

SENATE, No. 301

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Requires notice of certain transportation-related infrastructure projects and activities to be published on Internet website, and directs State Comptroller to monitor publication of those notifications.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

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
34 P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health
35 insurance covering more than one person issued pursuant to Article
36 2 of Title 17B of the New Jersey Statutes.

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

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

1 "Minority business" means a business which is: (1) a sole
2 proprietorship owned and controlled by a minority; (2) a partnership
3 or joint venture owned and controlled by minorities in which at
4 least 51 percent of the ownership interest is held by minorities and
5 the management and daily business operations of which are
6 controlled by one or more of the minorities who own it; or (3) a
7 corporation or other entity whose management and daily business
8 operations are controlled by one or more minorities who own it, and
9 which is at least 51 percent owned by one or more minorities, or, if
10 stock is issued, at least 51 percent of the stock is owned by one or
11 more minorities.

12 "State agency" means any of the principal departments in the
13 Executive Branch of State Government and any division, board,
14 bureau, office, commission, or other instrumentality within or
15 created by such principal department, and any independent State
16 authority, commission, instrumentality, or agency.

17 "State resident" means a person legally domiciled within the
18 State of New Jersey.

19 "Transportation-related infrastructure project or activity"
20 includes, projects funded in whole, or in part, with State, federal, or
21 any other funds of the Special Transportation Fund of the New
22 Jersey Transportation Trust Fund Authority.

23 "Woman" or "women" means a female or females, regardless of
24 race.

25 "Women's business" means a business which is: (1) a sole
26 proprietorship owned and controlled by a woman; (2) a partnership
27 or joint venture owned and controlled by women in which at least
28 51 percent of the ownership is held by women and the management
29 and daily business operations of which are controlled by one or
30 more women who own it; or (3) a corporation or other entity whose
31 management and daily business operations are controlled by one or
32 more women who own it, and which is at least 51 percent owned by
33 women, or, if stock is issued, at least 51 percent of the stock is
34 owned by one or more women.

35
36 2. a. The Commissioner of Transportation, in consultation
37 with the chief technology officer, shall, not later than 30 days after
38 the effective date of P.L. , c. (C.) (pending before the
39 Legislature as this bill), design, develop, maintain, and operate a
40 single, searchable Internet website, or stand-alone section of the
41 website of the department, with the capacity to retain and display
42 data and information concerning the allocation and spending of
43 State and federal funds made available for transportation-related
44 infrastructure projects or activities.

45 b. The Internet website, or stand-alone section of the
46 department website, developed in accordance with subsection a. of
47 this section shall:

1 (1) be accessible through a link prominently displayed on the
2 home page of the official Internet website for the New Jersey
3 Department of Transportation;

4 (2) be available without charge for access;

5 (3) be organized by the same categorizations provided in the
6 Annual Transportation Capital Program, including by phase of
7 work, investment category, and core mission;

8 (4) provide opportunity for public comment regarding its utility
9 and recommendations for its improvement; and

10 (5) incorporate links to any other State or federal Internet
11 websites with information regarding transportation-related
12 infrastructure projects or activities, including but not limited to,
13 federal project dashboards.

14 c. Data and information made available in accordance with this
15 section shall be updated not less than quarterly.

16 d. Notwithstanding the provisions of any other law, the
17 department shall not retain or display data or information deemed
18 private or confidential by any State or federal laws, rules, or
19 regulations when providing the information required in accordance
20 with this section.

21 e. The requirements established in this section shall be
22 considered as complementary to the requirements established
23 pursuant to Section 1 of P.L.2013, c.252 (C.27:1A-5.22) and
24 subsection j. of section 21 of P.L.1984, c.73 (C.27:1B-21) to
25 publish information concerning the State transportation capital
26 program, and to the extent practicable the information required
27 pursuant to all three sections of law shall be included in the same
28 location on the website of the department, and designed as a single
29 information portal.

30
31 3. a. 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, and the composition and source
36 of all project funding between State, federal, local, and other
37 sources.

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

41 (1) the name, address, and primary office number of the
42 contractor and subcontractors responsible for coordinating and
43 conducting the project or activity;

44 (2) the names of the principal officers of the contractor and
45 subcontractors;

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

1 (4) the disadvantaged business enterprise contracting goals set
2 for the project;

3 (5) all planholder and bidders lists for the project;

4 (6) updated project timelines which note the percentage of
5 project funds expended and percentage of project completion, with
6 a comparison of those benchmarks to original goals to determine
7 whether a project is on schedule financially and in terms of
8 completion; and

9 (7) the State agency responsible for administering any federal
10 funds awarded for a project or activity and the name and contact
11 information for the appropriate disadvantaged business enterprise,
12 civil rights, or business development entity assigned to the
13 respective project for disadvantaged, small, emerging, women, and
14 minority business enterprise goals, as applicable.

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

21 (1) whether the entity responsible for coordinating and
22 conducting a transportation-related infrastructure project or activity,
23 or any of the subcontractors for that entity on a project, is certified
24 as a minority business or a women's business by the Director of the
25 Division of Revenue and Enterprise Services in the Department of
26 the Treasury, a disadvantaged business enterprise in the New Jersey
27 Unified Certification Program Directory, an emerging small
28 business enterprise certified by the Department of Transportation,
29 or a small business enterprise in the New Jersey Selective
30 Assistance Vendor Information database; and

31 (2) the number of State residents and the number of women and
32 minorities employed as a result of the project or activity, as
33 reported to the Department of Labor and Workforce Development
34 Construction EEO Compliance Monitoring Program on form AA-
35 202, or any successor form providing the requisite information.

36 d. Planholder and bidder's lists for each project shall be
37 published in accordance with subsection a. of this section on the
38 Internet website, or standalone section of the website of the
39 department, developed in accordance with section 2 of
40 P.L. , c. (C.) (pending before the Legislature as this bill) for
41 each project on the date that the bidders list information has been
42 compiled by the State agency responsible for the project and prior
43 to the award of the bid. The bidder's list shall include information
44 relevant to a disadvantaged business enterprise seeking work with
45 the contractors and subcontractors that are eventually awarded the
46 bid, prior to the deadline for contractors and subcontractors to
47 report the disadvantaged business enterprises that will be working
48 on the project.

1 4. Notwithstanding the provisions of the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
3 contrary, the Commissioner of Transportation may adopt,
4 immediately upon filing with the Office of Administrative Law,
5 such rules and regulations as may be deemed necessary and
6 appropriate by the commissioner to effectuate the purposes of
7 P.L. , c. (C.) (pending before the Legislature as this bill),
8 which rules and regulations shall be effective for a period not
9 exceeding 180 days following the effective date of P.L. ,
10 c. (C.) (pending before the Legislature as this bill) and may
11 thereafter be amended, adopted, or readopted by the commissioner
12 in accordance with the requirements of the "Administrative
13 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
14

15 5. a. In addition to the duties and responsibilities prescribed
16 by P.L.2007, c.52 (C.52:15C-1 et al.), the State Comptroller shall
17 monitor the Internet website developed in accordance with section 2
18 of P.L. , c. (C.) (pending before the Legislature as this bill)
19 and oversee the publication of notifications required in accordance
20 with section 3 of P.L. , c. (C.) (pending before the
21 Legislature as this bill).

22 b. The State Comptroller shall provide written notification to
23 the Governor, the President of the Senate, and the Speaker of the
24 General Assembly of any irregularities or inconsistencies identified
25 by the State Comptroller in the design, development, maintenance,
26 and operation of the Internet website designed in accordance with
27 section 2 of P.L. , c. (C.) (pending before the Legislature as
28 this bill), and shall provide written notification to the Governor, the
29 President of the Senate, and the Speaker of the General Assembly of
30 any failure identified by the State Comptroller to publish
31 notifications required in accordance with section 3 of
32 P.L. , c. (C.) (pending before the Legislature as this bill).

33 c. (1) The State Comptroller shall, on or before December 1
34 of each year in which the Internet website developed in accordance
35 with section 2 of P.L. , c. (C.) (pending before the
36 Legislature as this bill) is maintained and operated, submit a report
37 to the Governor and, pursuant to section 2 of
38 P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the
39 design and development, maintenance and operation of the Internet
40 website; any irregularities or inconsistencies or failures identified
41 during the previous year; and recommendations, if any, for the
42 improvement of the website or the publication of notifications.

43 (2) The annual report shall provide data and information
44 concerning the number of State residents and the number of women
45 and minorities employed as a result of transportation-related
46 infrastructure projects or activities, and the number of contractors
47 and subcontractors responsible for coordinating and conducting
48 transportation-related infrastructure projects or activities during the

1 previous year which are certified as a minority business or a
2 women's business.

3

4 6. This act shall take effect immediately.

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STATEMENT

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9 This bill requires the Department of Transportation (department)
10 to design, develop, maintain, and operate a single, searchable
11 Internet website or stand-alone section of the department's website
12 with data concerning transportation capital projects in the State
13 funded with State or federal funds. The website is required to: be
14 updated quarterly; be free for use to the public; be accessible
15 through a link on the home page of the department's website; be
16 organized in the same manner as the Annual Transportation Capital
17 Program; provide an opportunity for public comment on its utility
18 and recommendations for its improvement; be linked to other State
19 and federal websites with public data on the same capital projects;
20 and be integrated with the other statutorily required transportation
21 capital program websites.

22 The website is required to contain information for each capital
23 project concerning funding sources and contract information. It is
24 to provide contact information for the contractor and subcontractors
25 involved on a project, the names of the principal officers of the
26 contractor and subcontractors, a description of the project or
27 activity and a statement of its purpose, the disadvantaged business
28 enterprise contracting goals for the project, planholder and bidder
29 lists, updated project timelines which track both construction
30 progress and project funding expenditures, and the State agency
31 responsible for administering any federal funds.

32 The website is also to provide data concerning minority and
33 women's business participation, including contact information for
34 the appropriate disadvantaged business enterprise, civil rights, or
35 business development entity assigned to the project as applicable,
36 identification of disadvantaged business, emerging small business,
37 small business enterprise, minority business, or women's business
38 certification for any contractor or subcontractor on a project as
39 appropriate, and the number of State residents and the number of
40 women and minorities employed as a result of the project or activity
41 as reported on the AA-202 form for EEO compliance monitoring.
42 Planholder and bidder's lists are to be published on the website on
43 the date that the lists are compiled by the State, before the award of
44 a bid, and prior to the deadline for contractors and subcontractors to
45 report the disadvantaged businesses that will be working on the
46 project.

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1 The bill authorizes the Commissioner of Transportation to adopt
2 immediately upon filing with the Office of Administrative Law,
3 rules and regulations necessary to effectuate the purposes of the
4 substitute, which are to be effective for a period of 180 days after
5 the effective date of the substitute. Thereafter, the rules and
6 regulations may be amended, adopted, or readopted in accordance
7 with the “Administrative Procedure Act.”

8 The bill also requires the State Comptroller to monitor the
9 website and ensure compliance with the requirements of the
10 substitute, and to submit a report to the Governor and Legislature
11 concerning the website.