

[Second Reprint]

ASSEMBLY, No. 60

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 7, 2013

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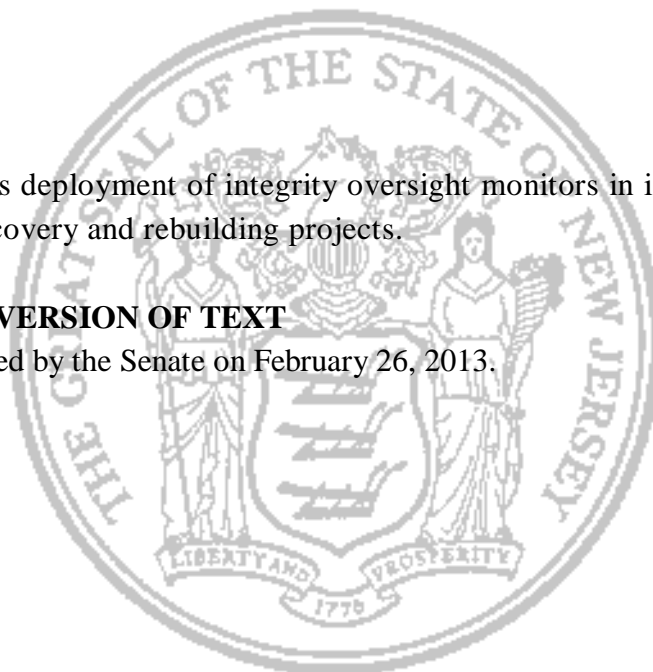
**Assemblymen Coughlin, Eustace, Assemblywoman Mosquera,
Assemblyman Conaway, Assemblywoman Sumter, Assemblymen Caputo,
Coutinho, Senators Sweeney, Gordon, Weinberg, Gill and Greenstein**

SYNOPSIS

Authorizes deployment of integrity oversight monitors in implementation of certain recovery and rebuilding projects.

CURRENT VERSION OF TEXT

As amended by the Senate on February 26, 2013.



(Sponsorship Updated As Of: 3/22/2013)

1 AN ACT authorizing the deployment of ²**[integrity]** oversight²
2 monitors in the implementation of certain ²**[Hurricane Sandy]**²
3 recovery and rebuilding projects, supplementing Title 52 of the
4 Revised Statutes.

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

8
9 1. The Legislature finds and declares that:

10 a. Hurricane Sandy has inflicted approximately
11 \$30,000,000,000 worth of damage upon the State and exposed the
12 need for more than \$7,000,000,000 in mitigation efforts to buttress
13 the State's defenses from future storms, according to the
14 Governor's initial estimates of November of 2012;

15 b. The State of New Jersey, with the assistance of the federal
16 government, shall endeavor to repair, rebuild, and ¹**[revive]**
17 revitalize¹ the portions of the State devastated by Hurricane Sandy;

18 c. The State of New Jersey is duty bound to its residents ¹**and**
19 all taxpayers in the United States¹ to ensure that all resources
20 dedicated to the recovery from Hurricane Sandy be applied in an
21 efficient manner and that the State should take all necessary
22 ¹**[precaution]** precautions¹ to prevent, detect, and remediate waste,
23 fraud, and abuse;

24 d. Given the severity of the damage caused by Hurricane Sandy
25 and the magnitude of the resources necessary to begin the recovery
26 process there is a ¹**[potential for the influx of federal assistance to**
27 stretch] need to ensure that¹ the ¹**[State's]** State has sufficient¹
28 capacity for efficient oversight; and

29 e. The use of integrity monitors as independent oversight
30 providers may be an effective measure to supplement the State's
31 existing compliance control mechanisms to prevent the inefficient
32 expenditure of Hurricane Sandy recovery resources.

33

34 2. a. (1) ¹**[For]** Subject to the availability of federal funding,
35 for¹ each State contract involving consideration of \$5,000,000 or
36 more for¹ a ²**[Hurricane Sandy]**² recovery and rebuilding project,
37 the State Treasurer shall ¹**[cause the following contractual**
38 **conditions]** require¹ to be included in the contract ¹**[**:

39 The contract recipient shall procure the services of an integrity
40 monitor from the qualified integrity monitor database established
41 pursuant to subsection b. of this section during the initial
42 implementation of the contract, unless this condition is waived by

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 February 21, 2013.

²Senate floor amendments adopted February 26, 2013.

1 the State Treasurer upon a determination of sufficient contract
2 recipient compliance controls; and] such conditions as ²[are] the
3 State Treasurer deems² necessary to facilitate the use of integrity
4 ²oversight² monitors.

5 The State Treasurer shall select integrity ²oversight² monitors for
6 the implementation of a contract, unless this condition is waived by
7 the State Treasurer upon a determination that sufficient integrity
8 oversight is already present in the contract or a funding recipient's
9 existing compliance controls.¹

10 The State Treasurer shall have the authority to require that ¹[a
11 contract recipient procure]¹ the services of an integrity ²oversight²
12 monitor 'be retained¹ from the qualified integrity ²oversight²
13 monitor ¹[database] pool¹ established pursuant to subsection b. of
14 this section for any duration of the contract upon a determination by
15 the State Treasurer that an integrity ²oversight² monitor is necessary
16 to alleviate potential or ongoing inefficiency or that the size or
17 nature of the contract makes the procurement of an integrity
18 ²oversight² monitor prudent.

19 (2) ¹[For] Subject to the availability of federal funding, for¹
20 ²[Hurricane Sandy]² recovery and rebuilding projects not involving
21 a State contract, ²the governmental entity that is a party to such
22 contract shall provide the State Treasurer, in such form as the State
23 Treasurer may prescribe, notice of such contract, a description of
24 the recovery and rebuilding project, the parties thereto, and the
25 funding source for the project costs, including integrity oversight
26 monitoring services. Upon receipt of such notice, and subject to the
27 availability of federal funding,² the State Treasurer shall procure
28 the services of an integrity ²oversight² monitor from the qualified
29 integrity ²oversight² monitor ¹[database] pool¹ established pursuant
30 to subsection b. of this section during the initial implementation of
31 the ²[Hurricane Sandy]² recovery and rebuilding project 'involving
32 a contract that includes consideration of \$5,000,000 or more¹,
33 unless this condition is waived by the State Treasurer upon a
34 determination of sufficient funding recipient compliance controls.

35 For ²[Hurricane Sandy]² recovery and rebuilding projects not
36 involving a State contract, the State Treasurer shall have the
37 authority to procure the services of an integrity ²oversight² monitor
38 from the qualified integrity ²oversight² monitor ¹[database] pool¹
39 established pursuant to subsection b. of this section for any duration
40 of a ²[Hurricane Sandy]² recovery and rebuilding project
41 'involving a contract that includes consideration of \$5,000,000 or
42 more¹ upon a determination by the State Treasurer that an integrity
43 ²oversight² monitor is necessary to alleviate potential or ongoing
44 inefficiency or that the size or nature of the ²[Hurricane Sandy]²

1 recovery and rebuilding project makes the procurement of an
2 integrity ²oversight² monitor prudent.

3 (3) If the State Treasurer issues ¹[an] a waiver of the
4 requirement for an¹ integrity ²oversight² monitor ¹[service
5 condition waiver]¹ pursuant to this subsection, the State Treasurer
6 shall provide the ¹Governor, the¹ Senate President¹,¹ and the
7 Speaker of the General Assembly a report in accordance with
8 section 2 of P.L.1991, c.164 (C.52:14-19.1), which report shall
9 detail the reasoning associated with the waiver and the contract or
10 funding recipient's ¹existing¹ compliance controls. The report shall
11 be due within ten business days of the issuance of the waiver.

12 ¹(4) ²[For] Subject to the availability of federal funding, for² a
13 State or non-State contract involving consideration of less than
14 \$5,000,000 for a ²[Hurricane Sandy]² recovery and rebuilding
15 project, the State Treasurer's authorization to impose conditions
16 concerning integrity ²oversight² monitors pursuant to paragraphs (1)
17 and (2) of this subsection shall apply if the State Treasurer
18 determines that integrity ²oversight² monitor conditions are
19 necessary to alleviate potential or ongoing inefficiency or that the
20 size or nature of a ²[Hurricane Sandy]² recovery and rebuilding
21 project makes the procurement of an integrity ²oversight² monitor
22 prudent.¹

23 b. ¹[To facilitate the use of integrity monitors pursuant to
24 subsection a. of this section, the State Treasurer shall establish a
25 qualified integrity monitor database which shall identify the
26 integrity monitors that that State Treasurer has determined to be
27 qualified to provide integrity monitor services. The qualified
28 integrity monitor database shall be a publicly accessible database.

29 The State Treasurer shall administer a transparent process for
30 determining the qualification of an integrity monitor, which
31 determinations shall be based on a range of meritorious factors
32 established by the State Treasurer that emphasize the capacity of
33 integrity monitors to prevent, detect, and remediate inefficiency and
34 malfeasance in the implementation of Hurricane Sandy recovery
35 and rebuilding projects. The State Treasurer's decision and
36 reasoning as to the qualification of an integrity monitor for
37 inclusion in the qualified integrity monitor database shall be made
38 available through the database.]

39 The State Treasurer shall establish a pool of qualified integrity
40 ²oversight² monitors. The State Treasurer shall qualify integrity
41 ²oversight² monitors for inclusion in the pool through a public
42 procurement process in accordance with existing public contracting
43 laws and regulations. Provided, however, to expedite the
44 implementation of integrity ²oversight² monitor oversight for
45 ²[Hurricane Sandy]² recovery and rebuilding projects, the State
46 Treasurer is authorized to administer the public procurement

1 process for integrity ²oversight² monitors in as expeditious a
2 manner as is feasible under existing public contracting laws and
3 regulation and to take such anticipatory action as is necessary to
4 begin the selection process and creation of a qualified integrity
5 ²oversight² monitor pool in advance of the State's receipt of
6 applicable federal resources dedicated to the recovery from
7 Hurricane Sandy or other storms.

8 Upon inclusion on the qualified integrity ²oversight² monitor
9 pool, a qualified integrity ²oversight² monitor is eligible for
10 assignment pursuant to subsection a. of this section. The pool of
11 qualified integrity ²oversight² monitors shall be made available
12 through a public website. This section shall not be construed to
13 authorize the waiver of any applicable provision of law or
14 regulation governing conflicts of interest.¹

15 c. An integrity ²oversight² monitor shall ²periodically report to
16 the governmental entity that is a party to the contract as the State
17 Treasurer deems necessary and shall² be subject to the malfeasance
18 and inefficiency reporting protocol ²[imposed] developed² by the
19 State Treasurer ²in consultation with the State Comptroller². The
20 State Treasurer's reporting protocol shall require an integrity
21 ²oversight² monitor upon a finding of a likely criminal violation ¹or
22 lesser degree of waste, fraud, or abuse.¹ to make a report
23 ¹[forthwith] immediately¹ to the Attorney General ¹and State
24 Comptroller¹.

25 d. For purposes of executing the oversight functions of an
26 integrity ²oversight² monitor ²[relative to accessing State
27 government records, an integrity monitor shall be deemed to be an
28 agent of State government and shall be afforded all rights of access
29 associated thereto] an integrity oversight monitor shall be afforded
30 access to all records and information necessary to execute the
31 integrity oversight monitor's oversight functions². Provided
32 however, if an integrity ²oversight² monitor's access to ²[State
33 government]² records ²and information² may compromise sensitive
34 information²,² the chief executive officer of the entity in possession
35 of the ²[State government]² records may limit the integrity
36 ²oversight² monitor's access accordingly. If a chief executive
37 officer denies sensitive information to an integrity ²oversight²
38 monitor pursuant to this subsection, the chief executive officer shall
39 provide the integrity ²oversight² monitor with its reasoning for the
40 denial in a written notice.

41 e. ¹[To expedite the implementation of integrity monitors for
42 Hurricane Sandy recovery and rebuilding projects, the State
43 Treasurer's procurement of integrity monitors shall be exempt from
44 public contracting laws, rules, and regulations, except that this
45 exemption shall be contingent on the transparent administration of a

1 procurement process wherein the State Treasurer: publicly posts the
2 need and qualification for integrity monitor service contracts,
3 selects an integrity monitor service provider from integrity monitors
4 qualified pursuant to subsection b. of this section that respond to a
5 particular public posting, and maintains the application of conflict
6 of interest provisions associated with public contracting laws, rules,
7 and regulations.

8 f.]¹ On the first business day of each ²[even numbered month]
9 calendar quarter,² each integrity ²oversight² monitor shall provide to
10 the State Treasurer for distribution to the Legislature, in
11 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), and
12 the Governor a report detailing the integrity ²oversight² monitor's
13 provision of services during the ²[two] three² month period second
14 preceding the due date of the report and any previously unreported
15 provision of services, which shall include, but not be limited to,
16 detailed findings concerning the integrity ²oversight² monitor's
17 provision of services and recommendations for corrective or
18 remedial action relative to findings of malfeasance and inefficiency.
19 The report shall include a privilege log which shall detail each
20 denial of sensitive information that the integrity ²oversight² monitor
21 exercises in preparing the report for transmission to the Legislature
22 and the Governor pursuant to this subsection. The report shall not
23 include any information which may compromise a potential
24 criminal investigation or prosecution or any proprietary
25 information. The State Treasurer shall have the authority to specify
26 reporting requirements for an integrity ²oversight² monitor pursuant
27 to this subsection relative to the specific services provided by an
28 integrity ²oversight² monitor.

29 No report shall become due for an integrity ²oversight² monitor
30 until at least three months after commencing duties as an integrity
31 ²oversight² monitor. The State Treasurer shall provide the integrity
32 ²oversight² monitor reports received pursuant to this subsection to
33 the Legislature and the Governor within ten business days of
34 receipt.

35 ¹[g.] f. ¹ As used in this section:

36 ²[Hurricane Sandy recovery] Recovery² and rebuilding
37 project” means (1) the use of funds provided pursuant to federal
38 legislation enacted by the 113th Congress of the United States of
39 America which contains, but is not limited to, disaster assistance for
40 impacts associated with Hurricane Sandy, or other major storms, in
41 New Jersey; ¹[and] ¹ (2) the use of funds disbursed through the
42 State treasury for undertakings to address the damage associated
43 with the State of Emergency identified in the Governor's Executive
44 Order 104, dated October 27, 2012, concerning Hurricane Sandy,
45 which undertakings shall include emergency operations, loss
46 reimbursement, repairs, rebuilding, restorations, reconstruction,
47 removal of debris, temporary housing, household assistance, relief,

1 hazard mitigation improvements, construction, and other recovery
2 and rebuilding activities deemed to be a ²[Hurricane Sandy]²
3 recovery and rebuilding project by the State Treasurer¹; and (3) the
4 use of funds provided pursuant to federal legislation or disbursed
5 through the State Treasury for undertakings to address the damage
6 associated with any other major storm or natural disaster¹.

7 “Integrity ²oversight² monitor” means a private entity that
8 contracts to provide ¹specialized¹ services to ensure legal
9 compliance, detect misconduct, and promote best practices in the
10 administration of ²[Hurricane Sandy]² recovery and rebuilding
11 projects, which services may include, but shall not be limited to,
12 legal, investigative, accounting, ¹forensic accounting,¹ engineering,
13 other professional specialties, risk assessment, developing
14 compliance system constructs, loss prevention, ¹[and] ¹
15 monitoring ¹, contract managers and independent private inspectors
16 general¹.

17 “Sensitive information” means information which if disclosed to
18 an integrity ²oversight² monitor would jeopardize compliance with
19 State or federal law, threaten public health, welfare, or safety, or
20 harm the competitive economic position of a party ¹including, but
21 not limited to, information deemed confidential or proprietary or
22 related to copyright or trade secrets¹.

23

24 3. This act shall take effect immediately.