring of New Jersey firms employing New Jersey residents is vital to achieving that goal. (This bill supplements Title 52).</p> | O-Preference bill. |
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| A-3612 (1R) | Assemblyman GREENWALD and Assemblywoman LAMPITT and 4 Others | This bill would condition the eligibility of state open space funding on the construction and maintenance of an “inclusive playground.” These playgrounds go well above and beyond the Americans with Disabilities Act Standards, and under the legislation, counties would be able to partner directly with a non-profit and be exempt from the LPCL in order to design and construct these facilities.   | A-As amended. However, it is uncertain how counties would be able to contract directly with a non-profit, and be exempt from the LPCL in order to procure, design and construct such facilities. No other competitive process is offered! |
| (S-2118)    | Senator BEACH  | The bill clarifies that the Department of Community Affairs (DCA) would be required to: promulgate rules and regulations specifically for inclusive playgrounds that generally exceed current State and federal standards within 90 days of the effective date of the bill; consult with nonprofit organizations with a demonstrated expertise in the design and construction of inclusive playgrounds; and, promulgate rules and regulations mandating that inclusive playgrounds would be designed to facilitate access by adults and children with disabilities. (This bill amends <u>N.J.S.A. 52:27D-123.10</u> and supplements Chapter 12 of Title 40). |   |

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| <p>A-3902<br/><br/>(S-2430)</p> | <p>Assemblyman<br/>SINGLETON</p> <p>Senators VITALE &amp;<br/>GRILL</p> | <p>Assemblyman Troy Singleton introduced a two-bill package to (A-3902 &amp; 3903) to dramatically overhaul New Jersey’s campaign finance laws by creating greater transparency through enhanced disclosure requirements and broadening the State’s existing pay-to-play laws.</p> <p>“In one respect, this is designed to combat the effects of the U.S. Supreme Court’s Citizens United decision, which essentially allowed corporations and super PACS to secretly pour unlimited amounts of money into campaigns, essentially stifling the voice of the average citizen,” said Singleton (D-Burlington). “This has become an impediment to the democratic process. By requiring independent expenditure committees to report where their money is coming from and what they’re spending it on, we can pull back the veil of secrecy that Citizens United effectively cloaked over the election process.”</p> <p>The first bill (A-3902) would revise “The New Jersey Campaign Contributions and Expenditures Reporting Act” to institute new reporting requirements on certain organizations and increase the limits on the amount of money that may be contributed by individuals, candidates and committees to other candidates and committees.</p> <p>Specifically, the bill would require independent expenditure committees to report contribution and expenditure information in excess of \$300 to the Election Law Enforcement Commission (ELEC).</p> <p>The bill also would prohibit a candidate from establishing, authorizing the establishment of, maintaining, or participating directly or indirectly, in the management or control of any independent expenditure committee.</p> <p>Independent expenditure committees are defined as any organization organized under section 527, or under paragraph (4) of subsection c. of section 501, of the federal Internal Revenue Code that engages in influencing or attempting to influence the out-come of any election or the nomination, election, or defeat of any person to any state or local elective public office or the passage or defeat of any public question, or in providing political information on any candidate or public question, and raises or expends \$3,000 or more for any such purpose. (The bill would amend and supplement certain sections of laws concerning political contributions and disclosures by certain business entities).</p> | <p>A</p> |
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| <p>A-3903</p> <p>(S-2431)</p> | <p>Assemblyman<br/>SINGLETON and<br/>Assemblywoman<br/>VAINIERI HUTTLE</p> <p>Senators VITALE &amp;<br/>WEINBERG</p> | <p>The bill provides that political party committees, namely the State committee of a political party or any county or municipal committee of a political party, would no longer be barred from receiving a contribution from a business entity seeking to enter into or holding a contract with the State, or a State agency, a county or municipality. Instead, a business entity seeking to enter into or holding a public contract would be barred from making a contribution to a political committee, or continuing political committee, in addition to candidate committees and legislative leadership committees. In addition the bill would:</p> <ol style="list-style-type: none"> <li>1) create one uniform “pay to play” law applicable at all levels of government, including the Executive Branch, State authorities, the Legislative Branch, counties, and municipalities, and to add sections covering local elective boards of education and fire districts;</li> <li>2) eliminate provisions of existing law that exclude contracts awarded pursuant to a “fair and open process” from “pay to play” proscriptions and provide instead that only contracts that are valued at \$17,500 or less will be excluded;</li> <li>3) increase the amount that may be contributed by business entities from the current \$300 to \$1000;</li> <li>4) modify the definition in the law of the term “business entity” to match the definition set forth in Governor Corzine’s Executive Order No. 117 of 2008;</li> <li>5) modify the disclosure requirement for business entity that contracts with a single State agency, or a county, municipality, independent authority, board of education, or fire district for \$17,500 or more and makes a contribution of money or other thing of value to an independent expenditure committee to disclose all such contributions; and</li> <li>6) add a definition of “independent expenditure committee” for the purpose of the reports required to be made by business entities of their contributions.</li> </ol> <p>As part of these changes to create a uniform “pay to play” law, the bill repeals sections of law that:</p> <ol style="list-style-type: none"> <li>1) prohibit a government aggregator that is a county or municipality from awarding a contract to a licensed power supplier if that supplier has made a contribution to the committee of any candidate for public office;</li> <li>2) apply “pay to play” in the context of State Executive Branch contracting; and</li> <li>3) allow local governments to adopt their own “pay to play” ordinances and policies.</li> </ol> <p>(The bill amends P.L.2004,c.19, P.L.2005,c.51 and P.L.2005,c.271, and supplements P.L.2004,c.19).</p> | <p>O-Cannot accept, threshold is \$17,500.00. The bill deletes reference to the fair and open process, which will create an increase in the amount of mandatory documents to be submitted with a bid or proposal.</p> |
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| <p>A-4166</p> | <p>Assemblyman<br/>HOUGHTALING<br/>and Assemblywoman<br/>DOWNEY</p> | <p>This bill creates the State Procurement Study Commission. The purpose of the Study Commission shall be to review the State procurement process and recommend improvements thereto. The Study Commission is to consider:</p> <ol style="list-style-type: none"> <li>(1) the oversight of contracts and contract management;</li> <li>(2) the level of transparency present in the awarding of contracts;</li> <li>(3) the required professional training for those responsible for procurement, including training of staff on various financial and other systems;</li> <li>(4) the current degree of purchasing flexibility;</li> <li>(5) overall vendor performance; and</li> <li>(6) the utilization of technology in the current procurement process and the incorporation of new technology and software therein.</li> </ol> <p>Specifically, the Study Commission is to address:</p> <ol style="list-style-type: none"> <li>(1) the clarity of the expectations of those charged with managing contracts, the method of tracking contract performance, and the accountability of managers for the success of a contract;</li> <li>(2) the delegation of responsibilities generally, the specificity of goals and objectives as they relate to agency customers, and the reporting of progress on meeting those goals;</li> <li>(3) the training of staff regarding ongoing development of a current and relevant knowledge-base and skill set;</li> <li>(4) the planning before sourcing and procurement formally begins, including the performance of market and risk analyses;</li> <li>(5) the innovation encouraged by this State’s procurement laws, the pursuit of new ideas for procurement methods by the Division of Purchase and Property, and the nature of the dialogue between the Division and its agency customers; and</li> <li>(6) the collaborative effort of procurement staff and information technology personnel as it relates to ensuring that solicitations reflect industry trends, allow for flexibility, and fit the State’s current and future needs, the modernization of the procurement process as regards technology, and the use of that technology to improve results, analyze data, manage vendors and agencies, and facilitate communication between all parties.</li> </ol> | <p>A-With reservations. An amendment should be introduced to clarify which state agency or agencies would be affected by the requirements of the bill. Certain state agencies’ amendments could “filter down” to local contracting units and create additional work because of the amendments to state agency laws.</p> |
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| <p>A-4166<br/>(continued)</p> |  | <p>The Study Commission is to recommend ways to improve each of the aforementioned aspects of the State procurement process, as well as ways to implement those recommendations, in its final report.</p> <p>The Study Commission will consist of seven members as follows: the State Treasurer, the Director of the Division of Purchase and Property, the Chief Technology Officer of the Office of Information Technology, and the Chief Executive Officer of the New Jersey Economic Development Authority, who shall each serve ex officio, and three members who are to be private citizens, appointed by the Governor with the advice and consent of the Senate, and who may not hold elective public office while serving on the Commission. One of the three appointed members is to be an individual with expertise in the State procurement process; one is to be an individual with expertise in technology; and one is to be an individual with expertise in business administration.</p> <p>The Study Commission will issue a final report on its findings and recommendations to the Governor and the Legislature within ten months from the date of its first meeting. Following the issuance of its final report, the Study Commission will convene at the call of the chairperson to consider and respond to any written request submitted to it by a legislator or Executive Branch officer or employee on any item set forth in its report.</p> <p>The Study Commission will expire six months after the date of issuance of its final report.</p> |  |
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| <p>A-4300</p> | <p>Assemblyman<br/>DANCER</p> | <p>This bill is in response to an investigative report issued by the State Commission of Investigation (“SCI”), dated June 30, 2015, concerning questionable contracting in electronic tax lien sales. Concerns over improprieties in the administration of tax lien auctions-particularly with regard to electronic tax lien sales-prompted SCI to investigate the integrity of the process.</p> <p>This bill would implement some of SCI’s recommendations in order to reform the electronic tax lien sale system. Under the bill, the Department of Community Affairs (“DCA”) would evaluate and select vendors to conduct electronic tax lien sales. The bill requires DCA to publish on its website a request for quotations from nationally recognized electronic municipal tax lien services. The request for quotations will require that vendors demonstrate the ability to offer software for conducting electronic tax lien sales with the following functions:</p> <ul style="list-style-type: none"> <li>• The ability for users to create a list of favorite properties subject to a tax lien sale on which they may want to bid;</li> <li>• An interactive mapping tool for locating properties subject to a tax lien sale;</li> <li>• A detailed listing for each property subject to a tax lien sale which shall include, but not be limited to, the street address of the property, the assessed value of the property, the property tax bill from the prior tax year to which the property was subject, and the use for which the property is zoned; and</li> <li>• A method for users to bid by proxy through which a user can select a minimum interest rate or maximum premium for multiple properties on which the user wants to bid.</li> </ul> <p>Vendors seeking selection would be required to disclose their corporate or other ownership and to submit other information required by DCA. After evaluating the quotations submitted by interested vendors, DCA would create a list of at least five qualified vendors from which municipalities may select a vendor to conduct electronic tax lien sales.</p> <p>Under the bill, a municipality may, without advertising for bids, contract with a vendor selected and approved by the Department of Community Affairs pursuant to this bill to conduct electronic tax lien sales. To contract with a municipality, a vendor must provide the municipality with a corporate disclosure form for its significant subcontractors. The bill defines “significant subcontractor” as any entity expected to receive 25 percent or more of estimated contract revenue.</p> | <p>A-Work to be done by DCA’s DLGS. After prequalification, how will local units select qualified vendors?</p> |
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| A-4300<br>(Continued) |  | <p>The bill also requires the Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with the Director of the Division of Taxation in the Department of the Treasury to report to the Governor and the Legislature, within 90 days of the effective date, on the efficacy of electronic tax lien sales. The report must include an assessment of the pilot program established in P.L.2001, c.160 (C.54:5-19.1), including an evaluation of the performance of the vendor receiving approval from the department to conduct electronic tax lien sales under the pilot program;</p> <p>Lastly, the bill facilitates the establishment of electronic tax lien sales by eliminating the pilot program status of such sales, as recommended by the SCI report. (The bill will amend and supplement various parts of <u>N.J.S.A. 54:5-19.1</u>).</p> |  |
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| A-4450 | Assemblyman<br>DANCER | <p>This bill requires vendors of law enforcement uniforms to verify that a person purchasing a uniform identifying a law enforcement agency is an employee or authorized agent of the agency identified on the uniform.</p> <p>The bill provides that in order to verify the status of the purchaser, the vendor is to require the purchaser to present: (1) a valid government issued photo identification card; and (2) official documentation from the law enforcement agency confirming that the purchaser is an employee or an authorized agent of the law enforcement agency and authorized to purchase uniforms.</p> <p>A violation of the bill's provisions is a disorderly persons offense. Disorderly persons offenses are punishable by a term of imprisonment of up to six months, a fine of up to \$ 1,000, or both. The provisions of the bill would apply to sales conducted by in-State vendors, as well as sales conducted by out-of-State vendors when the purchases are delivered to customers in New Jersey, including orders placed via the internet or telephone.</p> <p>It is the sponsor's intent to ensure that persons who would impersonate law enforcement officers to commit crimes or acts of terrorism will be prevented from purchasing official law enforcement uniforms. (The bill specifically amends <u>N.J.S.A. 2C:28-8</u>).</p> | A-If passed, we recommend a Local Finance Notice be issued and make information available to officials of procurement community in State. |
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## Energy Bills

Key: O – Opposition, A - Approved, H - Hold

| <u>Bill #</u> | <u>Sponsor</u>           | <u>Bill Description</u>   | <u>Comments</u>   |
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| A-2529        | Assemblyman<br>DE ANGELO | <p>This bill provides for the replacement of incandescent light bulbs in public school buildings with energy-efficient light bulbs.</p> <p>Under the bill, each board of education is required to replace all incandescent light bulbs in public school buildings with energy-efficient light bulbs whenever possible commencing three years after the effective date of the bill. The bill also requires, commencing three years after the effective date, each board of education to purchase energy-efficient light bulbs for use in public school buildings to the maximum extent practicable. (This bill supplements Title 18A).</p> | O-Bill is not necessary, and passage into law might be considered State mandate.                      |
| A-2640        | Assemblyman<br>GUSCIORA  | The bill requires the incorporation of solar panels in the design and construction of new public school facilities constructed by either a school district or the NJ Schools Development Authority. (Bill amends <u>N.J.S.A.</u> 18A:7G-5).   | O – Needs to be optional. Technology is still evolving. Sun not dependable. State mandate, State pay. |

## Labor Bills

Key: O – Opposition, A - Approved, H - Hold

| <u>Bill #</u>         | <u>Sponsor</u>   | <u>Bill Description</u>   | <u>Comments</u>   |
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| S-255<br><br>(A-1152) | Senators CONNORS & OROHO<br><br>Assemblyman RUMPF and Assemblywoman GOVE | This bill provides that any company that hires illegal aliens is, for a period of seven years, ineligible to: 1) enter into a contract with a public body for the construction, architecture, engineering or construction management of a public work or building; 2) enter into a contract with a public body for the furnishing of materials, supplies, equipment, or other contractual services; or 3) receive any tax exemption, tax reduction, tax abatement, grant, or loan from a public body. For the purposes of the bill, “public body” is defined as the State, or any county, municipality, school district, authority, or political subdivision of the State. (Supplements Title 34).  | O-Bill needs further clarification as to the involvement of the Department of Labor & Workforce Development. How will local contracting units become aware of ineligible companies? This bill should not become an administrative burden for local contracting units. |
| S-663                 | Senator RICE   | <p>This bill establishes the Division of Equal Employment Opportunity in Public Contracts as a permanent division in the State Department of the Treasury to oversee and enforce equal employment opportunity requirements with regard to public works contracts at all levels of government. It directs the Treasurer to promulgate regulations to effectuate that purpose and requires public bodies to take steps to ensure compliance with all equal employment opportunity requirements when awarding and administering public contracts.</p> <p>In addition, the bill provides that if the total cost of a construction project that is the subject of one or more construction contracts entered into by a State agency is equal to or greater than \$1,000,000, or if the total cost of a construction project entered into by any other public body is equal to or greater than \$2,500,000, the State Treasurer shall require that the public body allocate up to one half of one percent of the value of construction project to the financing of minority and women worker outreach and training programs.</p> <p>The bill also broadens the definition of “public works contracts” in the “Law Against Discrimination” to include professional services contracts. (This bill amends and supplements <u>N.J.S.A. 10:5-31 et seq.</u>, and <u>N.J.S.A. 10:5-1 et seq.</u>).</p> | O-Why create another state agency when two existing state agencies are handling the statutory requirements?   |

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| S-667 | Senator RICE | <p>This bill authorizes any county, municipality, school district or other political subdivision of the State or any instrumentality or agency of the political subdivision to establish a program requiring local hiring and employment in public work contracts of the political subdivision, after issuing a written finding that the local hiring and employment program will serve the interests of the political subdivision by utilizing limited public funds in a manner that provides economic stimulus or will help to overcome the adverse impact of historic discrimination. The bill permits the governing body of the political subdivision to set mandatory minimum participation levels for the hiring and employment of local residents and local disadvantaged workers as it determines to be necessary to serve the interests of the political subdivision or overcome the adverse impact of historic discrimination. The bill supplements Title 52.</p> | <p>O-Preference. Permits creation of local hire programs for public work contracts of political subdivisions.</p> |
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| S-2339 | Senator MADDEN | <p>This bill would strengthen the enforcement of the Prevailing Wage Law as follows:</p> <ol style="list-style-type: none"> <li>1. Contractors and subcontractors are required to make wage records open for inspection at reasonable hours to representatives of workers in the construction industry in the region where the work is done, in the same way that they are currently required to make the records open for inspection to the public body awarding the contract for public work, other parties to the contract, and the Commissioner of Labor and Workforce Development.</li> <li>2. The bill permits the filing of a complaint with the Commissioner by not only a worker aggrieved by a violation of the prevailing wage law, but also by any representative of the worker or of workers in the construction industry in the region where the worker is employed.</li> <li>3. The bill makes any party to a public work contract, or any other person, who willfully obstructs enforcement of the prevailing wage law or who fails to make records available as required by the bill and the current law subject to penalties and other remedies to which employers are subject under current law for such violations.</li> <li>4. The bill provides that an employer is subject to the prevailing wage law's penalties for retaliation if the employer retaliates against a worker because the worker discloses violations to an organization representing workers in the construction industry, or because the worker has sought or shared information about wages paid or worker rights under the prevailing wage law.</li> <li>5. The bill provides that any person, firm, association or corporation which suffers damages as a result of a willful violation by a contractor or subcontractor of the provisions of prevailing wage law may bring an action to recover the amount equal to two times the damages, together with reasonable costs of the action.</li> </ol> <p>(Bill amends various provisions of the Prevailing Wage Law).</p> | Presently not applicable to local contracting units. |
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| S-2837 | Senator RICE | <p>This bill amends <u>N.J.S.A. 52:38-7</u> to provide that any political subdivision of the State, including a school district, may elect, but is not required, to transfer to the Department of Labor and Workforce Development, or retain, an amount equal to one half of one percent (0.5%) of the portion of any public work contract of the political subdivision for the recruitment and training of women and minorities in the construction industry or for the purpose of providing incentives or otherwise facilitating a local hiring and employment program.</p> <p>This bill extends to political subdivisions the authority to set aside 0.5% of the value of their public works contracts for such recruitment and training programs and other programs to promote local hiring in public works, but gives the political subdivisions full discretion whether or not to have the set-asides and programs. (This bill amends <u>N.J.S.A. 52:38-7</u>).</p> | <p>O-While it is optional, there are other State funding sources such as Temporary Assistance for Needy Families Program (TANF) and (WIOA) Workforce Innovation and Opportunity Act (WIOA) to support purpose of this bill.</p> |
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| A-703                  | Assemblyman<br>DIMAIO  | The bill repeals current law permitting project labor agreements. ( <u>N.J.S.A.</u> 52:38-1 et seq.).   | A – Support the Governor’s position.  |
| A-2863<br><br>(S-2173) | Assemblymen<br>SINGLETON,<br>EGAN, RIBLE, &<br>TALIAFERRO<br><br>Senators SARLO &<br>OROHO | This bill requires every contract subject to State prevailing wage requirements to require each worker employed under the contract to be enrolled in, or have completed, a registered apprenticeship, unless the contractor or subcontractor certifies that the worker is paid not less than the journeyworker wage rate.<br><br>Under the bill, a “registered apprenticeship program” is an apprenticeship program which is registered with and approved by the United States Department of Labor and which provides each trainee with combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade and meets the program performance standards of enrollment and graduation under 29 C.F.R. Part 29, section 29.6. (This bill amends <u>N.J.S.A.</u> 34:11-56.26).   | O-Bill is contradictory. Public works and construction projects will cost more. |
| A-3597                 | Assemblymen<br>SINGLETON,<br>DE ANGELO &<br>HOWARTH  | This bill requires contractors that are required by current law to pay their workers the prevailing wage to register under The Public Works Contractor Registration Act. Currently, contractors are only required to register under that act if they enter into contracts that are subject to the New Jersey Prevailing Wage Act. There are a number of other statutes, such as The New Jersey Economic Development Authority Act which require contractors to pay workers the prevailing wage, but are not technically subject to the New Jersey Prevailing Wage Act, and therefore do not require contractors to register under The Public Works Contractor Registration Act. This bill specifies that public works contractor registration would be required in any instance where a contractor is required to pay the prevailing wage pursuant to law. (Bill amends various provisions of the Prevailing Wage Act). | Presently not applicable to local contracting units.                            |



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| A-3674 | Assemblymen<br>PETERSON &<br>DI MAIO | <p>This bill provides that no State agency or political subdivision may enter into or renew a public contract for services with a contractor who knowingly employs or contracts with an illegal alien to perform work under the contract or who knowingly contracts with an illegal alien to perform work under the contract.</p> <p>The bill requires each public contract for services to include a provision that the contractor shall not:</p> <ol style="list-style-type: none"> <li>(1) knowingly employ or contract with an illegal alien to perform work under the public contract for services; or</li> <li>(2) enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services.</li> </ol> <p>The bill requires each public contract for services to include other provisions.</p> <p>The bill provides that a State agency or political subdivision must notify the Department of Labor and Workforce Development if a contractor violates a provision of a public contract for services required pursuant to the bill and the State agency or political subdivision terminates the contract for the breach. Based on the notification, the department shall maintain a list that includes the name of the contractor, the State agency or political subdivision that terminated the public contract for services, and the date of the termination. (The bill supplements Title 34).</p> | O-Should not be up to local units to enforce the bill's requirements. It would be difficult for local units to verify the employment of illegal aliens hired by a contractor and especially hired by a subcontractor. |
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