

ASSEMBLY, No. 2839

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JUNE 10, 2010

Sponsored by:

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Provides for equitable adjustment in claims against State for breaching contract.

CURRENT VERSION OF TEXT

As introduced.



A2839 STENDER

2

1 AN ACT concerning the State's contractual liability, and amending
2 N.J.S.59:13-2 and N.J.S.59:13-3.

3

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

6

7 1. N.J.S.59:13-2 is amended to read as follows:

8 N.J.S.59:13-2. As used in this chapter: "State" shall mean the
9 State and any office, department, division, bureau, board,
10 commission or agency of the State, but shall not include any such
11 entity which is statutorily authorized to sue and be sued.

12 "Contracting agency" shall mean the appropriate agency of the
13 State which is charged by law with the responsibility of awarding
14 contracts.

15 "Accrual of claim" shall mean the date on which the claim arose
16 and shall not be affected by the notice provisions contained herein.

17 "Equitable adjustment" shall mean the determination of
18 appropriate damages or other relief that place a party in a position
19 similar to the position the party would have been in if the contract
20 had not been breached.

21 (cf: N.J.S.59:13-2)

22

23 2. N.J.S.59:13-3 is amended to read as follows:

24 N.J.S.59:13-3. The State of New Jersey hereby waives its
25 sovereign immunity from liability arising out of an express contract
26 or a contract implied in fact and consents to have the same
27 determined in accordance with the rules of law applicable to
28 individuals and corporations and if entitlement is found, the
29 determination and award of an equitable adjustment; provided,
30 however, that there shall be no recovery against the State for
31 punitive or consequential damages arising out of contract nor shall
32 there be any recovery against the State for claims based upon
33 implied warranties or upon contracts implied in law.

34 (cf: N.J.S.59:13-3)

35

36 3. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 The purpose of this bill is to provide that an equitable adjustment
42 may be awarded in claims against the State for the breaching of a
43 contract. As used in the bill, "equitable adjustment" means the
44 determination of appropriate damages or other relief that place a

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.

A2839 STENDER

1 party in a position similar to the position the party would have been
2 in if the contract had not been breached.

3 The change in current law made by this bill is consistent with the
4 holding of the New Jersey Supreme in the case of M.J. Paquet, Inc.
5 v. New Jersey Department of Transportation, 171 N.J.378, (2002)
6 with respect to claims made against the State for equitable
7 adjustment if a contract is breached.