SYNOPSIS
Requires contracting units and boards of education to credit contractors with interest earned on certain funds withheld from payment to contractors.

CURRENT VERSION OF TEXT
As reported by the Senate Community and Urban Affairs Committee on December 6, 2010, with amendments.

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

1. Section 1 of P.L.1979, c.152 (C.40A:11-16.1) is amended to read as follows:

   1. Whenever any contract, the total price of which exceeds $100,000.00, entered into by a contracting unit, for the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property, requires the withholding of payment of a percentage of the amount of the contract, the contractor may agree to the withholding of payments in the manner prescribed in the contract, or may deposit with the contracting unit registered book bonds, entry municipal bonds, State bonds or other appropriate bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be withheld pursuant to the terms of the contract. The nature and amount of the bonds or notes to be deposited shall be subject to approval by the contracting unit. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

   If the contractor agrees to the withholding of payments, the amount withheld shall be deposited, with a banking institution or savings and loan association insured by an agency of the Federal government, in an account bearing interest at the rate currently paid by such institutions or associations on time or savings deposits. The amount withheld, or the bonds or notes deposited, and any interest accruing on such bonds or notes, shall be returned to the contractor upon fulfillment of the terms of the contract relating to such withholding. Any interest accruing on cash payments withheld from the contractor for contracts entered into after the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) shall be credited to the [contracting unit] contractor.

   (cf: P.L.1991, c.434, s.1)

2. Section 2 of P.L.1979, c.464 (C.40A:11-16.3) is amended to read as follows:

   2. a. With respect to any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) for

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:
Senate SCU committee amendments adopted December 6, 2010.
which the contractor shall agree to the withholding of payments
pursuant to P.L.1979, c.152 (C.40A:11-16.1), 2% of the amount due
on each partial payment shall be withheld by the contracting unit
pending completion of the contract; provided, however, that upon
the contractor's application therefor, the contracting unit shall
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.

b. Upon acceptance of the work performed pursuant to the
contract or acceptance of the work performed by a subcontractor for
which the contractor has agreed to the withholding of payments
pursuant to subsection a. of this section, all amounts being withheld
by the contracting unit shall be released and paid in full to the
contractor within 45 days of the [final] acceptance date agreed
upon by the contractor and the contracting unit, without further
withholding of any amounts for any purpose whatsoever, provided
that the contract or subcontractor's portion of the contract when
applicable, has been completed as indicated. If the contracting unit
requires maintenance security after acceptance of the work
performed pursuant to the contract, such security shall be obtained
in the form of a maintenance bond. The maintenance bond shall be
no longer than two years and shall be no more than 100% of the
project costs.

(cf: P.L.1999, c.440, s.26)

3. Section 2 of P.L.1987, c.343 (C.18A:18A-40.2) is amended
to read as follows:

2. Whenever any contract, the total price of which exceeds
$100,000.00, entered into by a board of education for the
construction, reconstruction, alteration or repair of any building,
structure, facility or other improvement to real property, requires
the withholding of payment of a percentage of the amount of the
contract, the contractor may agree to the withholding of payments
in the manner prescribed in the contract, or may deposit with the
board of education negotiable bearer bonds of the State of New
Jersey, or negotiable bearer bonds or notes of any political
subdivision of the State, the value of which is equal to the amount
necessary to satisfy the amount that otherwise would be withheld
pursuant to the terms of the contract. The nature and amount of the
bonds or notes to be deposited shall be subject to approval by the
board of education. For purposes of this section, “value” shall
mean par value or current market value, whichever is lower.

If the contractor agrees to the withholding of payments, the
amount withheld shall be deposited, with a banking institution or
savings and loan association insured by an agency of the federal
government, in an account bearing interest at the rate currently paid
by such institutions or associations on time or savings deposits.  

The amount withheld, or the bonds or notes deposited, and any  
interest accruing on such bonds or notes, shall be returned to the  
contractor upon fulfillment of the terms of the contract relating to  
such withholding. Any interest accruing on cash payments withheld  
from the contractor for contracts entered into after the date of  
enactment of P.L. , c. (pending before the Legislature as this  
bill) shall be credited to the contractor.  

(cf: P.L.1987, c.343, s.2)  

14. Section 3 of P.L.1987, c.343 (C.18A:18A-40.3) is amended  
to read as follows:  

3. With respect to any contract entered into by a board of  
education pursuant to section 1 of P.L.1987, c.343 (C.18A:18A-  
40.1) for which the contractor shall agree to the withholding of  
payments pursuant to section 2 of P.L.1987, c.343 (C.18A:18A-  
40.2), 5% of the amount due on each partial payment shall be  
withheld by the board of education pending completion of the  
contract if the contractor does not have a performance bond;  
provided, however, that upon the contractor’s application therefore,  
the board of education shall 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. If the  
contractor does have a performance bond, 2% of the amount due on  
each partial payment shall be withheld by the board of education  
when the outstanding balance of the contract exceeds $500,000, and  
5% of the amount due on each partial payment shall be withheld by  
the board of education when the outstanding balance of the contract  
is $500,000 or less.  

(cf: P.L.1999, c.440, s.76)  

This act shall take effect immediately.