
Center for Government Services

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LEGISLATIVE UPDATE

April 2017 - April 2018

Golden Nugget Hotel
Atlantic City, New Jersey

Presenters:

Joseph A. Valenti & "The Shout-Outs"

LEGISLATIVE UPDATE

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Bills Signed Into Law Since May 2017 - Local Public Contracting Units

Bill #	Sponsor	Bill Signed into Law Description
<p>S-3409 (1R) (P.L.2017,c.317,01/16/18)</p>	<p>Senators GORDON, A.R. BUCCO and Assemblywoman VAINIERI HUTTLE, & OTHERS</p>	<p>The law establishes standardized changed condition clauses for construction contracts awarded under the Local Public Contracts Law. The law requires these clauses be included in local public construction contracts, and provide that they apply even if they are not expressly included in such a contract. The specific clauses cover differing site conditions, suspensions of contract work, changes in the character of the contract work, and changes in the amount of work to be performed by a contractor. The law establishes a standard process for the handling of changed conditions on local public construction projects.</p> <p>Under the law a contractor that encounters differing site conditions in the performance of a contract would be required to promptly notify a contracting unit of the conditions. The law defines differing site conditions as conditions at a contract work site that are subsurface or otherwise concealed, and that either differ materially from those indicated in the contract documents or are of such an unusual nature that they differ materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in a contract. After receipt of a differing conditions notice, a contracting unit would have to promptly investigate the conditions and issue directions on how to proceed. Based on those directions, the contract price and completion date may be adjusted. If a contracting unit disagrees differing site conditions exist, a contractor would have to continue to perform the contract, but would have the right to pursue a claim for additional compensation or time.</p> <p>With respect to suspensions of contract work of more than 10 days and material changes in the character of the contract work, the law's provisions are similar to those for differing site conditions. More specifically, under these clauses, a contractor must first notify a contracting unit of the issue; a contracting unit must then evaluate and respond accordingly. Either a possible adjustment of the contract price or timeframe may then be made. If a contracting unit determines that a contractor is not entitled to additional compensation or time, a contractor may pursue a claim. Whenever a work suspension exceeds 60 days, upon seven days' written notice, either party shall have the option to terminate the contract for cause and to receive fair and equitable compensation.</p>

<p>S-3409 (1R) (P.L.2017,c.317,01/16/18) (Continued)</p>		<p>The law's change in quantity provisions authorize a contracting unit to increase or decrease the quantity of work to be performed by a contractor and provide how the contract price is to be adjusted depending on whether the quantity change qualifies as a major or minor quantity change. For a minor quantity change, a contracting unit is required to make payment for the quantity of the pay item performed at the bid price for the pay item. For a major quantity change, a contracting unit and contractor may renegotiate the price, but if the parties do not reach an agreement, the law, as amended, provides that payment be made for actual costs of the change plus an additional 10 percent for overhead and an additional 10 percent for profit, unless otherwise specified in the original bid.</p> <p>The Commissioner of Community Affairs, not later than 90 days immediately following the effective day of P.L.2017, c.317 (1/16/18), shall promulgate rules and regulations as may be necessary to standardize the forms and procedures throughout the State for the new changed conditions process.</p> <p>The law takes effect immediately. The law supplements the Local Public Contracts Law.</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>
S-361	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>	<p>O-Takes away option for school boards to sub-contract. Competitive contracting is not the best method for janitorial services.</p> <p style="text-align: right;">LPCL - 1</p>

S-684	Senator BATEMAN	<p>Under current law, a county library commission and the board of trustees of any regional, municipal, or joint public library may purchase certain library materials without advertising for bids. These library materials include: books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter, and audiovisual and other materials of a similar nature.</p> <p>This bill amends that law to allow public libraries to also dispose of those materials without advertising for bids. (This bill amends <u>N.J.S.A. 40:33-8.1</u> and <u>N.J.S.A. 40:54-12.1</u>).</p>	A
S-1059	Senator VAN DREW	<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 the 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.</p> <p>The act shall take effect immediately. (The bill would amend <u>N.J.S.A. 40A:11-18</u> and <u>N.J.S.A. 18A:18A-20</u>).</p>	O-This bill is a piecemeal attempt to address a larger issue of Buy American. There have been other bills in previous legislative sessions attempting to do the same thing.

<p>S-1178</p> <p>(A-3377)</p>	<p>Senator GORDON</p> <p>Assemblyman GREENWALD</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 architectural and engineering quality reviews of project. Public entity in most cases could lose administrative and decisional ability to guide the project.</p>
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S-1234	Senator TURNER	<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.</p> <p>Third, the request for proposal documentation would be required to include additional items including the terms of compensation; the certification and disclosure requirements; the penalties for violations; and certain details with respect to current insurance use and anticipated insurance needs.</p>	<p>A-Good basis for omnibus bill. Still needs some work. Should add CCCL. It's about time this bill be considered by the legislature. The length of the contract pursuant to competitive contracting only authorizes contracts up to five years. Would this be a problem for the continuity and effectiveness of such contracts?</p>
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<p>S-1234 (Continued)</p>	<p>Fourth, the competitive contracting proposal solicitation process would be supplemented in several respects. The notice of the availability of request for proposal documentation would be required to be published through more outlets and in a new timeframe, at least 60, but no more than 120, days prior to the date anticipated for the commencement of the contract. The request for proposal documentation would also have to be submitted to at least one joint insurance fund, established pursuant to N.J.S.40A:10-36 et seq., and with respect to health insurance, to the State Health Benefits Plan, at the same time it is published. Each interested insurer or insurance consultant would be required to submit a proposal at least 30 days prior to the date anticipated for the commencement of the contract. At least three proposals would be required to be obtained. The report evaluating and recommending the award of a contract or contracts would be required to include an analysis and discussion of the availability, terms, and price of comparable coverage from at least one joint insurance fund and, with respect to health insurance, the State Health Benefits plan, ensuring that alternative insurance products available to the board of education or contracting unit, which may be more cost-effective options, are considered.</p> <p>Finally, this bill would subject insurers and insurance consultants to civil liability for violations of its provisions.</p> <p>Insurance is one of the major expenses of boards of education and local contracting units. Requiring boards of education and local contracting units to use an open, transparent, and competitive process for the award of insurance contracts would help ensure that the lowest possible cost is realized and help protect against waste, abuse, and insider deals, ultimately saving taxpayer money.</p> <p>(Bill amends <u>N.J.S.A.</u> 40A:11-4.1 et al and <u>N.J.S.A.</u> 18A:18A-4.1</p>	
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S-1545	Senator TURNER	<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. 40A:11-4.1</u>, <u>N.J.S.A. 40A:11-5</u>, <u>N.J.S.A. 18A:18A-4.1</u>, and <u>N.J.S.A. 18A:18A-5</u>).</p>	<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. There is no process in either of the two laws regarding how a board of education or local contracting unit is to conduct a negotiated process.</p>
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<p>S-1599 (A-3112)</p>	<p>Senators BEACH & OROHO Assemblyman BENSON</p>	<p>This bill would authorize local units of government to use electronic procurement technologies. The bill defines “local unit” as contracting units as defined in the Local Public Contracts Law. The bill authorizes these local units to use electronic procurement practices for such purposes as may be authorized by the governing body of the local unit, and subject to the provisions of the bill.</p> <p>Under the bill, a local unit, joint purchasing unit, or cooperative pricing system is also authorized to use electronic procurement practices for the following purposes:</p> <ul style="list-style-type: none"> a) the purchase of electric generation service, electric related service, gas supply service, or gas related service, either separately or bundled, for its own facilities so long as the purchase otherwise complies with the provisions of the Electric Discount and Energy Competition Act, (<u>N.J.S.A.</u> 48:3-49 et al.). b) the sale of surplus personal property that shall otherwise comply with the provisions of <u>N.J.S.A.</u> 40A:11-36; and c) the sale of real property that shall otherwise comply with the sale and lease provisions of the Local Lands and Buildings Law, <u>N.J.S.A.</u> 40A:12-1. <p>A local unit using electronic procurement technologies must continue to publish any notices, advertising bids, and requests for proposals required by law to be published in the official newspaper of the local unit.</p> <p>Contracts awarded for the administration of electronic procurement practices pursuant to the bill would be subject to the requirements of the Local Public Contracts Law and the Public School Contracts Law, as appropriate, except that they are to be considered as purposes for which competitive contracting may be used.</p> <p>The bill also requires the Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with other State government entities, to promulgate rules and regulations to effectuate the provisions of the bill.</p> <p>The act shall take effect on the first day of the 10th month next following enactment. (The bill supplements and amends the LPCL, amends <u>N.J.S.A.</u></p>	<p>A-How realistic is the language which does not hold the contracting units responsible for the electronic receipt of the bids if the system fails? We believe that this is not a realistic answer to such a problem.</p>
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		18A:20-6 and P.L.1978, c.91, and repeals P.L.2001, c.30).	
A-1170	Assemblyman THOMSON	<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.</u> 40A:11-4).</p>	<p>O-Division of Local Government Services does not presently have sufficient resources to maintain data base. What are they supposed to do with database? Also, the contracting units still have to make own decisions whether their particular case qualifies the prospective bidder as being rejected for the bidder proposal before the contracting unit. DLGS is not in the position to act as arbitrator if posted vendors want to be vindicated by DLGS.</p>

A-1171	Assemblyman THOMSON	<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 N.J.S.A. 40A:11-4).</p>	<p>O-Based upon the drafting of the bill. Why weren't conflicts of interest in A-1171 included in A-1170? Would the inclusion of conflicts of interest in any way prevent the application 40A:11-4 concerning conflicts of interest prevent a contracting unit from using the other prior negative experience examples since conflicts of interest are governed by the Local Government Ethics Law?</p>
A-1802	Assemblyman 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>	<p>O-There are technical challenges to implement this bill if it becomes law (Electrical Fields). It changes the entire landscape of public works yards and school bus yards where school-owned buses are stored. The initial cost of vehicle is too high and replacement batteries apparently would be too costly.</p>

A-2113	Assemblyman GREEN	<p>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.</p> <p>The bill would also provide that, upon the contractor's application, the contracting unit or board of education would be required to release to the contractor a subcontractor's proportionate share of the amount withheld, upon acceptance by the project's architect or construction manager of the subcontractor's completed portion of the 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. 40A:11-16.1, 16.3, 18A:18A-40.2 & 40.3</u>).</p>	<p>O – Should remain as local contracting unit funds.</p> <p>Previous legislative period bill, S-317 (1R), was pocket vetoed by the Governor on 01/16/12.</p>
A-2132 (S-1802)	Assemblymen CHIARAVALLOTI & ZWICKER Senators TURNER & SINGLETON	<p>This bill provides that no public contract may be awarded to an Internet service provider that (1) engages in paid prioritization; (2) prevents customers located in this State from accessing all lawful Internet content, applications, and services or using non-harmful Internet-enabled devices; or (3) impairs or degrades Internet access speeds, subject to reasonable network management. As used in this bill, "paid prioritization" means the management of an Internet service provider's network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration from a third party or to benefit an affiliated entity. (This bill supplements the Public School Contracts law and the Local Public Contracts Law).</p>	<p>A-With recommendations noted below.</p> <p>Direct it to who is going to oversee the internet companies. Local units of governments are not in the position to enforce the provisions of this law which appears to only require the contracting units to put language in specifications. This should be the responsibility of the Board of Public Utilities.</p>

A-2541	Assemblyman DEANGELO	<p>This bill would eliminate the exception for contracts involving routine insurance from the public advertising and bidding requirements of the Local Public Contracts Law and the Public School Contracts Law, for such contracts that exceed the bid threshold. Recent reports have indicated that the current system of awarding routine insurance contracts, in which no-bid contracts are permitted, is susceptible to waste and abuse, and facilitates corrupt behavior. 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.</p> <p>Under current law, contracts involving all types of insurance are exempt from the public advertising and bidding requirements for local public contracts and public school 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>The act shall take effect on or after the first day of the fourth month next following the date of enactment. (The 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 requires the receipt of formal bids which the committee feels is not appropriate. It should be done by competitive contracting and therefore the committee supports S-1234. Therefore, this bill would be unnecessary.
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<p>A-3003</p>	<p>Assemblyman DANCER</p>	<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.</p> <p>The sponsor believes that the actual and potential costs of operating a municipally-run fueling station often outweigh the benefits of purchasing fuel in bulk. Careful consideration of the costs of capital construction, operation, maintenance, and insurance may cause many municipalities to opt to purchase fuel at local service stations. The cost of procuring insurance to cover risks of environmental contamination at filling stations can be particularly onerous. However, without adequate insurance coverage, the cost of environmental cleanup can be staggering.</p>	<p>O-In current form. Should be gasoline alone and follow the use of procurement card procedures.</p>
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A-3003 (Continued)		<p>The sponsor believes that careful consideration of the overall costs of establishing, maintaining, and insuring a municipal fueling station may lead many municipalities to choose to purchase gasoline at local filling stations.</p> <p>The act shall take effect immediately. (The bill would amend <u>N.J.S.A.</u> 40A:5-16).</p>	
A-3218 (S-2164)	<p>Assemblymen ANDRZEJCZAK & LAND</p> <p>Senator VAN DREW</p>	<p>This bill would permit a municipality which has not established a public pound for the keeping of stray dogs, cats, or other domestic pets to contract with an animal foster care service for collecting, keeping for redemption, and destroying stray animals found within the municipality. Under the bill, such service must be maintained by a humane society or other similar association, the members or volunteers of which provide temporary shelter and care for animals pending their permanent adoption or admission to a pound. The bill would require that the society or association not be organized for pecuniary profit and that it have continuously engaged in animal foster care for at least one year.</p> <p>Currently, municipalities may only contract for such services with a pound maintained by a humane society or other similar association that is not organized for pecuniary profit and that has continuously maintained the pound for at least one year. The bill permits municipalities to contract with either a pound or a pet foster care organization, or both organizations simultaneously.</p> <p>This act shall take effect immediately. (The bill amends <u>N.J.S.A.</u> 40:48-5.1).</p>	A-This bill would expand to allow volunteers to provide temporary shelter and care for stray animals.

Public School Contracts Law

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

<u>Bill #</u>	<u>Sponsor</u>	<u>Bill Description</u>	<u>Comments</u>
S-1059	Senator VAN DREW	<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 the 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.</p> <p>The act shall take effect immediately. (The bill would amend <u>N.J.S.A.</u> 40A:11-18 and <u>N.J.S.A.</u> 18A:18A-20).</p>	<p>O-This bill is a piecemeal attempt to address a larger issue of Buy American. There have been other bills in previous legislative sessions attempting to do the same thing.</p>

S-1234	Senator TURNER	<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.</p> <p>Third, the request for proposal documentation would be required to include additional items including the terms of compensation; the certification and disclosure requirements; the penalties for violations; and certain details with respect to current insurance use and anticipated insurance needs.</p>	<p>A-Good basis for omnibus bill. Still needs some work. Should add CCCL. It's about time this bill be considered by the legislature. The length of the contract pursuant to competitive contracting only authorizes contracts up to five years. Would this be a problem for the continuity and effectiveness of such contracts?</p>
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S-1234	Senator TURNER	<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.</p> <p>Third, the request for proposal documentation would be required to include additional items including the terms of compensation; the certification and disclosure requirements; the penalties for violations; and certain details with respect to current insurance use and anticipated insurance needs.</p>	<p>A-Good basis for omnibus bill. Still needs some work. Should add CCCL. It's about time this bill be considered by the legislature. The length of the contract pursuant to competitive contracting only authorizes contracts up to five years. Would this be a problem for the continuity and effectiveness of such contracts?</p>
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S-1545	Senator TURNER	<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>	<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. There is no process in either of the two laws regarding how a board of education or local contracting unit is to conduct a negotiated process.</p>
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<p>S-1599 (A-3112)</p>	<p>Senators BEACH & OROHO Assemblyman BENSON</p>	<p>This bill would authorize local units of government to use electronic procurement technologies. The bill defines “local unit” as contracting units as defined in the Local Public Contracts Law. The bill authorizes these local units to use electronic procurement practices for such purposes as may be authorized by the governing body of the local unit, and subject to the provisions of the bill.</p> <p>Under the bill, a local unit, joint purchasing unit, or cooperative pricing system is also authorized to use electronic procurement practices for the following purposes:</p> <ul style="list-style-type: none"> a) the purchase of electric generation service, electric related service, gas supply service, or gas related service, either separately or bundled, for its own facilities so long as the purchase otherwise complies with the provisions of the Electric Discount and Energy Competition Act, (<u>N.J.S.A.</u> 48:3-49 et al.). b) the sale of surplus personal property that shall otherwise comply with the provisions of <u>N.J.S.A.</u> 40A:11-36; and c) the sale of real property that shall otherwise comply with the sale and lease provisions of the Local Lands and Buildings Law, <u>N.J.S.A.</u> 40A:12-1. <p>A local unit using electronic procurement technologies must continue to publish any notices, advertising bids, and requests for proposals required by law to be published in the official newspaper of the local unit.</p> <p>Contracts awarded for the administration of electronic procurement practices pursuant to the bill would be subject to the requirements of the Local Public Contracts Law and the Public School Contracts Law, as appropriate, except that they are to be considered as purposes for which competitive contracting may be used.</p> <p>The bill also requires the Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with other State government entities, to promulgate rules and regulations to effectuate the provisions of the bill.</p> <p>The act shall take effect on the first day of the 10th month next following enactment. (The bill supplements and amends the LPCL, amends <u>N.J.S.A.</u> 18A:20-6 and P.L.1978, c.91, and repeals P.L.2001, c.30).</p>	<p>A-How realistic is the language which does not hold the contracting units responsible for the electronic receipt of the bids if the system fails? We believe that this is not a realistic answer to such a problem</p> <p style="text-align: right;">PSCL - 5</p>
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A-1802	Assemblyman 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). It changes the entire landscape of public works yards and school bus yards where school-owned buses are stored. The initial cost of vehicle is too high and replacement batteries apparently would be too costly.
A-2113	Assemblyman GREEN	<p>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.</p> <p>The bill would also provide that, upon the contractor’s application, the contracting unit or board of education would be required to release to the contractor a subcontractor’s proportionate share of the amount withheld, upon acceptance by the project’s architect or construction manager of the subcontractor’s completed portion of the 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. 40A:11-16.1, 16.3, 18A:18A-40.2 & 40.3</u>).</p>	O – Should remain as local contracting unit funds. Previous legislative period bill, S-317 (1R), was pocket vetoed by the Governor on 01/16/12.

<p>A-2132 (S-1802)</p>	<p>Assemblyman CHIARAVALLOTI Senators TURNER & SINGLETON</p>	<p>This bill provides that no public contract may be awarded to an Internet service provider that (1) engages in paid prioritization; (2) prevents customers located in this State from accessing all lawful Internet content, applications, and services or using non-harmful Internet-enabled devices; or (3) impairs or degrades Internet access speeds, subject to reasonable network management. As used in this bill, “paid prioritization” means the management of an Internet service provider’s network to directly or indirectly favor some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration from a third party or to benefit an affiliated entity. (This bill supplements the Public School Contracts law and the Local Public Contracts Law).</p>	<p>A-With recommendations noted below. Direct it to who is going to oversee the internet companies. Local units of governments are not in the position to enforce the provisions of this law which appears to only require the contracting units to put language in specifications. This should be the responsibility of the Board of Public Utilities.</p>
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A-2541	Assemblyman DEANGELO	<p>This bill would eliminate the exception for contracts involving routine insurance from the public advertising and bidding requirements of the Local Public Contracts Law and the Public School Contracts Law, for such contracts that exceed the bid threshold. Recent reports have indicated that the current system of awarding routine insurance contracts, in which no-bid contracts are permitted, is susceptible to waste and abuse, and facilitates corrupt behavior. 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.</p> <p>Under current law, contracts involving all types of insurance are exempt from the public advertising and bidding requirements for local public contracts and public school 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>The act shall take effect on or after the first day of the fourth month next following the date of enactment. (The 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 requires the receipt of formal bids which the committee feels is not appropriate. It should be done by competitive contracting and therefore the committee supports S-1234. Therefore, this bill would be unnecessary.
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A-2545	Assemblyman DEANGELO	<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.</p> <p>The bill defines “energy-efficient light bulbs” as halogen incandescent light bulbs, light-emitting diode light bulbs, or any other alternative light bulbs or lamps that have a lifespan and electrical efficiency that is equal to or greater than the lifespan and electrical efficiency of a light-emitting diode light bulb.</p> <p>The act would take effect immediately. (The bill would supplement Title 18A).</p>	A-Can you still buy incandescent light bulbs?
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Legislative Bills Affecting (Various) Public Purchasing Laws

Key: O – Opposition, A – Approved, H - Hold <u>Comments</u>	<u>Bill #</u>	<u>Sponsor</u>	<u>Bill Description</u>
S-370	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 (LPCL, PSCL AND CCCL).</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 therefore, 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>
			O-Administratively burdensome, i.e. necessary additional staff and support resources. Possible application of State mandate State pay.

S-872	Senator 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. Comes down to those currently employed losing their jobs.
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S-872 (Continued)	<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. 40A:11-18</u>, <u>N.J.S.A. 18A:18A-20</u>, State agencies, public institutions of higher education and development assistance applicants).</p>	
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S-981	Senator SINGLETON	<p>Prohibits New Jersey Environmental Infrastructure (EIT) Financing Program to finance any environmental infrastructure project, in whole or in part, unless all of the iron and steel products used in the project are produced in the United States.</p> <p>Except if:</p> <p style="padding-left: 40px;">Project sponsor provides written certification to EIT that iron and steel products are not produced in the United States in sufficient and reasonably available quantities or are not of satisfactory quality;</p> <p style="padding-left: 40px;">Inclusion of US iron and steel products increase the overall cost of the project by more than 10%; or</p> <p style="padding-left: 40px;">DEP Commissioner determines that application of this section would be inconsistent with the public interest.</p> <p>Defines “iron and steel products” as the following products made primarily of iron and steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.</p> <p>Takes effect immediately, but does not apply to any project for which financing has been approved by the trust prior to the effective date of this act. (This bill would supplement <u>N.J.S.A. 58:11B-1</u> et seq.</p>	This bill has been withdrawn 03/08/18.
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<p>S-1102</p> <p>(A-3420)</p>	<p>Senator CRUZ-PEREZ</p> <p>Assemblywoman PINTOR MARIN</p>	<p>This bill would revise the threshold amounts under the pay-to-play and prevailing wage laws for local contracting units and county colleges to make them the same as the threshold amount under the applicable local public contracting laws. The bill would also revise the threshold amount under the prevailing wage law for boards of education to make it the same as the threshold amount under the public school contracting law.</p> <p>Under current law, the governing bodies of counties, municipalities, and other contracting units subject to the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) may award contracts below a certain dollar amount without public advertising for bids. The statutory bid threshold is \$ 17,500. The Governor’s adjusted threshold amount currently allows contracting units that have appointed a QPA to set the bid threshold at up to \$40,000.</p> <p>Current law with regard to county colleges provides that such colleges may award contracts without public advertising for bids if the contract amount is below \$25,000 or, if the contract is made, negotiated, and awarded by a contracting agent, at the adjusted amount set by the Governor every five years to account for inflation. The Governor’s adjusted threshold amount currently allows county colleges to set the bid threshold at up to \$ 35,000 for these contracts.</p> <p>Current law with regard to boards of education provides that such boards may award contracts without public advertising for bids if the contract amount is below \$17,500. The Governor’s adjusted threshold amount currently allows boards of education with a QPA at up to \$40,000.</p> <p>The pay-to-play laws require contracts above \$17,500 to be awarded pursuant to a fair and open process. The “New Jersey Prevailing Act” stipulates the payment of prevailing wage rates for workers on construction projects that are subsidized by public funds of over \$2,000, in the case of counties, county colleges, and boards of education, and an amount over \$15,444 in the case of municipalities.</p> <p>The bill revises these pay-to-play and prevailing wage threshold amounts for contracting units and county colleges to be consistent with the applicable local public contract threshold amounts, and revises the prevailing wage threshold amount for boards of education to be consistent with the applicable local public contract threshold amounts.</p>	<p>A-Should include all local contracting units, not only those covered under the LPCL. Pay-to-play is not working, it is costing more money than it should. Former State Comptroller Matthew Boxer in his final report indicated that the fair and open process had to be revisited and that the dollar thresholds between \$ 17,500 and bid thresholds were confusing to local contracunits.</p> <p style="text-align: right;">VARIOUS-5</p>
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S-1102 (Continued)		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. (This bill amends various provisions of Pay-To-Play Laws, and the NJ Prevailing Wage Law and 18A:20-4.4).	
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<p>S-1544 (A-1458)</p>	<p>Senator TURNER Assemblyman BENSON</p>	<p>This bill provides that any person who is convicted of a crime of the second degree under subsection a. or b. of <u>N.J.S.A. 2C: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. (The bill would supplement chapter 32 of Title 52, and chapter 21 of Title 2C.).</p>	<p>O-Too burdensome.</p>
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<p>S-1743 (A-3275)</p>	<p>Senator WEINBERG Assemblywoman VAINIERI HUTTLE</p>	<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>	<p>O – Concept to save public jobs is good, but how would there be any cost savings produced and documented? Administrative work and related costs would fall to local contracting units.</p>
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S-1778	Senator DIEGNAN, JR.	<p>At present, the law authorizes the Director of the Division of Purchase and Property in the Department of the Treasury to purchase goods or services through cooperative purchasing agreements with other states or political subdivisions thereof and through contracts awarded pursuant to a nationally recognized and accepted cooperative agreement that has been developed using a competitive bidding process in which other states participate. In some cases, the use of agreements has caused contracts that were previously awarded to New Jersey businesses to be awarded instead to large national firms and has denied New Jersey businesses the opportunity to bid on these contracts.</p> <p>This bill would address this situation by providing that prior to entering into such an agreement, the director would follow the usual procedures for the awarding of public contracts or, if the director deems it appropriate, the procedures for the awarding of small business set-aside contracts, including procedures for the awarding of multi-source contracts when appropriate. Upon opening the bids or reviewing the quotation of prices, the director would determine whether awarding the contract by that method would be the most cost-effective method of procurement and in the State's best interest compared to making the purchase through a cooperative purchasing agreement and will award the contract or enter in to the cooperative purchasing agreement accordingly. If the director determines to award the contract through a cooperative purchasing agreement, all bids or price quotations previously submitted would be void. The bill would also provide that the State's commitment under a cooperative purchasing agreement would not exceed two years. Therefore, even if the director chooses to use a cooperative purchasing agreement, the process established by the bill would give New Jersey businesses the opportunity to compete for a particular type of procurement every two years.</p> <p>In addition, the bill provides that the director will not enter into a cooperative purchasing agreement unless for a continuous period of six months the director has posted express written notice on the division's Internet website that the director is considering making a particular purchase through such an agreement and published that notice at least monthly in a newspaper or newspapers with Statewide circulation.</p> <p>This act shall take effect immediately. (This bill amends <u>N.J.S.A. 52:34-6.2</u>).</p>	<p>O-Is it administratively possible for the Director to review all contracts to see which ones are most cost effective on a two-year basis which the bill requires? However, the Division of Purchase and Property should be careful in their review of national co-ops.</p>
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A-513	Assemblymen DiMAIO, GIBLIN, ROONEY, & OTHERS	<p>This bill would require all third-party disbursement service organizations that contract with local government units and boards of education to make payments and execute financial transactions for those purposes to post a bond, in an amount and with sureties approved by the Local Finance Board, with the local government unit or board of education. The bond would be forfeited in the event that the third-party disbursement service organization fails to make payments or execute financial transactions, including federal or State tax deposits, on behalf of the local government unit or board of education.</p> <p>This bill responds to concerns raised in the case of Ameripay, a third-party disbursement service organization used by municipalities as well as other public entities in New Jersey. Ameripay is currently under investigation for fraud by the Securities and Exchange Commission and the Federal Bureau of Investigation. It is alleged that the principals of Ameripay failed to meet payroll obligations of Ameripay clients and also failed to make in excess of \$ 8 million in federal and State tax deposits on behalf of clients. (This bill would amend <u>N.J.S.A. 52:27D-20.1</u>).</p>	A-Any added protection such as posting of a bond would be welcomed.
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A-1285	Assemblyman GREENWALD	<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 40A:11-23, and N.J.S.A_ 18A:18A-21, 18A:18A-22 and 18A:18A-24, 18A:64A-25.14, 25.15 and 25.16).</p>	<p>O-Increased cost to contracting units. Little incentive to submit proposal below project cost estimates. Change in bid guarantee eliminates smaller contractors. This does not address impact of addenda.</p>
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A-1308	Assemblyman GREENWALD	<p>This bill would require public contracting units that contract for the construction of public works to use electronic procurement technologies for public works construction projects when a project's value exceeds \$5,000,000. These entities include those subject to the Public School Contracts Law, the State College Contracts Law, the County College Contracts Law, <u>N.J.S.A. 52:18A-235 et seq.</u> (the schools development authority law), the Local Public Contracts Law, and chapters 32, 33, and 34 of Title 52 of the Revised Statutes (the State and its agencies and instrumentalities).</p> <p>This bill requires the State Treasurer to promulgate regulations to effectuate the electronic procurement of public works as required by the bill. The regulations must set forth each of the steps the State Treasurer deems appropriate to be taken by each public contracting unit when a public works project's value exceeds \$5,000,000. The regulations must also create a procedure to be followed by a public contracting unit for awarding a contract for the administration of the electronic procurement process, and all aspects of electronic procurement.</p> <p>The regulations must also require that a contractor or vendor seeking a contract for public works under the bill be classified with the Division of Property Management and Construction in the Department of the Treasury prior to submitting a bid.</p> <p>The regulations must also require certain bidding components specified in the bill.</p> <p>The regulations promulgated by the State Treasurer must also set qualifications to be met by firms providing electronic procurement processes under the bill. (The bill would amend various provisions of the above named contracts laws).</p>	<p>The bill affects six different public contracting units. Some sections of the bill appear to be confusing and not in compliance with the basic premises of the LPCL. This bill should be merged with S-1599.</p>
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A-2710	Assemblyman MCKEON	<p>This bill reestablishes and revises the State’s minority business and women business public contract set-aside programs.</p> <p>Specifically, the bill:</p> <p>increases the goals for the percentages of contracts to be set aside for minority businesses from 7% to 10%, and women businesses from 3% to 5%;</p> <p>provides that when a sufficient number of minority businesses or female businesses are not available to meet the goals established for these businesses, the minority business and female business goals may be met by awarding a contract to a small business;</p> <p>provides that sub subcontractors will count toward achieving these goals;</p> <p>provides that the Selective Assistance Vendor Information System (SAVI II) database will be expanded and used by both the State and local governments in meeting any set-aside requirements established by law;</p> <p>establishes a uniform process for certification of the qualifications of minority businesses, women businesses, and small businesses for participation in public contract set-aside programs at all levels of government;</p> <p>provides that the Commerce, Economic Growth and Tourism Commission will oversee and enforce all public contract set-aside requirements established by law;</p> <p>updates the definition of minority business to reflect racial and ethnic groups against whom a history of discrimination has been sufficiently documented to justify participation in the set-aside program;</p> <p>provides that 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, women business, or small business set-aside goals;</p>	<p>O-Too punitive action against local units of government by the State in order to effectuate the requirements of the bill. Depending on the work involved by local contracting units, does State mandate State pay apply?</p>
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A-2710 (Continued)		<p>provides that 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 and a State or local government agency that fails to meet any applicable set-aside goal for two consecutive years shall have its appropriation for operations withheld by 10% until such a time as it demonstrates that it has met the requirement; and</p> <p>provides that a party awarded any State or local government contract to which a set-aside requirement applies will have 10% of any amount payable to it under the contract withheld until such time as it demonstrates that it has met that requirement.</p> <p>This act shall take effect immediately. (The bill supplements various parts of Title 52).</p>	
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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>
S-1991 (A-3363)	Senator BUCCO Assemblyman BUCCO	<p>This bill would establish a public-private alternative fueling station pilot program. The Department of Transportation (DOT), in consultation with the Department of Environmental Protection (DEP), the New Jersey Turnpike Authority (NJTA), and the South Jersey Transportation Authority (SJTA), would be required to promulgate guidelines for the creation of an alternative fueling station pilot program, for use by government-owned or privately-owned vehicles.</p> <p>Under the bill, the DOT would work with public utilities and private fuel station vendors to offer alternative fuels at public, private, and government-owned or operated fueling stations, and may enter into an agreement with one or more private entities or public utilities. The pilot program would include at least one alternative fueling station located in each of the northern, central and southern regions of the State, and at least one alternative fueling station would be a charging station.</p> <p>The DOT in consultation with the DEP, the NJTA, and the SJTA, would within 18 months after the date of enactment of this bill into law conduct a study. The DOT would then prepare and submit to the Legislature a written report analyzing the pilot program and making recommendations concerning: (1) the continuation of any State partnership with a private entity or public utility; (2) increasing access to, or the number of, alternative fueling and charging stations in the State; and (3) identification of highway rest stops in the State where alternative fueling stations, including charging stations, can be installed.</p>	H-The committee feels the requirements of the study are far reaching for the State agencies involved. It appears it would be very costly to implement the goals of this bill.

S-1991 (Continued)		<p>The report would also include a proposal and plan for the State to install at least one charging station in each of the northern, central and southern regions of the State. The DOT would be able to consult with any private entities or public utilities that are interested in installing a charging station or have already installed such a system.</p> <p>Upon completion of the report the DOT, or other appropriate executive department or independent authority, would apply for any available federal grants or other funds for the purposes of establishing alternative fueling stations. Upon receipt of any federal grants or other funds, or any State funds made available for the purpose, the DOT would install a charging station in each of the three regions of the State pursuant to the plan established in the report. (The bill would supplement Title 27 of the Revised Statutes).</p>	
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Labor Bills

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

<u>Bill #</u>	<u>Sponsor</u>	<u>Bill Description</u>	<u>Comments</u>
S-62 (A-2478)	Senator SINGLETON Assemblyman DEANGELO	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 Public Works Contractor Registration Act).	Presently not applicable to local contracting units. However, we encourage all local contracting units comply with the law in question.

<p>S-305</p> <p>(A-949)</p>	<p>Senators CONNORS & OROHO</p> <p>Assemblyman RUMPF and Assemblywoman GOVE</p>	<p>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.</p> <p>The bill specifies that, if, after investigation, the Commissioner of Labor and Workforce Development determines that a company has violated the bill’s provisions, the name of the company will be placed on a list which will be made available to every applicable public body. The list identifies the company as ineligible for certain contracts or benefits as provided in the bill. A company that violates any provision of the bill shall be liable for a penalty of \$10,000.00 for each illegal alien the company hired. The provisions of the bill shall not apply to any company that exercises due diligence in attempting to verify an illegal alien’s immigration status prior to hiring the illegal alien. (Supplements Title 34).</p>	<p>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.</p>
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<p>S-347</p> <p>Note: S-352, S-354 and S-368 are similar to S-347.</p>	<p>Senators CRUZ-PEREZ & CUNNINGHAM</p>	<p>This bill reconciles certain provisions concerning construction project funds set forth in <u>N.J.S.A. 52:38-7</u> and <u>N.J.S.A. 52:40-1</u> et seq. Specifically, the bill modifies the language used in <u>N.J.S.A. 52:40-6</u> to describe the use of 0.5% of construction project funds set aside for women and minority group members to make it conform to <u>N.J.S.A. 52:38-7</u> by expanding the funded activities to include outreach as well as training, and to include not only construction trade occupations, but other occupations in the construction industry, such as management and engineering.</p> <p>The bill also modifies the scope of projects subject to the 0.5% set-aside under <u>N.J.S.A. 52:40-6</u> to make it conform with the requirements of <u>N.J.S.A. 52:38-7</u> that the set-aside apply to local, as well as State, projects. The bill would also replace the Division of Contract Compliance and Equal Employment Opportunities with the Division of Public Contracts Equal Employment Opportunity Compliance.</p> <p>Bill would take effect immediately. (Bill would amend <u>N.J.S.A. 52:38-7</u> and <u>N.J.S.A. 52:40-6</u>).</p>	<p>The previous bill which embodied the same concept as S-347 was vetoed during the 2016-2017 legislative session. The veto message indicates that the disparity studies completed in 2005 did not include local units. It is recommended that a disparity study be conducted for both local units of government and State entities. The date of the first study is now 13 years old.</p>
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<p>S-352</p> <p>Note: S-347, S-354 and S-368 are similar to S-352.</p>	<p>Senator RICE</p>	<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>	<p>O-Why create another state agency when two existing state agencies are handling the statutory requirements? Appears that this will be an administrative burden on all contracting units and some of the requirements appear to border on State mandate State pay.</p>
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<p>S-354</p> <p>Note: This bill is similar to S-347, S-352 and S-368.</p>	<p>Senator RICE</p>	<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.</p> <p>For covered projects estimated to cost more than \$1,000,000, the prime contractor is required to prepare and submit to the governing body for approval a local hiring plan for the project.</p> <p>The bill permits a governing body establishing a local hiring program to negotiate reciprocity agreements with other political subdivisions that maintain local hiring programs, engage its community-based partners in a workforce development system in which the political subdivision participates to assist with the recruitment and retention of targeted workers, and establish financial and nonfinancial incentives for contractors and subcontractors who exceed the local participation requirements on a covered project, not exceeding one percent of the estimated cost of the project. Any cost to the political subdivision of implementing this bill, including the cost of any incentive, may be paid from the 0.5% share of public work contracts retained or transferred by the political subdivision pursuant to section 1 of P.L.2009, c.313 (c.52:38-7), the law requiring the set aside of an amount equal to 0.5% of the value of public work contracts for the recruitment and training of women and minorities in the construction industry.</p>	<p>O-Preference. Permits creation of local hire programs for public work contracts of political subdivisions.</p>
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S-354 (Continued)		<p>Finally, the bill amends that law to permit political subdivisions to elect whether to participate in the set aside program, to elect whether to retain the set aside funds for their own local use, and to elect whether to use the funds for the hiring incentives provided by the bill.</p> <p>The bill shall take effect immediately. (The bill would supplement Title 52 and amend <u>N.J.S.A. 52:38-7</u>).</p>	
S-368 Note: S-368 is similar to S-347, S-352 and S-354.	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>	O-While it is optional, there are other State funding sources such as Temporary Assistance for Needy Families Program (TANF) and Workforce Innovation and Opportunity Act (WIOA) to support purpose of this bill.

<p>S-980 (A-2268)</p>	<p>Senator SINGLETON Assemblywoman MURPHY</p>	<p>This bill, for any contract for the erection, construction, alteration, or repair of a building, structure, or other private work in the State, and for any contract under which workers are required to be paid prevailing wage rates set pursuant to the “New Jersey Prevailing Wage Act,” requires the direct contractor to be liable for debt owed to a wage claimant that is incurred by any subcontractor acting under, by, or for the direct contractor for the wage claimant’s performance of labor under the contract.</p> <p>The bill authorizes the Commissioner of Labor and Workforce Development to bring an action under specified statutes or in a civil action to enforce this liability. It also authorizes a third party owed fringe or other benefits or a joint labor-management cooperation committee to bring a civil action to enforce the liability against a direct contractor under the bill.</p> <p>The bill requires a subcontractor, upon request from the direct contractor, to provide specified information regarding the subcontractor’s and third party’s work on the project and provides that the direct contractor may withhold disputed sums upon the subcontractor’s failure to provide the requested information.</p> <p>The bill does not apply to any work being done by an employee of the State or any political subdivision of the State, and provides that its obligations and remedies are in addition to any other remedy provided by law.</p> <p>The bill takes effect immediately. (The bill would supplement the New Jersey Prevailing Wage Act).</p>	<p>A-It reinforces the payment process so that the contractor and any third parties clearly understand the method and “path” of payment.</p>
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<p>A-134</p> <p>(A-2548)</p>	<p>Assemblymen DEANGELO & HOUGHTALING</p> <p>Assemblyman DEANGELO</p>	<p>The bill amends <u>N.J.S.A. 2A:30A-2</u>, which provides for the prompt payment of a prime contractor, subcontractor, or sub subcontractor in connection with a public or private contract. The 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 sub subcontractor, constitutes a trust fund in the hands of the prime contractor, subcontractor, or sub subcontractor, 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>The bill also provides that in the event of any violation, misuse, diversion, or any other unlawful use of all or part of the trust funds by a corporate entity, the responsibilities of maintaining and discharging the trust funds shall accrue personally to any corporate officer of the prime contractor, subcontractor, or sub subcontractor and the corporate officer shall be held personally liable for participation in the corporate entity's wrongdoing even if the corporate officer derived no personal benefit. (The bill would amend <u>N.J.S.A. 2A:30A-2</u>).</p>	<p>A-With technical amendments. Clarify "Trust Fund", who establishes, what type, meaning of fiduciary. Does the bill remove local contracting units from the Mechanic's Lien Act? Corporate officers should be held personally liable for the finances of a project including the payment of various levels of contractors.</p>
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A-508	Assemblyman DIMAIO	The bill repeals current law permitting project labor agreements. (<u>N.J.S.A. 52:38-1</u> et seq.).	A
A-727	Assemblymen McGUCKIN & WOLFE	<p>This bill exempts from the requirements of the New Jersey Prevailing Wage Act any contract for public work to recover or rebuild from the destruction, damage, or loss due to wind, flooding, or other storm conditions attributable to Hurricane Sandy, or otherwise associated with the State of Emergency identified in Governor Christie’s Executive Order No. 104, of 2012. The bill also stipulates that this exemption will not apply if that exemption jeopardizes or results in the loss of any federal funding provided to any public body for recovery or rebuilding efforts.</p> <p>The bill shall take effect immediately. (This bill would amend <u>N.J.S.A. 34:11-56.27</u>).</p>	A