

SENATE, No. 104

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Requires State entities to examine opportunity of minority and women-owned financial institutions to serve as senior managing underwriters, imposes reporting requirements, and enables establishment of aspirational levels of utilization and relative compensation.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT requiring State entities to examine the opportunity of
2 minority and women-owned financial institutions to serve as
3 senior managing underwriters for State debt transactions,
4 imposing reporting requirements, and enabling the establishment
5 of aspirational levels of utilization and relative compensation,
6 supplementing chapter 32 of Title 52 of the Revised Statutes.

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

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11 1. a. For each State fiscal year commencing after the effective
12 date of P.L. , c. (C.) (pending before the Legislature as
13 this bill), a State entity which engages in debt transactions shall
14 examine the opportunity of qualified minority and women-owned
15 financial institutions to serve as senior managing underwriters for
16 such transactions. The State entity shall report the findings of the
17 examination to the State Treasurer and, in accordance with section 2
18 of P.L.1991, c.164 (C.52:14-19.1), the Legislature.

19 b. The report required by subsection a. of this section shall
20 include:

21 (1) the total number of the State entity's debt transactions in
22 which qualified minority and women-owned financial institutions
23 served as senior managing underwriters;

24 (2) the total number of qualified minority and women-owned
25 financial institutions which sought unsuccessfully to serve as senior
26 managing underwriters for the State entity's debt transactions;

27 (3) the total number of qualified minority and women-owned
28 financial institutions available to serve as senior managing
29 underwriters for the State entity's debt transactions;

30 (4) the total number of qualified minority and women-owned
31 financial institutions available to serve as senior managing
32 underwriters for the State entity's debt transactions whose primary
33 trading, underwriting or investment banking activities were located
34 within the State;

35 (5) the total number of State entity debt transactions in which a
36 qualified minority and women-owned financial institution served as
37 senior managing underwriters, relative to the total number of debt
38 transactions undertaken by the State entity;

39 (6) the total value of the State entity's debt transactions in which
40 a qualified minority and women-owned financial institution served
41 as senior managing underwriters, relative to the total value of debt
42 transactions undertaken by the State entity; and

43 (7) the total and per transaction value of the compensation
44 provided to qualified minority and women-owned financial
45 institutions who serve as senior managing underwriters for the State
46 entity's debt transactions relative to the total and per transaction
47 value of compensation provided to financial institutions, other than

1 qualified minority and women-owned financial institutions, who
2 serve as senior managing underwriters for the State entity's debt
3 transactions.

4 c. A report owed pursuant to this section shall be due on the first
5 business day after the January 1 immediately following the end of
6 the State fiscal year for which the report is due. The State
7 Treasurer shall determine uniform methods of data collection and
8 reporting to effectuate this section. The State Treasurer may
9 provide for a reporting method in which the requirements of
10 subsection b. of this section are reported within categories defined
11 by intervals of debt transaction valuations.

12 d. The State Treasurer may establish an aspirational level of
13 utilization and relative compensation of qualified minority and
14 women-owned financial institutions serving as senior managing
15 underwriters in the State entity's debt transactions if such an
16 aspirational level of utilization and relative compensation can be
17 established in a manner consistent with the responsibility to seek
18 out the most economically optimal arrangements available for debt
19 transactions, in accordance with the requirement that all persons
20 shall have the full and equal benefit of all laws, and in the presence
21 of a gross statistical disparity in the utilization and relative
22 compensation of qualified minority and women-owned financial
23 institutions serving as senior managing underwriters for a State
24 entity's debt transactions as evidenced in a report due under
25 subsection a. of this section. An aspirational level of utilization and
26 relative compensation shall not be construed as a mandated quota
27 and shall not be enforceable, but shall be considered as a goal that
28 the State entity is encouraged to achieve. The State Treasurer shall
29 suspend an aspirational level of utilization and relative
30 compensation upon finding the conditions which lead to its
31 establishment are no longer present.

32 e. A State entity, having been assigned an aspirational level of
33 utilization and relative compensation of minority and women-
34 owned financial institutions serving as senior managing
35 underwriters in the State entity's debt transactions, shall include in
36 its report due under subsection a. of this section a listing of
37 impediments to the utilization and comparable compensation of
38 minority and women-owned financial institutions serving as senior
39 managing underwriters for the State entity's debt transactions and
40 proposals to enhance the utilization and compensation of qualified
41 minority and women-owned financial institutions serving as senior
42 managing underwriters for the State entity's debt transactions.

43 f. As used in this section:

44 "Debt transaction" means the creation or refinancing of a bond,
45 note or other financial instrument for which repayment is due.

46 "Qualified minority and women-owned financial institution"
47 means a financial institution qualified to engage in State entity debt

1 transactions that has a valid certification as a “minority business” or
2 a “women’s business” pursuant to P.L.1986, c.195 (C.52:27H-21.17
3 et. seq.);

4 “Senior managing underwriter” means the lead and book running
5 manager of the syndicate of underwriters of the State’s or State
6 entity’s debt transactions.

7 “State entity” means a State department or agency, board,
8 commission, corporation or authority.

9 g. If any section, subsection, paragraph, sentence or other part of
10 this act is adjudged unconstitutional or invalid, such judgment shall
11 not affect, impair or invalidate the remainder of this act, but shall be
12 confined in its effect to the section, subsection, paragraph, sentence
13 or other part of this act directly involved in the controversy in
14 which said judgment shall have been rendered.

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16 2. This act shall take effect immediately.

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STATEMENT

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21 This bill requires State entities to examine the opportunity of
22 minority and women-owned financial institutions to serve as senior
23 managing underwriters for State debt transactions, imposes related
24 reporting requirements, and enables the establishment of
25 aspirational levels of utilization and relative compensation.

26 For each State fiscal year in which a State entity engages in a
27 debt transaction, this bill requires the State entity to examine the
28 opportunity and compensation of qualified minority and women-
29 owned financial institutions to serve as senior managing
30 underwriters for such transactions. Based on the examination, the
31 State entity must submit a report to the State Treasurer and the
32 Legislature. If upon review of the report the State Treasurer
33 discovers gross statistical disparities in utilization and
34 compensation, the State Treasurer may establish an aspirational
35 level of utilization and relative compensation for minority and
36 women-owned financial institutions serving as senior managing
37 underwriters in a State entity’s debt transactions. An aspirational
38 level of utilization and relative compensation is not a mandated
39 quota and is not enforceable, rather it is a goal that the State entity
40 is encouraged to achieve.

41 Having been assigned an aspirational level of utilization and
42 relative compensation, a State entity must comply with additional
43 reporting requirements. Specifically, the State entity must identify
44 the impediments to the utilization and comparable compensation of
45 minority and women-owned financial institutions as senior
46 managing underwriters for the State entity’s debt transactions and
47 provide proposals to enhance the use and compensation thereof.

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- 1 The State Treasurer must suspend an aspirational level of utilization
- 2 and relative compensation upon finding the conditions which lead
- 3 to its establishment no longer exist.