SYNOPSIS

Permits modification of scope of work or terms and conditions of contract between non-profit organizations and State agencies for failure to perform due to COVID-19 pandemic.

CURRENT VERSION OF TEXT

As reported by the Senate State Government, Wagering, Tourism & Historic Preservation Committee on July 22, 2020, with amendments.
AN ACT providing for ¹[waivers of contract penalties and modification of contract terms on public contracts between non-profit organizations and State agencies for failure to perform] the modification of contract terms on public contracts between non-profit organizations and State agencies for the inability to perform¹ due to the COVID-19 Public Health Emergency and State of Emergency.

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

1. ¹[Notwithstanding the provisions of any law, rule, or regulation to the contrary, a State agency that has awarded a contract to or entered into an agreement with a non-profit organization may provide a waiver of any penalty provided in the contract or agreement for the failure of the non-profit organization to fulfill the terms and conditions in the contract or agreement if the failure is due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020 and the failure occurred during the period of the emergencies or during the six-month period immediately following the end of the emergencies. The waiver shall be provided to the extent the State agency or agencies deem it feasible and appropriate under the circumstances.

A non-profit organization shall be permitted to request a modification of the terms and conditions of a contract awarded by, or of an agreement entered into with, a State agency and the State agency shall consider such a request to modify the terms and conditions in the contract or agreement, when compliance by the non-profit organization with the terms and conditions was impacted due to the emergencies and the impact occurred during the period of the emergencies or during the six-month period immediately following the end of the emergencies.

Non-profit organizations shall submit to the appropriate State agency supportive documentation as proof that the failure to fulfill the terms and conditions of a contract or agreement was due to, or that the compliance was impacted by, the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020, in order to receive a waiver of a penalty or to have a modification of the terms and conditions considered by a State agency.

As used in this section, “State agency” means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission, 

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:
¹Senate SSG committee amendments adopted July 22, 2020.
or other instrumentality within or created by such department, the
Legislature of the State, and any office, board, bureau, or
commission within or created by the Legislative Branch, and any
independent State authority, commission, instrumentality, or
agency. A county or municipality shall not be deemed an agency or
instrumentality of the State.]

Notwithstanding the provisions of any law, rule, or regulation to
the contrary, when the Division of Purchase and Property in the
Department of the Treasury has awarded a contract on behalf of a
State agency to a non-profit organization, or a State agency has
entered into an agreement or contract pursuant to its delegated
purchasing authority or a waiver of advertising with a non-profit
organization, or a State agency has entered into an agreement or
contract with a third party entity on behalf of a non-profit
organization, the division or State agency may, at the request of the
non-profit organization, amend the scope of work or terms and
conditions if the non-profit organization is unable to fulfill the
terms and conditions in the contract due to the COVID-19 Public
Health Emergency and State of Emergency declared by the
Governor in Executive Order No. 103 and Executive Order 119 of
2020.

COVID-19 Public Health Emergency and State of Emergency
amendments shall be permitted if the inability to perform occurred
during the period of the COVID-19 Public Health Emergency and
State of Emergency or during the six-month period immediately
following the end of the COVID-19 Public Health Emergency and
State of Emergency.

Non-profit organizations shall submit to the division or
appropriate State agency supportive documentation as proof that the
failure to fulfill the terms and conditions of a contract or agreement
was due to, or that the compliance was impacted by, the COVID-19
Public Health Emergency and State of Emergency declared by the
Governor in 2020, in order to receive a waiver of a penalty or to
have a modification of the terms and conditions considered by a
State agency.

As used in this section, “State agency” means any of the
principal departments in the Executive Branch of the State
Government, and any division, board, bureau, office, commission,
or other instrumentality within or created by such department, the
Legislature of the State, and any office, board, bureau, or
commission within or created by the Legislative Branch, and any
independent State authority, commission, instrumentality, or
agency. A county or municipality shall not be deemed an agency or
instrumentality of the State.

This act shall not apply to an agreement or contract entered into
by the division or a State agency specifically related to the State’s
efforts to combat the COVID-19 Public Health Emergency and
State of Emergency.1
2. This act shall take effect immediately and shall expire on the first day of the ninth month following the end of the Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020.