

ASSEMBLY, No. 5298

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2021

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Co-Sponsored by:

Assemblywoman Sumter

SYNOPSIS

Establishes recruitment and referral program for certain individuals and extends certain provisions of law concerning affirmative action in public works contracts to workers with disabilities.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/14/2021)

1 **AN ACT** concerning disability status in public works contracting,
2 amending P.L.1975, c.127, and supplementing Chapter 16 of
3 Title 34 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. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read
9 as follows:

10 1. As used in this act:

11 a. "Public works contract" means any contract to be performed
12 for or on behalf of the State or any county or municipality or other
13 political subdivision of the State, or any agency or authority created
14 by any of the foregoing, for the construction, alteration or repair of
15 any building or public work or for the acquisition of materials,
16 equipment, supplies or services with respect to which
17 discrimination in the hiring of persons for the performance of work
18 thereunder or under any subcontract thereunder by reason of race,
19 creed, color, national origin, ancestry, marital status, affectional or
20 sexual orientation, nationality, gender identity or expression,
21 disability or sex is prohibited under R.S.10:2-1.

22 b. "Equal employment opportunity" means equality in
23 opportunity for employment by any contractor, subcontractor or
24 business firm engaged in the carrying out of a public works project
25 including its development, design, acquisition, construction,
26 management and operation.

27 c. "Affirmative action," whether used separately or in
28 conjunction with other words or phrases (including, but not limited
29 to, "program" and "equal employment opportunity") means good-
30 faith steps taken to ensure equal employment opportunity for
31 women and minority workers and workers with disabilities; but
32 does not mean employment quotas, except where otherwise
33 permitted and appropriate under applicable laws.

34 (cf: P.L.2006, c.100, s.12)

35
36 2. Section 4 of P.L.1975, c.127 (C.10:5-34) is amended to read
37 as follows:

38 4. Each prospective bidder on a public works contract or
39 contracts and each subcontract bidder to a prime contract bidder
40 shall formulate and submit to the State Treasurer his or its
41 affirmative action program of equal opportunity whereby he or it
42 guarantees minorities and individuals with disabilities employment
43 in all employment categories; the submission shall be accompanied
44 by a fee in an amount to be fixed by the State Treasurer. For the
45 purposes of this section, equal employment opportunity but not

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 affirmative action is required with respect to persons identified
2 solely by their affectional or sexual orientation and gender identity
3 or expression. The State Treasurer shall notify the bidder of
4 approval or disapproval of his or its program within 60 days of its
5 submission; failure of the State Treasurer to so act within 60 days
6 shall constitute approval of the program. Any existing federally
7 approved or sanctioned affirmative action program shall be
8 approved by the State Treasurer.

9 No subcontract bidder who has less than five employees need
10 comply with the provisions of this section.

11 (cf: P.L.2006, c.100, s.15)

12
13 3. Section 6 of P.L.1975, c.127 (C.10:5-36) is amended to read
14 as follows:

15 In carrying out his responsibilities under this act, the State
16 Treasurer, in addition to and without limitation of other powers
17 which he may have by law, shall have the following powers:

18 a. To investigate and determine the percentage of population of
19 minority groups and individuals with disabilities in the State or
20 areas thereof from which the work force for public works contracts
21 is or may be drawn;

22 b. To establish and promulgate such percentages as guidelines
23 in determining the adequacy of affirmative action programs
24 submitted for approval pursuant to section 2 of this act;

25 c. To require all State and local agencies awarding public
26 works contracts to submit for approval their affirmative action
27 programs;

28 d. To prescribe those affirmative action program provisions to
29 be included in all public works contracts;

30 e. To provide guidelines to assist governmental agencies in the
31 formulation of and the administration and enforcement of
32 affirmative action programs , including guidelines regarding the
33 establishment of goals, performance of workforce analyses,
34 recordkeeping, and reporting of demographic data for applicants
35 and employees related to disability status that is comparable to
36 those implemented on behalf of women and racial and ethnic
37 minorities;

38 f. To require State and local agencies awarding public works
39 contracts to designate appropriate officers or employees to maintain
40 liaison with and assist the State Treasurer in the implementation of
41 this act and affirmative action programs, adopted pursuant thereto;

42 g. To prescribe appropriate administrative procedures relating
43 to prequalification of bidders, bidding practices and contract awards
44 to assure equal employment opportunities;

45 h. To provide staff and technical assistance to public bodies,
46 contractors and subcontractors in furtherance of the objectives of
47 this act;

- 1 i. To levy on contractors and subcontractors fees and charges
2 found by him to be reasonable and necessary to accomplish the
3 objectives of this act;
- 4 j. To refer to the Attorney General or his designee
5 circumstances which may constitute violations of the "Law Against
6 Discrimination";
- 7 k. To issue, amend and rescind rules and regulations in
8 accordance with the "Administrative Procedure Act" (C. 52:14B-1
9 et seq.);
- 10 l. To enforce in a court of law the provisions of this act or to
11 join in or assist any enforcement proceeding initiated by any
12 aggrieved person;
- 13 m. To make and execute contracts and all other instruments
14 with other public agencies and private firms or individuals
15 necessary or convenient for the exercise of their powers and
16 functions hereunder, including contracts with consultants for
17 rendering professional or technical assistance and advice;
- 18 n. To contract for or accept any gifts or grants or loans of funds
19 or property or financial or other aid in any form from the Federal
20 government or any agency or instrumentality thereof, or from the
21 State or any agency or instrumentality thereof, or from any other
22 source and to comply, subject to the provisions of this act, with the
23 terms and conditions thereof.
- 24 o. To issue rules and regulations that will expand business
25 opportunities for socially and economically disadvantaged
26 contractors and vendors and disability-owned business enterprises
27 seeking to provide materials and services for State contracts.
28 (cf: P.L.1979, c.266, s.1)
29

30 4. (New section). The Division of Vocational Rehabilitation
31 Services in the Department of Labor and Workforce Development
32 shall establish a recruitment and referral program to connect college
33 students, recent graduates, and other workers with disabilities with
34 private sector employers offering summer or permanent jobs.
35

36 5. This act shall take effect immediately.
37
38

39 STATEMENT
40

41 Current law requires affirmative action goals, workforce
42 analysis, and data collection in public works contracts for racial and
43 ethnic minorities. However, there are no comparable requirements
44 applicable to individuals with disabilities.

45 This bill adds a definition of affirmative action to statutes
46 concerning public works contracting. Affirmative action is defined
47 as "good-faith steps taken to ensure equal opportunity employment
48 for women and minority workers and workers with disabilities; but

1 does not include employment quotas, except where otherwise
2 permitted and appropriate under applicable laws.”

3 The bill also adds disability-owned business enterprises to the
4 list of requirements for each prospective bidder on a public works
5 contract to include in their affirmative action program submitted to
6 the State Treasurer, and instructs the State Treasurer to include
7 individuals with disabilities in demographic data and rules and
8 regulations pertaining to public works contracting.

9 Finally, the bill directs the New Jersey Division of Vocational
10 Rehabilitation Services to adopt a recruitment and referral program
11 connecting private sector employers with college students, recent
12 graduates, and others with disabilities for summer or permanent
13 jobs.