

P.L. 2025, CHAPTER 241, *approved January 12, 2026*
Assembly, No. 3765 (*Second Reprint*)

CORRECTED COPY

1 AN ACT concerning online parking payment services and amending
2 ²**[R.S.40:52-1 and P.L.1948, c.198]** and supplementing the
3 "Local Public Contracts Law," P.L.1971. c.198².
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 ²**[1.** R.S.40:52-1 is amended to read as follows:
9 40:52-1. The governing body may make, amend, repeal, and
10 enforce ordinances to license and regulate:

11 a. **[All]** all vehicles used for the transportation of passengers,
12 baggage, merchandise, and goods and chattels of every kind, and the
13 owners and drivers of **[all such]** those vehicles; and the places and
14 premises in which or at which the different kinds of business or
15 occupations mentioned herein are carried on and conducted. Nothing
16 herein contained shall be construed as modifying or repealing any of
17 the provisions of chapter 4 of Title 48 of the Revised Statutes
18 (R.S.48:4-1 et seq.);

19 b. **[Autobuses]** autobuses, and the owners and drivers of **[all**
20 **such]** those vehicles, and to fix the fees for **[such]** licenses, which
21 may be imposed for revenue, and to prohibit the operation of **[all**
22 **such]** those vehicles in the public streets or places of **[such]** the
23 municipality, unless **[such]** the ordinances are complied with, whether
24 **[such]** the vehicles are operated over routes wholly or partly within
25 the territorial limits of **[such]** the municipality; the powers conferred
26 by this section shall not be in substitution of but in addition to
27 whatever other right, power, and authority **[any such]** a municipality
28 may at any time have as to licensing, regulating, or control of the
29 operation of **[such]** autobuses, commonly called jitneys, and this
30 section shall not be construed as modifying or repealing any of the
31 provisions of chapter 4 (R.S.48:4-1 et seq.) or article 3 of chapter 16
32 (R.S.48:16-23 et seq.) of Title 48 of the Revised Statutes;

33 c. **[Cartmen]** cartmen, expressmen, baggagemen, porters,
34 common criers, hawkers, peddlers, employment agencies,
35 pawnbrokers, junk shop-keepers, junk dealers, motor vehicle junk

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
¹Assembly ATR committee amendments adopted March 4, 2024.
²Senate SCU committee amendments adopted June 5, 2025.

1 dealers, street sprinklers, bill posters, bill tackers, sweeps, scavengers,
2 itinerant vendors of merchandise, medicines, and remedies; and the
3 places and premises in which or at which the different kinds of
4 business or occupations mentioned herein are conducted and carried
5 on; provided, however, no ordinance regulating solicitation for
6 services shall be applicable to solicitations, whether written or oral, for
7 snow shoveling services made within 24 hours of a snowstorm that has
8 been predicted by a commonly recognized commercial or
9 governmental weather reporting entity;

10 d. **【Hotels】** hotels, boardinghouses, lodging and rooming houses,
11 trailer camps and camp sites, motels, furnished and unfurnished rented
12 housing or living units, and all other places and buildings used for
13 sleeping and lodging purposes, and the occupancy thereof, restaurants
14 and all other eating places, and the keepers thereof;

15 e. **【Automobile】** automobile garages, dealers in second-hand
16 motor vehicles and parts thereof, bathhouses, swimming pools, and the
17 keepers thereof;

18 f. **【Theatres】** theaters, cinema, and show houses, opera houses,
19 concert halls, dance halls, pool or billiard parlors, bowling alleys,
20 exhibition grounds, and all other places of public amusement, circuses
21 and traveling or other shows, plays, dances, exhibitions, concerts,
22 theatrical performances, and all street parades in connection therewith;

23 g. **【Lumber】** lumber and coal yards, stores for the sale of meats,
24 groceries, and provisions, dry goods and merchandise, and goods and
25 chattels of every kind, and all other kinds of business conducted in the
26 municipality other than herein mentioned, and the places and premises
27 in or at which the business is conducted and carried on; street stands
28 for the sale or distribution of newspapers, magazines, periodicals,
29 books, and goods and merchandise or other articles;

30 h. **【Street】** street signs and other objects projecting beyond the
31 building line, into or over any public street or highway;

32 i. **【Auctioneers】** auctioneers and their business, whether the
33 auctioneers be real estate brokers engaged in selling at auction or real
34 estate auctioneers licensed by the New Jersey Real Estate
35 Commission; fix their fees, and license and regulate public auctions;
36 make **【such】** regulations as the governing body of the municipality
37 shall deem necessary~~【,】~~ to protect the public against fraud at public
38 auction sales, and for the safety and protection of the property of the
39 municipality and its inhabitants, including the power to require from
40 auctioneers a bond to the municipality, not exceeding the penal sum of
41 **【\$5,000.00】** \$5,000, conditioned as the governing body shall require;

42 j. **【Sales】** sales of goods, wares, and merchandise to be
43 advertised, held out, or represented, or which are advertised, held out,
44 or represented, to the public, by any means, directly or by implication,
45 as forced sales at reduced prices or as insurance, bankruptcy, mortgage
46 foreclosure, insolvency, removal, loss, or expiration of lease or closing
47 out sales, or as assignees', receivers', or trustees' sales or as sales of

1 goods distrained or as sales of goods damaged by fire, smoke, or
 2 water, except any sale **【which】** that is to be held under a judicial order,
 3 judgment, or decree or a writ issuing out of any court or to enforce any
 4 lawful lien or power of sale whether by judicial process or not or by a
 5 licensed auctioneer; to make **【such】** regulations governing the
 6 advertisement, holding out, or representing to the public of **【such】**
 7 those sales, and the conduct thereof, as the governing body of the
 8 municipality shall deem necessary to protect the public against fraud;
 9 to prohibit the advertising, holding out, or representing to the public of
 10 any sale as being of the character above described **【which】** that is not
 11 of **【such】** that character and to fix license fees for the conduct of
 12 **【such】** those sales and to impose penalties for the violation of **【any**
 13 such】 the ordinance;

14 k. (Deleted by amendment, P.L.1997, c.320**【.】**)

15 l. (Deleted by amendment, P.L.1984, c.205**【.】**)

16 m. **【The】** the rental of real property for commercial purposes
 17 wherein the lease is for a term less than 175 consecutive days. No
 18 ordinance adopted pursuant to this subsection shall apply to any lease
 19 or occupancy which results from a tenant holding over at the
 20 expiration or early termination of a lease with an original term in
 21 excess of 175 consecutive days, regardless of whether the holdover is
 22 month-to-month or for some other term of less than 175 consecutive
 23 days; **【and】**

24 n. **【The】** the rental of real property for a term less than 175
 25 consecutive days for residential purposes by a person having a
 26 permanent place of residence elsewhere**【.】** ; and

27 o. parking in the municipality, and related contracting between
 28 the municipality and an online parking payment service provider,
 29 provided that the contract stipulate that the service provider shall not
 30 charge a parking fee to a user during a time period when parking is
 31 prohibited 'or is free' at a parking project. "Online 'parking' payment
 32 service provider," "user," and "parking project" shall have the same
 33 meaning as defined in section 3 of P.L.1948, c.198 (C.40:11A-3).

34 Nothing in this chapter contained shall be construed to authorize or
 35 empower the governing body of any municipality to license or regulate
 36 any person holding a license or certificate issued by any department,
 37 board, commission, or other agency of the State; provided, however,
 38 that the governing body of a municipality may make, amend, repeal,
 39 and enforce ordinances to license and regulate real estate auctioneers
 40 or real estate brokers engaged in selling at auction and their business
 41 as provided in this section despite the fact that **【such】** real estate
 42 auctioneers or brokers may be licensed by the New Jersey Real Estate
 43 Commission and notwithstanding the provisions of this act or any
 44 other act.

45 (cf: P.L.2015, c.240, s.1)**】**²

1 ²[2. Section 3 of P.L.1948, c.198 (C.40:11A-3) is amended
2 to read as follows:

3 The following terms, wherever used or referred to in [this act]
4 P.L.1948, c.198 (C.40:11A-1 et seq.), shall have the following
5 respective meanings, unless a different meaning clearly appears from
6 the context:

7 (a) "Authority" or "parking authority" or "authorities" or "parking
8 authorities" shall mean any of the public corporations created pursuant
9 to [this act] P.L.1948, c.198 (C.40:11A-1 et seq.).

10 (b) "Municipality" shall mean any city of any class, any town,
11 township, village, borough, or any other municipality of this State
12 other than a county or a school district. "County" shall mean any
13 county of any class of this State. "The municipality" shall mean the
14 particular municipality for which a particular parking authority is
15 created. "The county" shall mean the particular county for which a
16 particular parking authority is created.

17 (c) "Governing body" shall mean in the case of a municipality the
18 commission, council, board, or body, by whatever name it may be
19 known, having charge of the finances of the municipality, and in the
20 case of a county the board of ¹[chosen freeholders] county
21 commissioners¹.

22 (d) "Clerk" shall mean the clerk of the municipality or the clerk of
23 the board of ¹[chosen freeholders of the county] county
24 commissioners¹, as the case may be, or the officer charged with the
25 duties customarily imposed on [such] a clerk.

26 (e) "Area of operation" in the case of a parking authority of a
27 municipality, shall mean the area of [such] the municipality, and in
28 the case of a parking authority of a county, shall mean the area of each
29 municipality in the county: (1) the governing body of which by
30 ordinance[,] has consented to inclusion of the territory of the
31 municipality within [such] the area of operation[,] ; and (2) for which
32 no parking authority was created prior to [such] the consent or for
33 which the parking authority previously created shall have ceased to
34 exist prior to [such] the consent.

35 (f) "Federal agency" shall mean and include the United States of
36 America, the President of the United States of America, and any
37 department or corporation, agency or instrumentality heretofore or
38 hereafter created, designated or established by the United States of
39 America.

40 (g) "Public body" shall mean the State, or any county, city, town,
41 township, borough, village, school district, authority, or any other
42 political subdivision of the State.

43 (h) "Bonds" shall mean any bonds, notes, interim certificates,
44 debentures, or other obligations issued by an authority pursuant to
45 [this act] P.L.1948, c.198 (C.40:11A-1 et seq.).

46 (i) "Construct" and "construction" shall mean and include acts of
47 planning, designing, construction, reconstruction, replacement,

1 enlargement, improvement, and betterment, also demolition or
 2 removal of buildings or structures on land acquired, held, leased, or
 3 used for or with respect to a project.

4 (j) "Person" shall mean any person, association, corporation,
 5 nation, State, or any agency or subdivision thereof, other than a county
 6 or municipality of this State or a parking authority.

7 (k) "Project" or "parking project" shall mean any area or place,
 8 garage, building, or other improvement or structure for the parking or
 9 storage of motor or other vehicles including, without limiting the
 10 foregoing, all real and personal property, approaches, meters,
 11 mechanical equipment, appurtenances, and facilities either on, above,
 12 or under the ground necessary or useful and convenient for or in
 13 connection with [such] parking or storage, together with [such]
 14 additional structures, buildings, space, or accommodations as may be
 15 provided in accordance with paragraph (5) of section 6 [hereof] of
 16 P.L.1948, c.198 ¹[(C.40:11A-1 et seq.)] (C.40:11A-6)¹.

17 (l) "Approach" shall mean any driveway, road, or other structure
 18 or area necessary or useful or convenient for access to a project from a
 19 public street, road, or highway.

20 (m) "Online parking payment service" shall mean a public-facing
 21 Internet website, Internet web application, or computer or mobile
 22 application that allows a user to submit payment for parking a motor
 23 vehicle at a publicly available parking project.

24 (n) "User" means an individual who uses an online parking
 25 payment service.

26 (cf: P.L.1958, c.22, s.1)]²

27

28 ²[3. Section 6 of P.L.1948, c.198 (C.40:11A-6) is amended to
 29 read as follows:

30 (1) Every parking authority shall constitute a public body
 31 corporate and politic and a political subdivision of the State with the
 32 same territorial boundaries as the boundaries of the municipality or
 33 county creating the authority, exercising public and essential
 34 governmental functions, and having all the powers necessary or
 35 convenient to carry out and effectuate its corporate purposes and the
 36 purposes and provisions of [this act] P.L.1948, c.198 (C.40:11A-1 et
 37 seq.).

38 (2) The purposes of every parking authority shall be the
 39 construction, provision, or operation of [offstreet] off-street parking
 40 projects within its area of operation and, subject to the provisions of
 41 R.S.39:4-202, shall include, to the extent authorized by the governing
 42 body of the municipality, the management and operation of [onstreet]
 43 on-street and other parking meters and related facilities and
 44 enforcement of the applicable law, ordinances, and regulations as to
 45 the parking of vehicles in [such] the municipality, and the consequent
 46 promotion of free movement of traffic and relief of traffic congestion

1 on the streets of **【said】** the area or municipality, and improvement of
2 conditions affecting the public safety and welfare therein.

3 (3) Every parking authority is hereby authorized to plan, design,
4 construct, reconstruct, enlarge, improve, manage, maintain, repair,
5 operate, and use **【such】** the parking project or projects as in the
6 opinion of the authority will provide an effective and satisfactory
7 method for promoting the purposes of the authority.

8 (4) Every parking authority shall have perpetual succession and
9 have the following powers in addition to any others herein granted:

10 (a) **【To】** to sue and be sued; to have a seal and to alter the same at
11 pleasure; to make and execute contracts and other instruments
12 necessary or convenient to the exercise of the powers of the authority;
13 and to make and from time to time amend and repeal bylaws, rules and
14 regulations, not inconsistent with **【this act】** P.L.1948, c.198
15 (C.40:11A-1 et seq.), to carry into effect the powers and purposes of
16 the authority**【.】** ;

17 (b) **【To】** to conduct research respecting parking and the possibility
18 or necessity of fulfillment of public needs in relation thereto **【.】** ;

19 (c) **【To】** to acquire by gift, purchase, lease, devise, or otherwise
20 and hold and use, and to construct, improve, maintain, operate, own,
21 manage, or lease either in a capacity of lessor or lessee parking
22 projects and any land, franchise, property, real, personal or mixed,
23 tangible or intangible, or any interest therein, meters, equipment, or
24 facilities to be devoted to the parking or storage of vehicles of any
25 kind or which in the opinion of the authority are necessary or useful
26 and convenient in connection therewith or with the promotion of free
27 movement of traffic, subject to the provisions of R.S.39:4-202**【.】** ;

28 (d) **【Subject】** subject to the provisions of paragraph 5 of this
29 section, to lease as lessor any real property, parking project, or portion
30 or portions of parking projects for any business, commercial, or other
31 use to any person for **【such】** consideration and for **【such】** a period or
32 periods of time and upon **【such other】** terms and conditions as it may
33 fix and agree upon. Any **【such】** lease may be upon condition that the
34 lessee shall or may construct or provide any building or buildings or
35 other facilities on **【such】** real property, parking project or projects, or
36 portions thereof, including space for business, commercial, or other
37 uses, all upon **【such】** terms and conditions as may be agreed upon**【.】** ;

38 (e) **【To】** to sell, transfer, and dispose of any property or interest
39 therein at any time acquired by it upon **【such】** terms and conditions as
40 it may determine, with or without public bidding**【.】** ;

41 (f) **【To】** to fix, alter, charge, and collect rents, rates, and other
42 charges at reasonable rates to be determined exclusively by it, for the
43 use of the facilities and projects of the authority and for all services
44 sold, furnished, or supplied directly or indirectly by the authority
45 through **【said】** its facilities and projects, which shall, together with
46 any grants, receipts, contributions, or income from other sources, be

1 sufficient to provide for the payment of the expenses of the authority,
 2 repair, maintenance, and operation of its facilities and projects, and
 3 payment of the principal of and interest on, and any premiums upon
 4 the redemption of, its bonds and other obligations, and to fulfill the
 5 terms and provisions of any agreements made with the purchasers or
 6 holders of any **[such]** bonds or other obligations**[.]** ;

7 (g) **[To]** to invest any funds held in reserve or sinking funds, or
 8 any funds not required for immediate disbursement, in property or
 9 securities in which savings banks may legally invest funds subject to
 10 their control**[.]** ;

11 (h) **[To]** to borrow money and accept grants from and to enter into
 12 contracts, leases, or other transactions with the State of New Jersey,
 13 any Federal agency, any person, or any municipality, county, or other
 14 public body**[.]** ;

15 (i) **[To]** to mortgage, pledge, hypothecate, or otherwise encumber
 16 all or any of its property or assets then existing or thereafter acquired
 17 or coming into existence, including real and personal property donated
 18 to it by a municipality or county**[.]** ;

19 (j) **[To]** to enter into contracts with the State of New Jersey or
 20 any municipality, county, or governmental agency for the use of any
 21 project of the authority**[.]** ;

22 (k) **[To]** to do and perform any acts and things authorized by **[this**
 23 **act]** P.L.1948, c.198 (C.40:11A-1 et seq.) under, through, or by means
 24 of its own officers, agents, and employees, or by contract with any
 25 person**[.]** ;

26 (l) **[To]** to enter into and perform any and all contracts, execute
 27 any and all instruments, and do and perform any and all acts and things
 28 necessary or useful and convenient for the purposes of the authority or
 29 to carry out any of the powers expressly granted to it by **[this act]**
 30 P.L.1948, c.198 (C.40:11A-1 et seq.) or any other acts subject to
 31 **[P.L.1971, c. 198] the "Local Public Contracts [Law"] Law,"**
 32 P.L.1971, c.198 (C.40A:11-1 et seq.) ; and

33 (m) to contract with an online parking payment service provider,
 34 provided that the contract stipulate that the service provider shall not
 35 charge a parking fee to a user during a time period when parking is
 36 prohibited 'or is free' at a parking project.

37 (5) No parking authority shall engage directly in the sale of
 38 gasoline or accessories for, or in the repair or other servicing of,
 39 automobiles and other motor vehicles except in emergency, or shall
 40 engage directly in the sale of any commodity of trade or commerce,
 41 but any authority may include in any parking project, and provide and
 42 lease as lessor, structures, buildings, space, or accommodations
 43 (whether constructed by the authority or by a lessee) for any business,
 44 commercial or other use, including the sale of gasoline or accessories
 45 for, or the repair or other servicing of, automobiles and other motor
 46 vehicles, if, in the opinion of the authority, **[such]** the inclusion,

1 provision, and proposed leasing is necessary to assist in defraying the
2 expenses of the authority and make possible the operation of the
3 parking facilities of **such** the project at reasonable rates and will
4 increase the facilities for **offstreet** off-street parking **which** that
5 can be feasibly included, financed, constructed, and operated as part of
6 **such** a project.

7 (cf: P.L.1975, c. 96, s.1)]²

8
9 ²1. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to
10 read as follows:

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

13 (1) "Contracting unit" means:

14 (a) Any county; or

15 (b) Any municipality; or

16 (c) Any board, commission, committee, authority or agency,
17 which is not a State board, commission, committee, authority,
18 except as provided pursuant to P.L.2013, c.4, or agency, and which
19 has administrative jurisdiction over any district other than a school
20 district, project, or facility, included or operating in whole or in
21 part, within the territorial boundaries of any county or municipality
22 which exercises functions which are appropriate for the exercise by
23 one or more units of local government, including functions
24 exercised in relation to the administration and oversight of a
25 tourism district located in a municipality in which authorized casino
26 gaming occurs, and which has statutory power to make purchases
27 and enter into contracts awarded by a contracting agent for the
28 provision or performance of goods or services.

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

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

36 "Contracting unit" shall not include a duly incorporated nonprofit
37 association that has entered into a contract with the governing body
38 of a city of the first class for the provision of water supply services
39 or wastewater treatment services pursuant to section 2 of P.L.2002,
40 c.47 (C.40A:11-5.1).

41 "Contracting unit" shall not include an entity that has entered
42 into a contract for management and operation services with a local
43 hospital authority established pursuant to P.L.2006, c.46 (C.30:9-
44 23.15 et al.).

45 (2) "Governing body" means:

1 (a) The governing body of the county, when the purchase is to
2 be made or the contract or agreement is to be entered into by, or on
3 behalf of, a county; or

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

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

9 (3) "Contracting agent" means the governing body of a
10 contracting unit, or appointed membership of a State authority
11 authorized to enter into a cooperative purchasing agreement
12 pursuant to P.L.2013, c.4, or its authorized designee, which has the
13 power to prepare the advertisements, to advertise for and receive
14 bids and, as permitted by **[this act]** P.L.1971, c.198 (C.40A:11-1 et
15 seq.), to make awards for the contracting unit in connection with
16 purchases, contracts or agreements.

17 (4) "Purchase" means a transaction, for a valuable consideration,
18 creating or acquiring an interest in goods, services and property,
19 except real property or any interest therein.

20 (5) (Deleted by amendment, P.L.1999, c.440 **[.]**)

21 (6) "Professional services" means services rendered or
22 performed by a person authorized by law to practice a recognized
23 profession, whose practice is regulated by law, and the performance
24 of which services requires knowledge of an advanced type in a field
25 of learning acquired by a prolonged formal course of specialized
26 instruction and study as distinguished from general academic
27 instruction or apprenticeship and training. Professional services
28 may also mean services rendered in the provision or performance of
29 goods or services that are original and creative in character in a
30 recognized field of artistic endeavor.

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

34 (8) (Deleted by amendment, P.L.1999, c.440 **[.]**)

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

38 (10) "Homemaker--home health services" means at home
39 personal care and home management provided to an individual or
40 members of the individual's family who reside with the individual,
41 or both, necessitated by the individual's illness or incapacity.
42 "Homemaker--home health services" includes, but is not limited to,
43 the services of a trained homemaker.

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

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

5 (13) "Marketing" means the sale, disposition, assignment, or
6 placement of designated recyclable materials with, or the granting
7 of a concession to, a reseller, processor, materials recovery facility,
8 or end-user of recyclable material, in accordance with a district
9 solid waste management plan adopted pursuant to P.L.1970, c.39
10 (C.13:1E-1 et seq.) and shall not include the collection of such
11 recyclable material when collected through a system of routes by
12 local government unit employees or under a contract administered
13 by a local government unit.

14 (14) "Municipal solid waste" means, as appropriate to the
15 circumstances, all residential, commercial and institutional solid
16 waste generated within the boundaries of a municipality; or the
17 formal collection of such solid wastes or recyclable material in any
18 combination thereof when collected through a system of routes by
19 local government unit employees or under a contract administered
20 by a local government unit.

21 (15) "Distribution" (when used in relation to electricity) means
22 the process of conveying electricity from a contracting unit that is a
23 generator of electricity or a wholesale purchaser of electricity to
24 retail customers or other end users of electricity.

25 (16) "Transmission" (when used in relation to electricity) means
26 the conveyance of electricity from its point of generation to a
27 contracting unit that purchases it on a wholesale basis for resale.

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

31 (18) "Cooperative marketing" means the joint marketing by two
32 or more contracting units of the source separated recyclable
33 materials designated in a district recycling plan required pursuant to
34 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written
35 cooperative agreement entered into by the participating contracting
36 units thereof.

37 (19) "Aggregate" means the sums expended or to be expended
38 for the provision or performance of any goods or services in
39 connection with the same immediate purpose or task, or the
40 furnishing of similar goods or services, during the same contract
41 year through a contract awarded by a contracting agent.

42 (20) "Bid threshold" means the dollar amount set in section 3 of
43 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall
44 advertise for and receive sealed bids in accordance with procedures
45 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

46 (21) "Contract" means any agreement, including but not limited
47 to a purchase order or a formal agreement, which is a legally
48 binding relationship enforceable by law, between a vendor who

1 agrees to provide or perform goods or services and a contracting
2 unit which agrees to compensate a vendor, as defined by and subject
3 to the terms and conditions of the agreement. A contract also may
4 include an arrangement whereby a vendor compensates a
5 contracting unit for the vendor's right to perform a service, such as,
6 but not limited to, operating a concession.

7 (22) "Contract year" means the period of 12 consecutive months
8 following the award of a contract.

9 (23) "Competitive contracting" means the method described in
10 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 **【thru】**
11 through 40A:11-4.5) of contracting for specialized goods and
12 services in which formal proposals are solicited from vendors;
13 formal proposals are evaluated by the purchasing agent or counsel
14 or administrator; and the governing body awards a contract to a
15 vendor or vendors from among the formal proposals received.

16 (24) "Goods and services" or "goods or services" means any
17 work, labor, commodities, equipment, materials, or supplies of any
18 tangible or intangible nature, except real property or any interest
19 therein, provided or performed through a contract awarded by a
20 contracting agent, including goods and property subject to
21 N.J.S.12A:2-101 et seq.

22 (25) "Library and educational goods and services" means
23 textbooks, copyrighted materials, student produced publications and
24 services incidental thereto, including but not limited to books,
25 periodicals, newspapers, documents, pamphlets, photographs,
26 reproductions, microfilms, pictorial or graphic works, musical
27 scores, maps, charts, globes, sound recordings, slides, films,
28 filmstrips, video and magnetic tapes, other printed or published
29 matter and audiovisual and other materials of a similar nature,
30 necessary binding or rebinding of library materials, and specialized
31 computer software used as a supplement or in lieu of textbooks or
32 reference material.

33 (26) "Lowest price" means the least possible amount that meets
34 all requirements of the request of a contracting agent.

35 (27) "Lowest responsible bidder or vendor" means the bidder or
36 vendor: (a) whose response to a request for bids offers the lowest
37 price and is responsive; and (b) who is responsible.

38 (28) "Official newspaper" means any newspaper designated by
39 the contracting unit pursuant to R.S.35:1-1 et seq.

40 (29) "Purchase order" means a document issued by the
41 contracting agent authorizing a purchase transaction with a vendor
42 to provide or perform goods or services to the contracting unit,
43 which, when fulfilled in accordance with the terms and conditions
44 of a request of a contracting agent and other provisions and
45 procedures that may be established by the contracting unit, will
46 result in payment by the contracting unit.

47 (30) "Purchasing agent" means the individual duly assigned the
48 authority, responsibility, and accountability for the purchasing

1 activity of the contracting unit, and who has such duties as are
2 defined by an authority appropriate to the form and structure of the
3 contracting unit, pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.)
4 and who possesses a qualified purchasing agent certificate.

5 (31) "Quotation" means the response to a formal or informal
6 request made by a contracting agent by a vendor for provision or
7 performance of goods or services, when the aggregate cost is less
8 than the bid threshold. Quotations may be in writing, or taken
9 verbally if a record is kept by the contracting agent.

10 (32) "Responsible" means able to complete the contract in
11 accordance with its requirements, including but not limited to
12 requirements pertaining to experience, moral integrity, operating
13 capacity, financial capacity, credit, and workforce, equipment, and
14 facilities availability.

15 (33) "Responsive" means conforming in all material respects to
16 the terms and conditions, specifications, legal requirements, and
17 other provisions of the request.

18 (34) "Public works" means building, altering, repairing,
19 improving or demolishing any public structure or facility
20 constructed or acquired by a contracting unit to house local
21 government functions or provide water, waste disposal, power,
22 transportation, and other public infrastructures.

23 (35) "Director" means the Director of the Division of Local
24 Government Services in the Department of Community Affairs.

25 (36) "Administrator" means a municipal administrator appointed
26 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business
27 administrator, a municipal manager or a municipal administrator
28 appointed pursuant to the "Optional Municipal Charter Law,"
29 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager
30 appointed pursuant to "the municipal manager form of government
31 law," R.S.40:79-1 et seq.; or the person holding responsibility for
32 the overall operations of an authority that falls under the "Local
33 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et
34 seq.).

35 (37) "Concession" means the granting of a license or right to act
36 for or on behalf of the contracting unit, or to provide a service
37 requiring the approval or endorsement of the contracting unit, and
38 which may or may not involve a payment or exchange, or provision
39 of services by or to the contracting unit.

40 (38) "Index rate" means the rate of annual percentage increase,
41 rounded to the nearest half-percent, in the Implicit Price Deflator
42 for State and Local Government Purchases of Goods and Services,
43 computed and published quarterly by the United States Department
44 of Commerce, Bureau of Economic Analysis.

45 (39) "Proprietary" means goods or services of a specialized
46 nature, that may be made or marketed by a person or persons having
47 the exclusive right to make or sell them, when the need for such
48 goods or services has been certified in writing by the governing

1 body of the contracting unit to be necessary for the conduct of its
2 affairs.

3 (40) "Service or services" means the performance of work, or
4 the furnishing of labor, time, or effort, or any combination thereof,
5 not involving or connected to the delivery or ownership of a
6 specified end product or goods or a manufacturing process. Service
7 or services may also include an arrangement in which a vendor
8 compensates the contracting unit for the vendor's right to operate a
9 concession.

10 (41) "Qualified purchasing agent certificate" means a certificate
11 granted by the director pursuant to section 9 of P.L.1971, c.198
12 (C.40A:11-9).

13 (42) "Mistake" means, for a public works project, a clerical error
14 that is an unintentional and substantial computational error or an
15 unintentional omission of a substantial quantity of labor, material,
16 or both, from the final bid computation.

17 (43) "Parking project" shall have the same meaning as provided
18 in section 3 of P.L.1948, c.198 (C.40:11A-3).

19 (44) "Online parking payment service" means a public-facing
20 Internet website, Internet web application, or computer or mobile
21 application that allows a user to submit payment for parking a
22 motor vehicle at a publicly available parking project.²

23 (cf: P.L.2016, c.55, s.8)
24

25 ²2. Section 13 of P.L.1971, c.198 (C.40A:11-13) is amended to
26 read as follows:

27 13. Specifications. Any specifications for the provision or
28 performance of goods or services under **[this act]** P.L.1971, c.198
29 (C.40A:11-1 et seq.) shall be drafted in a manner to encourage free,
30 open and competitive bidding. In particular, no specifications
31 under **[this act]** P.L.1971, c.198 (C.40A:11-1 et seq.) may:

32 (a) Require any standard, restriction, condition or limitation not
33 directly related to the purpose, function or activity for which the
34 contract is awarded; or

35 (b) Require that any bidder be a resident of, or that the bidder's
36 place of business be located in, the county or municipality in which
37 the contract will be awarded or performed, unless the physical
38 proximity of the bidder is requisite to the efficient and economical
39 performance of the contract; except that no specification for a
40 contract for the collection and disposal of municipal solid waste
41 shall require any bidder to be a resident of, or that the bidder's place
42 of business be located in, the county or municipality in which the
43 contract will be performed; or

44 (c) Discriminate on the basis of race, religion, sex, national
45 origin, creed, color, ancestry, age, marital status, affectional or
46 sexual orientation, familial status, liability for service in the Armed
47 Forces of the United States, or nationality; or

1 (d) Require, with regard to any contract, the furnishing of any
2 "brand name," but may in all cases require "brand name or
3 equivalent," except that if the goods or services to be provided or
4 performed are proprietary, such goods or services may be purchased
5 by stipulating the proprietary goods or services in the bid
6 specification in any case in which the resolution authorizing the
7 contract so indicates, and the special need for such proprietary
8 goods or services is directly related to the performance, completion
9 or undertaking of the purpose for which the contract is awarded; or

10 (e) Fail to include any option for renewal, extension, or release
11 which the contracting unit may intend to exercise or require; or any
12 terms and conditions necessary for the performance of any extra
13 work; or fail to disclose any matter necessary to the substantial
14 performance of the contract; or

15 (f) Require that any bidder submit a financial statement if either
16 a guarantee, by certified check, cashier's check or bid bond, or a
17 surety company certificate is also required to be furnished by the
18 bidder, unless any law or regulation of the United States imposes a
19 condition upon the awarding of a monetary grant to be used for the
20 purchase, contract or agreement, which condition requires that a
21 financial statement be submitted.

22 (g) As used in this subsection:

23 "asphalt price index" means the asphalt price index as
24 determined and published by the New Jersey Department of
25 Transportation;

26 "basic asphalt price index" means the asphalt price index for the
27 month preceding the month in which the bids are opened;

28 "department" means the New Jersey Department of
29 Transportation;

30 "fuel price index" means the fuel price index as determined and
31 published by the New Jersey Department of Transportation; and

32 "pay item" means a specifically described item of work for
33 which the bidder provides a per unit or lump sum price in a bid
34 specification determined and published by the New Jersey
35 Department of Transportation.

36 In addition to the requirements of paragraphs (a) through (f) of
37 this section, any bid specification for the provision or performance
38 of goods or services under P.L.1971, c.198 (C.40A:11-1 et seq.)
39 that includes the purchase or use of 1,000 or more tons of hot mix
40 asphalt shall include a pay item for an asphalt price adjustment
41 reflecting changes in the cost of asphalt cement. The pay item for
42 asphalt price adjustment shall apply to each ton of hot mix asphalt
43 purchased or used by the contracting unit. Any bid specification
44 prepared pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) that
45 includes the purchase or use of less than 1,000 tons of hot mix
46 asphalt shall include a pay item for an asphalt price adjustment
47 applicable to any quantity of hot mix asphalt exceeding 1,000 tons
48 that may be purchased or used in the work in the event that

1 performance of the work, including change orders, requires more
2 than 1,000 tons of hot mix asphalt. As set forth in section 7 of
3 P.L.1971, c.198 (C.40A:11-7), no contract shall be divided to
4 disaggregate the quantity of hot mix asphalt or equivalent asphalt
5 cement-based paving product to be purchased or used for the
6 purpose of avoiding compliance with this paragraph.

7 The asphalt price adjustment shall be calculated in accordance
8 with the formula and relevant instructions published in the most
9 recent edition of the "New Jersey Department of Transportation
10 Standard Specifications for Road and Bridge Construction." All
11 invoices for payment shall be accompanied by the calculation of
12 any asphalt price adjustment and a showing of the current month's
13 asphalt price index and the basic asphalt price index.

14 Every bid specification prepared pursuant to P.L.1971, c.198
15 (C.40A:11-1 et seq.) shall be eligible for a fuel price adjustment.
16 Fuel that is eligible for a fuel price adjustment shall be the sum of
17 the quantities of the eligible pay items in the contract multiplied by
18 the fuel usage factors as determined by the department. The types
19 of fuel furnished shall be at the discretion of the contractor.

20 The fuel requirement for items not determined by the department
21 to be eligible, and for pay items in the bid specifications calling for
22 less than 500 gallons of fuel, shall not be eligible for a fuel price
23 adjustment. If more than one pay item has the same nomenclature
24 but with different thicknesses, depths, or types, each individual pay
25 item must require 500 gallons or more of fuel to be eligible for a
26 fuel price adjustment. If more than one pay item has the same
27 nomenclature, similar pay items shall be combined and the
28 combination must require 500 gallons or more of fuel to be eligible
29 for the fuel price adjustment.

30 Fuel price index adjustments shall not be made in those months
31 for which the monthly fuel price index has changed by less than
32 five percent from the basic fuel price index.

33 Any specification which knowingly excludes prospective bidders
34 by reason of the impossibility of performance, bidding or
35 qualification by any but one bidder, except as provided herein, shall
36 be null and void and of no effect and shall be readvertised for
37 receipt of new bids, and the original contract shall be set aside by
38 the governing body.

39 Any specification for a contract for the collection and disposal of
40 municipal solid waste shall conform to the uniform bid
41 specifications for municipal solid waste collection contracts
42 established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-
43 7.22).

44 Any specification for a contract for an online parking payment
45 service shall stipulate that parking fees shall not be charged to a
46 user of the online parking payment service during a time period
47 when parking is prohibited or is free at a parking project.

1 Any specification may include an item for the cost, which shall
2 be paid by the contractor, of creating a file to maintain the notices
3 of the delivery of labor or materials required by N.J.S.2A:44-128.

4 Any prospective bidder who wishes to challenge a bid
5 specification shall file such challenges in writing with the
6 contracting agent no less than three business days prior to the
7 opening of the bids. Challenges filed after that time shall be
8 considered void and having no impact on the contracting unit or the
9 award of a contract.²

10 (cf: P.L.2015, c.201, s.1)

11
12 ²3. (New section) Any contract entered into by a municipality,
13 or a parking authority, as that term is defined in section 3 of
14 P.L.1948, c.198 (C.40:11A-3), for an online parking payment
15 service shall stipulate that parking fees shall not be charged to a
16 user of the service during a time period when parking is prohibited
17 or is free at a parking project.²

18
19 4. This act shall take effect immediately ¹and shall apply to all
20 contracts and agreements entered into, renewed, modified, or amended
21 on or after the date this act takes effect¹.

22
23
24 _____
25
26 Requires contract between certain governmental units and online
27 parking payment service providers stipulate service provider not
28 charge user during certain times.