

ASSEMBLY, No. 3745

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED APRIL 5, 2018

Sponsored by:

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblymen A.M.Bucco, Verrelli and DeAngelo

SYNOPSIS

Prohibits person from contracting for public work if person is barred from receiving federal contract.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/19/2019)

1 AN ACT concerning the debarment of certain persons from
2 contracting for public work and supplementing chapter 32 of
3 Title 52 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. Any person that is barred from contracting with a federal
9 government agency shall be barred from contracting for any public
10 work in this State.

11 b. Any affiliate of a person barred from contracting with a
12 federal government agency shall be barred from contracting for any
13 public work in this State.

14 c. Prior to awarding any contract for public work, a person
15 shall provide written certification to the contracting agency that
16 neither the person nor the person's affiliates are barred from
17 contracting with a federal government agency. The contracting
18 agency shall not make, negotiate, or award a contract for public
19 work to any person that does not provide such written certification
20 as required by this subsection.

21 d. In situations of an emergent nature, a contracting agency
22 may enter into a contract with a person, provided that the person
23 agrees to provide the written certification required pursuant to
24 subsection c. of this section within two weeks of the execution of
25 the contract. The contracting agency shall not make final payment
26 to the person until such time as the person provides the written
27 certification. Failure to pay the person until the written certification
28 is received shall not be grounds for the agency being liable for
29 payment.

30 e. As used in this section:

31 "Affiliate" means any entity that (1) directly, indirectly, or
32 constructively controls another entity, (2) is directly, indirectly, or
33 constructively controlled by another entity, or (3) is subject to the
34 control of a common entity. An entity controls another entity if it
35 owns, directly or individually, more than 50% of the ownership
36 interest in that entity;

37 "Contracting agency" means the principal departments in the
38 Executive Branch of the State Government, and any division, board,
39 bureau, office, commission or other instrumentality within or
40 created by such department, or any independent State authority,
41 commission, instrumentality or agency, or any State college or
42 university, any county college, or any local unit;

43 "Federal government agency" means any federal executive
44 department, military department, or defense agency, or other agency
45 or independent establishment of the executive branch of the United
46 States;

47 "Local unit" means any contracting unit as defined pursuant to
48 section 2 of P.L.1971, c.198 (C.40A:11-2), any board of education

1 as defined pursuant to N.J.S.18A:18A-2, a private firm that has
2 entered into a contract with a public entity for the provision of
3 water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et
4 al.), a private firm or public authority that has entered into a
5 contract with a public entity for the provision of wastewater
6 treatment service pursuant to P.L.1995, c.216 (C.58:27-19 et al.),
7 and a duly incorporated nonprofit association that entered into a
8 contract with the governing body of a city of the first class for the
9 provision of wastewater treatment services pursuant to P.L.1995,
10 c.216 (C.58:27-19 et al.);

11 “Person” means any natural person, company, firm, association,
12 corporation, or other entity;

13 “Public work” means any public building, public highway,
14 bridge, or other public betterment, work or improvement of a
15 permanent nature, constructed, reconstructed, repaired or improved
16 wholly at the expense of the public.

17

18 2. This act shall take effect on the 30th day after the date of
19 enactment.

20

21

22

STATEMENT

23

24 This bill provides that a person that is barred from contracting
25 with the federal government will also be barred from contracting for
26 any public work in this State. Public work means any public
27 building, public highway, bridge, or other public betterment, work
28 or improvement of a permanent nature, constructed, reconstructed,
29 repaired or improved wholly at the expense of the public. Under
30 this bill, prior to the awarding of a contract, a person that seeks to
31 contract for public work must provide written certification that
32 neither the person nor the person’s affiliates is barred from
33 contracting with the federal government. Contracting agencies are
34 prohibited from contracting with a person who does not provide
35 such written certification.