

ASSEMBLY, No. 375

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman T. SMITH

1 AN ACT concerning prompt payment under State contracts and  
2 supplementing P.L.1987, c.184 (C.52:32-32 et seq.) and P.L.1991,  
3 c.507 (C.52:32-40).

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

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8 1. a. Whenever a business concern, as defined in section 2 of  
9 P.L.1987, c.184 (C.52:32-33), enters into a contract to provide goods  
10 or services directly to a using agency or to a designated third party and  
11 also enters into a subcontract with any person to perform a specific  
12 part of the contract between the business concern and the State, the  
13 subcontract shall provide for the payment of interest on the amount  
14 due the subcontractor if the required payment is not made on or before  
15 the required payment date.

16 b. The required payment date shall be the date specified in the  
17 subcontract or, if no date is specified, 60 calendar days from the  
18 receipt by the business concern of a properly executed invoice or 60  
19 calendar days from the receipt by the business concern of goods or  
20 services, whichever is later.

21 c. Interest on amounts due shall be paid by the business concern to  
22 the subcontractor for the period beginning on the day after the  
23 required payment date and ending on the date on which the check for  
24 payment is drawn. Interest shall be paid at the same rate established  
25 by the State Treasurer for late payments by the State to a business  
26 concern under a State contract pursuant to section 4 of P.L.1987,  
27 c.184 (C.52:32-35) or at a higher rate if specified in the subcontract.

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29 2. a. Whenever a State agency, as defined in section 1 of  
30 P.L.1991, c.507 (C.52:32-40), enters into a construction contract with  
31 any person, the contract shall provide for the payment of interest on  
32 the amount due the person if the required payment is not made on or  
33 before the required payment date.

34 b. The required payment date shall be the date specified in the  
35 contract or, if no date is specified, 60 calendar days from the receipt

1 by the State of a properly executed State invoice or 60 days from the  
2 acceptance of the completed work by the State, whichever is later.

3 c. Interest on amounts due shall be paid by the State for the period  
4 beginning on the day after the required payment date and ending on  
5 the date on which the check for payment is drawn. Interest shall be  
6 paid at a rate equal to the prime rate plus 1%.

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8 3. The State Treasurer shall develop and implement an expedited  
9 method of resolving disputes between parties to State contracts and  
10 persons performing subcontracts to such contracts. Every State  
11 contract shall contain a provision that any disputes arising under a  
12 subcontract to the contract shall be resolved in the manner prescribed  
13 by the State Treasurer.

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15 4. This act shall take effect immediately.

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#### 18 STATEMENT

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20 This bill would implement one of the recommendations made by the  
21 Governor's Study Commission on Discrimination in Public Works  
22 Procurement and Construction Contracts in its report of February 22,  
23 1993. Existing law requires the State to pay an interest penalty on late  
24 payments to a party providing goods or services under a State  
25 contract. The bill would extend this requirement to require such a  
26 party to pay interest on late payments to a person performing a  
27 subcontract to the State contract. Current law also requires prime  
28 contractors under State construction contracts to pay an interest  
29 penalty on late payments to subcontractors. The bill would require the  
30 State to similarly pay an interest penalty on late payments to a prime  
31 contractor under a construction contract. In addition, the bill directs  
32 the State Treasurer to develop an expedited method for resolving  
33 disputes between parties to State contracts and persons performing  
34 subcontracts thereto.

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39 Concerns the prompt payment of parties to State contracts and  
40 subcontracts.