

SENATE, No. 3079

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 23, 2009

Sponsored by:

Senator JAMES BEACH

District 6 (Camden)

SYNOPSIS

Establishes Apparel Procurement Board; sets standards for procurement of apparel by the State.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the procurement of apparel by the State and
2 supplementing Title 34 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. The Legislature finds and declares that:

8 a. A significant portion of the apparel industry has a history of
9 poor conditions for its workers;

10 b. The largest part of the apparel purchases of the State of New
11 Jersey are for State employee uniforms, which should project a
12 positive image for the State and help to instill pride on the part of
13 State employees;

14 c. The State of New Jersey has, as a market participant, a
15 compelling interest in guaranteeing that these uniforms and all of
16 the other apparel it acquires are produced in the United States of
17 America in conditions which are conducive to the reliable provision
18 of high quality apparel and of which the State, its citizens, and its
19 employees may be proud; and

20 d. It is, therefore, an appropriate policy to establish an Apparel
21 Procurement Board to ensure that the State's interests as a market
22 participant are protected with respect to apparel contracts entered
23 into by the State and its instrumentalities.

24
25 2. For the purpose of this act:

26 "Apparel" means any clothing, headwear, linens or fabric.

27 "Apparel contracts" shall include all purchases, rentals or other
28 acquisitions of apparel products by the State of New Jersey,
29 including authorizations by the State of New Jersey for vendors to
30 sell apparel products through cash allowances or vouchers issued by
31 the State of New Jersey, and license agreements with a public body.

32 "Apparel production" shall include the cutting and manufacturing
33 of apparel products performed by the vendor or by any sub-
34 contractors, not including the production of supplies or sundries
35 such as buttons, zippers, and thread.

36 "Bidder" means any person making a bid with a public body to
37 serve as a vendor to a public body.

38 "Board" means the Apparel Procurement Board established by
39 this act.

40 "Commissioner" means the Commissioner of Labor and
41 Workforce Development.

42 "Poverty line" means the official poverty line based on family
43 size, established and adjusted under section 673 (2) of Subtitle B of
44 the "Community Services Block Grant Act," Pub.L.97-35 (42
45 U.S.C. s.9902 (2)).

46 "Public body" means the State of New Jersey, any agency of the
47 State or any authority created by the Legislature.

1 "Vendor" means any person or business selling or otherwise
2 providing apparel to or for a public body or entering into a license
3 agreement with a public body to produce or provide items of
4 apparel bearing names, trademarks or images of, or related to, the
5 public body.

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7 3. When purchasing or otherwise obtaining apparel from a
8 vendor, including approving a vendor for participation in allowance
9 or voucher programs, a public body shall require that all apparel
10 production is in compliance with each of the following
11 requirements, except in the case of a requirement that is adjudicated
12 to be unenforceable because of preemption by federal law:

13 a. All apparel production under the contract shall be performed
14 in the United States, except in cases in which the commissioner
15 determines that it is not possible for the public body to obtain
16 apparel produced in the United States which meets the necessary
17 requirements of the public body;

18 b. Apparel production workers employed to produce the
19 apparel shall be provided a work environment that is safe, healthy,
20 and free of discrimination on the basis of race, national origin,
21 religion, sex and sexual preference;

22 c. Apparel production workers employed to produce the
23 apparel shall be provided non-poverty compensation at an hourly
24 rate determined by the commissioner to be not less than the poverty
25 line for a family of three, based on 40 hours of work a week for 50
26 weeks a year;

27 d. Apparel production workers employed to produce the
28 apparel shall not be terminated except for just-cause and vendors
29 and their contractors and sub-contractors shall provide a mechanism
30 to resolve all disputes with apparel production workers;

31 e. Vendors and their contractors and sub-contractors shall
32 adapt a neutrality position with respect to attempts to organize by
33 their employees, and agree to voluntarily recognize a union when a
34 majority of workers have signed cards authorizing union
35 representation;

36 f. The facilities where the apparel production occurs shall be
37 open to inspection by the commissioner, the board, or any political
38 subdivision of this State, any other state or other governmental or
39 intergovernmental unit with which the commissioner or the board
40 cooperates or by any appropriate consortia in which the board or the
41 commissioner participates pursuant to section 5 of this act; and

42 g. No contractor or sub-contractor involved in the providing or
43 production of apparel has a pattern or practice of violation of legal
44 employment protections, including laws and regulations governing
45 wages and hours, discrimination, occupational safety and health,
46 child labor, industrial homework, workers' compensation, and
47 occupational safety and health.

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1 Every apparel contract and bid application shall contain a
2 provision or provisions detailing the requirements of this act, and
3 compliance with this act shall be made a binding part of all apparel
4 contracts.

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6 4. Every bidder for an apparel contract with a public body shall
7 inform the public body in writing of the following information,
8 which shall be made available by the public body to the public as
9 soon as possible, but in no case less than 30 days before a decision
10 is made to award an apparel contract to a bidder:

11 a. Every location where apparel production is to take place,
12 including any sub-contractor locations;

13 b. The name, business address, and names of principal officers
14 of each sub-contractor to be used for apparel production in
15 fulfillment of an apparel contract; and

16 c. An affidavit that each apparel production location meets the
17 requirements of this act.

18 Any changes to the reported information during the term of an
19 apparel contract must be reported by the vendor to the public body.
20 The public body shall report all information required under this
21 section to the Apparel Procurement Board, which shall make the
22 information available upon request to the public.

23
24 5. a. The Apparel Procurement Board is established and shall
25 be composed of seven individuals as follows: three individuals
26 selected by the New Jersey State AFL-CIO who represent unions of
27 uniformed personnel of the State; three individuals selected by the
28 Governor who represent agencies that employ uniformed personnel
29 of the State; and one individual selected by the commissioner to
30 represent the commissioner. After the effective date of this act,
31 members shall appointed to serve for terms of three years. Each
32 member appointed pursuant to this act shall hold office for the term
33 of appointment and until he is reappointed or a successor is
34 appointed and qualified. Each member serving upon the effective
35 date who was selected prior to the effective date of this act shall
36 hold office until a successor is appointed and qualified or the
37 member is appointed pursuant to this act, after which he will hold
38 office for the term of appointment. A member appointed to fill a
39 vacancy occurring in the membership of the board for any reason
40 other than the expiration of the term shall have a term of
41 appointment for the unexpired term only. Each vacancy shall be
42 filled in the same manner as the original appointment. Any
43 appointed member may be removed from office by the Governor,
44 for cause, after a hearing and may be suspended by the Governor
45 pending the completion of the hearing. Members of the board shall
46 serve without compensation.

47 b. The Apparel Procurement Board shall be administered by
48 the commissioner and shall have the power to receive complaints

1 that any bidder or contractor is not in compliance with this act, and
2 recommend an investigation into the merits of such complaints. If
3 the commissioner determines, upon a hearing after notice, that a
4 vendor, sub-contractor or bidder has not complied with any
5 requirement of this act, including any finding of failure to provide
6 truthful information as required by this act, the commissioner may
7 terminate an existing apparel contract at the earliest feasible date,
8 and may bar the vendor or bidder from receiving pending or
9 subsequent apparel contracts for a period determined by the
10 commissioner, but there shall be a period of debarment of not less
11 than three years if the contractor or subcontractor demonstrates a
12 pattern of repeated serious noncompliance with the provisions of
13 this act.

14 c. The commissioner and the board shall give priority to
15 coordinating enforcement, monitoring and information collection
16 activities with any political subdivision of this State, with any other
17 state or its political subdivisions and with any other governmental
18 and intergovernmental units and shall give priority to participating
19 in any appropriate consortia which assist in enforcement,
20 monitoring and information collection activities and are
21 independent of the monitored industries.

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23 6. This act shall take effect immediately.

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STATEMENT

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28 This bill requires the State, when purchasing, renting or
29 otherwise acquiring apparel, do so only under the following
30 circumstances:

31 1. All of the apparel production be performed in the United
32 States, except in cases in which the commissioner determines that it
33 is not possible to obtain apparel produced in the United States
34 which meets the necessary requirements of the State;

35 2. The apparel production workers are provided a work
36 environment which is safe, healthy and free of discrimination;

37 3. The apparel production workers are paid non-poverty
38 compensation at an hourly rate not less than the poverty level for a
39 family of three, based on 40 hours of work a week for 50 weeks a
40 year;

41 4. The apparel production workers are not terminated except
42 for just cause and vendors and their employers provide a
43 mechanism to resolve all disputes with apparel production workers;

44 5. The vendors and their contractors and subcontractors adapt a
45 neutrality position with respect to attempts to organize by their
46 employees, and agree to recognize a union whenever a majority of
47 workers have signed cards authorizing union representation;

48 6. The apparel production facilities are open to inspection by

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1 the commissioner, the board, or any appropriate agency of any other
2 state, political subdivision, other governmental unit with which the
3 commissioner is cooperating or by any appropriate consortia in
4 which the board or the commissioner are participating; and

5 7. The contractors and subcontractors do not have a pattern or
6 practice of violation of legal employment protections, including
7 laws regarding wages and hours, child labor, industrial homework,
8 workers' compensation, discrimination, and occupational safety and
9 health.

10 The bill requires every bidder for an apparel contract to disclose
11 all locations where apparel production is to take place, the name,
12 business address and names of principal officers of every apparel
13 production subcontractor, and an affidavit that each apparel
14 production location meets the standards of the bill.

15 The bill establishes an Apparel Procurement Board composed of
16 the seven members as follows: three representatives of uniformed
17 State employee unions, selected by the New Jersey State AFL-CIO;
18 three representatives of public bodies that employ uniformed
19 personnel, selected by the Governor; and an individual chosen by
20 the Commissioner of Labor and Workforce Development. That
21 board would have the power to receive complaints regarding
22 compliance with the bill.

23 In cases of noncompliance with the bill, the commissioner may,
24 upon a hearing after notice, terminate an existing apparel contract at
25 the earliest feasible date, and bar the vendor or bidder from
26 receiving pending or subsequent apparel contracts for a period
27 determined by the commissioner, but not less than three years if
28 there is a pattern of repeated serious noncompliance.

29 The commissioner and the board are directed to give priority to
30 coordinating enforcement, monitoring and information collection
31 activities with any political subdivision of this State, with any other
32 state or its political subdivisions and with any other governmental
33 and intergovernmental units and shall give priority to participating
34 in any appropriate consortia which assist in enforcement,
35 monitoring and information collection activities and are
36 independent of the monitored industries.