

**SENATE, No. 2431**

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**STATE OF NEW JERSEY**

**215th LEGISLATURE**

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INTRODUCED JANUARY 8, 2013

**Sponsored by:**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**SYNOPSIS**

Establishes certain equal employment opportunity requirements in connection with expenditure of federal funds received for Hurricane Sandy relief and for any future emergencies.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/22/2013)**

1 AN ACT establishing certain equal employment opportunity  
2 requirements in connection with the expenditure of federal funds  
3 received for Hurricane Sandy relief and for any future  
4 emergencies, and amending P.L.2009, c.335.

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

8  
9 1. Section 1 of P.L.2009, c.335 (C.52:40-1) is amended to read  
10 as follows:

11 1. a. The Legislature finds and declares that all members of the  
12 public should be afforded the opportunity to benefit from the  
13 federal economic recovery funds provided through the American  
14 Recovery and Reinvestment Act of 2009, any federal funds received  
15 by this State for the relief of damages caused by Hurricane Sandy,  
16 any other federal emergency funds received by this State after the  
17 effective date of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill), and associated State spending, and every  
19 public contract, whether for construction services, goods, or other  
20 services, should provide equal employment opportunities for  
21 women and minorities.

22 b. There is created in the State Department of the Treasury a  
23 Division of Public Contracts Equal Employment Opportunity  
24 Compliance. The division, or any successor thereto, shall be  
25 responsible for implementing and administering P.L.2009, c.335  
26 (C.52:40-1 et seq.), as amended.  
27 (cf: P.L.2009, c.335, s.1)

28  
29 2. Section 2 of P.L.2009, c.335 (C.52:40-2) is amended to read  
30 as follows:

31 2. For the purposes of this act, P.L.2009, c.335 (C.52:40-1 et  
32 seq.):

33 **["ARRA"]** "Federal emergency funds" means federal funds  
34 received by this State:

35 through the federal American Recovery and Reinvestment Act of  
36 2009;

37 for the relief of damages caused by Hurricane Sandy; and  
38 includes any other federal funds for the purpose of addressing an  
39 emergency received by this State after the effective date of P.L. ,  
40 c. (C. ) (pending before the Legislature as this bill); and

41 "Reporting agencies" means the State entities whose  
42 performance is monitored by the Division of Public Contracts Equal  
43 Employment Opportunity Compliance in the Department of the  
44 Treasury.

45 (cf: P.L.2009, c.335, s.2).

**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.

1       3. Section 3 of P.L.2009, c.335 (C.52:40-3) is amended to read  
2 as follows:

3       3. The Commissioners of the Departments of Community  
4 Affairs, Education, Environmental Protection, and Transportation,  
5 or their designees; the President of the Board of Public Utilities, or  
6 a designee; and the Chief Executive Officers of the Schools  
7 Development Authority and the Economic Development Authority,  
8 or their designees, shall meet with representatives of the Governor's  
9 office, the Department of the Treasury, and the United States  
10 Department of Labor's Office of Federal Contract Compliance  
11 Programs to ensure that those departments receiving the bulk of  
12 federal **【economic recovery】** emergency funds provide the United  
13 States Department of Labor's Office of Federal Contract  
14 Compliance Programs their complete cooperation in complying  
15 with its mandates.

16 (cf: P.L.2009, c.335, s.3)

17

18       4. Section 7 of P.L.2009, c.335 (C.52:40-7) is amended to read  
19 as follows:

20       7. All construction contracts entered into and funded, in whole  
21 or in part, by the State shall include mandatory equal employment  
22 opportunity and affirmative action contract language that requires  
23 contractors to make a good faith effort to recruit and employ  
24 minorities and women as required by **【the provisions of the**  
25 **regulations promulgated in the New Jersey Administrative Code,**  
26 **including but not limited to N.J.A.C.17:27-3.6 to 3.8, and 17:27-7.3**  
27 **and 7.4】** law or regulation. As to the portion of each contract that  
28 is State funded, the language of the contract shall provide that  
29 payment may be withheld for failure of the contractor to  
30 demonstrate to the satisfaction of the reporting agency that the  
31 required good faith effort was made. Failure of a contractor to  
32 satisfy the good faith effort requirement of its contract may also  
33 subject it to assessments imposed pursuant to findings of the  
34 Division of Public Contracts Equal Employment Opportunity  
35 Compliance, in accordance with administrative **【regulation**  
36 **N.J.A.C. 17:27-10】** law or regulation.

37 (cf: P.L.2009, c.335, s.7)

38

39       5. Section 8 of P.L.2009, c.335 (C.52:40-8) is amended to read  
40 as follows:

41       8. Except as described in subsections a. and b. of this section,  
42 each Executive Branch agency that is a recipient of federal  
43 **【economic recovery】** emergency funds **【pursuant to the American**  
44 **Recovery and Reinvestment Act of 2009】** shall include in any  
45 contract, grant, or agreement funded in whole or in part with those  
46 funds **【from the American Recovery and Reinvestment Act of**  
47 **2009】** a clause requiring subrecipients, contractors, subcontractors,

1 local education agencies, and vendors to post all job openings  
2 created pursuant to the contract, grant, or agreement on the State's  
3 Job Bank at least 14 days before hiring is to commence. The clause  
4 shall state: "Since the funds supporting this contract, grant, or  
5 agreement are provided through [the American Recovery and  
6 Reinvestment Act of 2009 (ARRA)] federal emergency funds, the  
7 subrecipient, contractor, subcontractor, local education agency, or  
8 vendor will post any jobs that it creates or seeks to fill as a result of  
9 this contract, grant, or agreement. The subrecipient, contractor,  
10 subcontractor, local education agency, or vendor shall post jobs to  
11 the New Jersey State Job Bank by submitting a job order using the  
12 form available on the Internet, notwithstanding any other posting  
13 the subrecipient, contractor, subcontractor, local education agency,  
14 or vendor might make. Any advertisements posted by the  
15 subrecipient, contractor, subcontractor, local education agency, or  
16 vendor for positions pursuant to this contract, grant, or agreement  
17 must indicate that the position is funded with [ARRA funds]  
18 federal emergency funds."

19 a. Posting shall not be required when the employer intends to  
20 fill the job opening with a present employee, a laid-off former  
21 employee, or a job candidate from a previous recruitment, when  
22 pre-existing, legally binding collective bargaining agreements  
23 provide otherwise, or when an exception has been granted to the  
24 reporting agency by the Department of Labor and Workforce  
25 Development.

26 b. Nothing in this act, P.L.2009, c.335 (C.52:40-1 et seq.), shall  
27 be interpreted to require the employment of apprentices if such  
28 employment may result in the displacement of journey workers  
29 employed by any employer, contractor or subcontractor.  
30 (cf: P.L.2009, c.335, s.8)

31

32 6. Section 9 of P.L.2009, c.335 (C.52:40-9) is amended to read  
33 as follows:

34 9. All local government entities and local education agencies  
35 that have received or will receive directly from a federal agency  
36 federal [economic recovery] emergency funds are encouraged but  
37 not mandated to require their contractors and subcontractors to post  
38 job openings on the State's Job Bank at least 14 days before hiring  
39 is to commence.

40 All New Jersey employers that enter into contracts funded with  
41 federal emergency funds [from the American Recovery and  
42 Reinvestment Act of 2009] received by a local government entity  
43 or a local education agency directly from a federal agency are  
44 encouraged but not mandated to post job openings created  
45 [pursuant to the American Recovery and Reinvestment Act of  
46 2009] thereby.

47 (cf: P.L.2009, c.335, s.9)

1       7. Section 15 of P.L.2009, c.335 (C.52:40-15) is amended to  
2 read as follows:

3       15. The Department of Labor and Workforce Development shall  
4 work together with all other reporting agencies that will receive  
5 **【funding from the American Recovery and Reinvestment Act of**  
6 **2009】** federal emergency funds and with the representatives of the  
7 United States Environmental Protection Agency, the Federal  
8 Departments of Labor, Energy, Transportation, and Housing and  
9 Urban Development, and any other federal agencies distributing  
10 federal emergency funds **【from the American Recovery and**  
11 **Reinvestment Act of 2009】** to:

12       a. Coordinate with labor unions that will aggressively recruit  
13 minorities and women for apprenticeships and training  
14 opportunities;

15       b. Increase outreach to and enrollment of minorities and  
16 women in apprenticeship, training, and related programs; and

17       c. Ensure that, to the greatest extent possible under the law,  
18 minorities and women apprentices and trainees are working on State  
19 **【and ARRA-funded】** work sites and work sites funded by federal  
20 emergency funds.

21 (cf: P.L.2009, c.335, s.15)

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23       8. Section 17 of P.L.2009, c.335 (C.52:40-17) is amended to  
24 read as follows:

25       17. Nothing in P.L.2009, c.335 (C.52:40-1 et seq.) shall modify  
26 existing law, State or federal, or authorize a reporting agency to  
27 amend, modify, or otherwise alter pre-existing legal obligations.  
28 P.L.2009, c.335 (C.52:40-1 et seq.) shall be interpreted consistently  
29 with **【the American Recovery and Reinvestment Act of 2009】**  
30 federal law governing the use of federal emergency funds, and the  
31 federal regulations and guidelines governing its implementation,  
32 and in the event of a conflict between P.L.2009, c.335 (C.52:40-1 et  
33 seq.) and federal law **【governing the American Recovery and**  
34 **Reinvestment Act of 2009】**, P.L.2009, c.335 (C.52:40-1 et seq.)  
35 shall be interpreted to comply with federal law.

36 (cf: P.L.2009, c.335, s.17)

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38       9. This act shall take effect immediately.

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## STATEMENT

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43       P.L.2009, c.335 was enacted in 2009 to ensure that women and  
44 minorities in this State received equal employment opportunities  
45 with respect to the expenditure of economic recovery funds  
46 provided to New Jersey through the federal American Recovery and  
47 Reinvestment Act. This bill would amend the current law to

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1 provide that its provisions will also apply to the use of federal funds  
2 received by this State for the relief of damages caused by Hurricane  
3 Sandy and to any other federal emergency funds received after the  
4 bill's effective date. The bill also expressly establishes the Division  
5 of Public Contracts Equal Employment Opportunity Compliance in  
6 the State Department of the Treasury and provides that the division,  
7 or any successor thereto, will be responsible for implementing and  
8 administering P.L.2009, c.335, as amended.