

ASSEMBLY, No. 2402

STATE OF NEW JERSEY

220th LEGISLATURE

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Sponsored by:
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)

SYNOPSIS

Requires Commissioner of Transportation to publish notice of certain transportation-related infrastructure projects and activities on Internet website, and directs State Comptroller to monitor publication of notifications.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the accountability and transparency of certain
2 federally funded transportation-related infrastructure projects and
3 activities, supplementing Title 27 of the Revised Statutes and
4 P.L.2007, c.52 (C.52:15C-1 et seq.).

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

8
9 1. As used in this act:

10 “Chief Technology Officer” means the person appointed by and
11 serving at the pleasure of the Governor, in accordance with section
12 11 of P.L.2007, c.56 (C.52:18A-229), who is responsible for the
13 day-to-day operations of the Office of Information Technology in,
14 but not of, the Department of the Treasury.

15 “Control” means authority over the affairs of a business,
16 including, but not limited to, capital investment, property
17 acquisition, employee hiring, contract negotiations, legal matters,
18 officer and director selection, operating responsibility, financial
19 transactions, and the rights of other shareholders or joint partners;
20 except that control shall not include absentee ownership and shall
21 not be deemed to exist if an owner or employee who is not a
22 minority, in the case of a minority business, or a male owner or
23 employee, in the case of a women's business, is disproportionately
24 responsible for the operation of the business or for policy and
25 contractual decisions.

26 “Employed” means employed for more than 90 days in a full-
27 time position of employment in which the average hourly rate,
28 excluding benefits and reimbursements, is greater than or equal to
29 150 percent of the federal minimum wage, and which includes an
30 employee incentive package that provides or allows employees to
31 receive employee health benefits under a group health plan as
32 defined by section 14 of P.L.1997, c.146 (C.17B:27-54), a health
33 benefits plan as defined by section 1 of P.L.1992,
34 c.162 (C.17B:27A-17), or a policy or contract of health insurance
35 covering more than one person issued pursuant to Article 2 of Title
36 17B of the New Jersey Statutes.

37 “Federal funds” means federal funds made available to the State
38 under the federal “American Recovery and Reinvestment Act of
39 2009,” Pub.L.111-5 (26 U.S.C. s. 1 (note) et seq.) or under any
40 other federal programs for a transportation-related infrastructure
41 project or activity.

42 “Full-time position” means a position filled by an employee for
43 at least 140 hours per month, which does not include seasonal
44 employment.

45 “Internet” means the international computer network of both
46 federal and non-federal interoperable packet switched data
47 networks.

1 “Minority” means a person who is: (1) Black, which is a person
2 having origins in any of the black racial groups in Africa; (2)
3 Hispanic, which is a person of Spanish or Portuguese culture, with
4 origins in Mexico, South or Central America, or the Caribbean
5 Islands, regardless of race; (3) Asian-American, which is a person
6 having origins in any of the original peoples of the Far East,
7 Southeast Asia, Indian subcontinent, Hawaii, or the Pacific Islands;
8 or (4) American Indian or Alaskan native, which is a person having
9 origins in any of the original peoples of North America.

10 “Minority business” means a business which is: (1) a sole
11 proprietorship owned and controlled by a minority; (2) a partnership
12 or joint venture owned and controlled by minorities in which at
13 least 51 percent of the ownership interest is held by minorities and
14 the management and daily business operations of which are
15 controlled by one or more of the minorities who own it; or (3) a
16 corporation or other entity whose management and daily business
17 operations are controlled by one or more minorities who own it, and
18 which is at least 51 percent owned by one or more minorities, or, if
19 stock is issued, at least 51 percent of the stock is owned by one or
20 more minorities.

21 “State agency” means any of the principal departments in the
22 Executive Branch of State Government and any division, board,
23 bureau, office, commission, or other instrumentality within or
24 created by such principal department, and any independent State
25 authority, commission, instrumentality, or agency.

26 “State resident” means a person legally domiciled within the
27 State of New Jersey.

28 “Transportation-related infrastructure project or activity”
29 includes, but shall not be limited to, transportation-related
30 infrastructure investments eligible to receive funding under the
31 provisions of Title XII of the federal “American Recovery and
32 Reinvestment Act of 2009,” Pub.L.111-5 (26 U.S.C. s. 1 (note) et
33 seq.) or any other federal program.

34 “Woman” or “women” means a female or females, regardless of
35 race.

36 “Women’s business” means a business which is: (1) a sole
37 proprietorship owned and controlled by a woman; (2) a partnership
38 or joint venture owned and controlled by women in which at least
39 51 percent of the ownership is held by women and the management
40 and daily business operations of which are controlled by one or
41 more women who own it; or (3) a corporation or other entity whose
42 management and daily business operations are controlled by one or
43 more women who own it, and which is at least 51 percent owned by
44 women, or, if stock is issued, at least 51 percent of the stock is
45 owned by one or more women.

46

47 2. a. The Commissioner of Transportation, in consultation with
48 the Chief Technology Officer, shall, not later than 30 days after the

1 effective date of P.L. , c. (C.) (pending before the Legislature
2 as this bill), design and develop, maintain and operate a single,
3 searchable Internet website with the capacity to retain and display
4 data and information concerning the allocation and spending of
5 federal funds made available to the State for transportation-related
6 infrastructure projects or activities.

7 b. The Internet website developed in accordance with
8 subsection a. of this section shall:

9 (1) be accessible through a link prominently displayed on the
10 home page of the official Internet website for the State of New
11 Jersey;

12 (2) be available without charge for access;

13 (3) be organized by type of expenditure and State agency
14 associated with the expenditure of federal funds;

15 (4) provide opportunity for public comment regarding its utility
16 and recommendations for its improvement; and

17 (5) incorporate links to any other State or federal Internet
18 websites with information regarding transportation-related
19 infrastructure projects or activities.

20 c. Data and information made available on the Internet website
21 developed in accordance with subsection a. of this section may, at
22 the commissioner's discretion, be updated or revised periodically.

23 d. Notwithstanding the provisions of any other law, the Internet
24 website developed in accordance with subsection a. of this section
25 shall not retain or display data or information deemed private or
26 confidential by any State or federal laws, rules, or regulations.

27
28 3. a. In addition to the notification and reporting requirements
29 prescribed by the federal "Jobs Accountability Act," section 1512
30 of Pub.L.111-5, or by any other State or federal laws, rules, or
31 regulations, the Commissioner of Transportation shall publish, on
32 the Internet website developed in accordance with section 2 of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 notice of each transportation-related infrastructure project or
35 activity, the cost or contract price of which is to be paid with or out
36 of federal funds by or on behalf of a State agency.

37 b. The notice of a transportation-related infrastructure project
38 or activity published in accordance with subsection a. of this section
39 shall include:

40 (1) the name and address of the entity responsible for
41 coordinating and conducting the project or activity;

42 (2) the names of the principal officers and directors of the entity
43 and, if the entity coordinating and conducting the project or activity
44 is a subsidiary of another entity, the name and address of the parent
45 entity and the names of its principal officers and directors;

46 (3) a description of the project or activity and a statement of its
47 purpose;

48 (4) the cost or price of the project or activity;

1 (5) the beginning and termination dates of the project or
2 activity; and

3 (6) the State agency responsible for administering the federal
4 funds allocated to the project or activity.

5 c. To monitor minority and women's business participation and
6 to account for job creation and retention resulting from the
7 allocation and spending of federal funds, the notice of a
8 transportation-related infrastructure project or activity published in
9 accordance with subsection a. of this section shall provide data and
10 information regarding:

11 (1) whether the entity responsible for coordinating and
12 conducting a transportation-related infrastructure project or activity
13 is certified as a minority business or a women's business by the
14 Director of the Division of Revenue and Enterprise Services in the
15 Department of the Treasury; and

16 (2) the number of State residents and the number of women and
17 minorities employed as a result of the project or activity.

18 d. A notice published in accordance with subsection a. of this
19 section shall be posted on the Internet website developed in
20 accordance with section 2 of P.L. , c. (C.) (pending before
21 the Legislature as this bill) not later than 30 days after the date
22 federal funds are first allocated by or on behalf of a State agency for
23 a transportation-related infrastructure project or activity.

24
25 4. Notwithstanding the provisions of the "Administrative
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
27 contrary, the Commissioner of Transportation may adopt,
28 immediately upon filing with the Office of Administrative Law,
29 such rules and regulations as may be deemed necessary and
30 appropriate by the commissioner to effectuate the purposes of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 which rules and regulations shall be effective for a period not
33 exceeding 180 days following the effective date of P.L. ,
34 c. (C.) (pending before the Legislature as this bill) and may
35 thereafter be amended, adopted, or readopted by the commissioner
36 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-
37 1 et seq.).

38
39 5. a. In addition to the duties and responsibilities prescribed by
40 P.L.2007, c.52 (C.52:15C-1 et seq.), the State Comptroller shall
41 monitor the Internet website developed in accordance with section 2
42 of P.L. , c. (C.) (pending before the Legislature as this bill)
43 and oversee the publication of notifications required in accordance
44 with section 3 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46 b. The State Comptroller shall provide written notification to
47 the Governor, the President of the Senate, and the Speaker of the
48 General Assembly of any irregularities or inconsistencies identified

1 by the State Comptroller in the design and development,
2 maintenance and operation of the Internet website designed in
3 accordance with section 2 of P.L. , c. (C.) (pending before
4 the Legislature as this bill), and shall provide written notification to
5 the Governor, the President of the Senate, and the Speaker of the
6 General Assembly of any failure identified by the State Comptroller
7 to publish notifications required in accordance with section 3 of
8 P.L. , c. (C.) (pending before the Legislature as this bill).

9 c. (1) The State Comptroller shall, on or before December 1 of
10 each year in which the Internet website developed in accordance
11 with section 2 of P.L. , c. (C.) (pending before the
12 Legislature as this bill) is maintained and operated, submit a report
13 to the Governor and, pursuant to section 2 of P.L.1991,
14 c.164 (C.52:14-19.1), to the Legislature regarding the design and
15 development, maintenance and operation of the Internet website;
16 any irregularities or inconsistencies or failures identified during the
17 previous year; and recommendations, if any, for the improvement of
18 the website or the publication of notifications.

19 (2) The annual report shall provide data and information
20 concerning the number of State residents and the number of women
21 and minorities employed as a result of federally funded
22 transportation-related infrastructure projects or activities, and the
23 number of entities responsible for coordinating and conducting
24 transportation-related infrastructure projects or activities during the
25 previous year which are certified as a minority business or a
26 women's business by the Director of the Division of Revenue and
27 Enterprise Services in the Department of the Treasury.

28
29 6. This act shall take effect immediately.
30
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32 STATEMENT

33
34 This bill requires the Commissioner of Transportation to publish
35 notice of certain transportation-related infrastructure projects and
36 activities on an Internet website to provide increased accountability
37 and transparency in the allocation and spending of federal funds
38 made available to the State under any federal program for
39 transportation-related infrastructure projects or activities.

40 Under the bill, the commissioner, in consultation with the Chief
41 Technology Officer in the Office of Information Technology, is
42 required to design and develop, maintain and operate a single,
43 searchable Internet website that has the capacity to retain and
44 display data and information concerning the allocation and spending
45 of federal funds made available to the State for transportation-
46 related infrastructure projects or activities. The bill requires the
47 website to be maintained and operated not later than 30 days after
48 the bill's effective date, and to be accessible through a link

1 prominently displayed on the home page of the official Internet
2 website for the State of New Jersey.

3 The bill requires the website to be available to the public without
4 charge for access, and to be organized by type of expenditure and
5 State agency associated with the expenditure of federal funds.
6 Additionally, the bill requires the website to allow for public
7 comment, and to incorporate links to other governmental websites
8 for transportation-related infrastructure projects or activities.

9 The bill requires the commissioner to utilize the website to
10 publish notice of each transportation-related infrastructure project
11 or activity, the cost or contract price of which is to be paid with or
12 out of federal funds by or on behalf of a State agency, not later 30
13 days after the date the funds are first allocated by or on behalf of a
14 State agency. The bill provides that notices published on the
15 website must include information concerning:

16 -- the name and address of the entity responsible for coordinating
17 and conducting the project or activity;

18 -- the names of the principal officers and directors of the entity
19 and, if the entity coordinating and conducting the project or activity
20 is a subsidiary of another entity, the name and address of the parent
21 entity and the names of its principal officers and directors;

22 -- a description of the project or activity and a statement of its
23 purpose;

24 -- the cost or price of the project or activity;

25 -- the beginning and termination dates of the project or activity;
26 and

27 -- the State agency responsible for administering federal funds
28 allocated to the project or activity.

29 The bill requires notices published on the website to also include
30 information regarding: whether an entity responsible for
31 coordinating and conducting a project or activity is certified as a
32 minority business or a women's business by the Director of the
33 Division of Revenue and Enterprise Services in the Department of
34 the Treasury; and the number of State residents and the number of
35 women and minorities employed as a result of the project or
36 activity.

37 The bill requires the State Comptroller to monitor the website,
38 and to oversee the publication of transportation-related
39 notifications. The bill requires the State Comptroller to provide
40 written notification to the Governor, the President of the Senate,
41 and the Speaker of the General Assembly of any irregularities or
42 inconsistencies identified in the design and development,
43 maintenance and operation of the Internet website, and to provide
44 similar notification of any failure to publish notifications required
45 by the bill.

46 The bill requires the State Comptroller to issue an annual report
47 on or before December 1 of each year in which the website is

1 maintained and operated. The bill requires the report to include
2 information regarding:
3 -- the design and development, maintenance and operation of the
4 Internet website;
5 -- any irregularities or inconsistencies or failures identified
6 during the course of the previous year; and
7 -- any recommendations for improvement of the website or the
8 publication of notifications.
9 The bill also requires the annual report to include data and
10 information concerning the number of State residents and the
11 number of women and minorities employed as a result of federally
12 funded transportation-related infrastructure projects or activities,
13 and the total number of entities responsible for coordinating and
14 conducting transportation-related infrastructure projects or activities
15 during the previous calendar year which are certified as a minority
16 business or a women's business by the director.
17 The bill authorizes the commissioner to adopt rules and
18 regulations necessary to effectuate the purposes of the bill, and
19 permits the immediate filing of those rules and regulations with the
20 Office of Administrative Law, effective for a period not to exceed
21 180 days following the bill's effective date.
22 The bill takes effect immediately upon enactment.