

**SENATE, No. 3425**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 9, 2021

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Morris, Somerset and Union)**

**SYNOPSIS**

Establishes recruitment and referral program for certain individuals and extends certain provisions of law concerning affirmative action in public works contracts to workers with disabilities.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning disability status in public works contracting,  
2 amending P.L.1975, c.127, and supplementing Chapter 16 of Title  
3 34 of the Revised Statutes.

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

7  
8 1. Section 1 of P.L.1975, c.127 (C.10:5-31) is amended to read  
9 as follows:

10 1. As used in this act:

11 a. "Public works contract" means any contract to be performed  
12 for or on behalf of the State or any county or municipality or other  
13 political subdivision of the State, or any agency or authority created  
14 by any of the foregoing, for the construction, alteration or repair of  
15 any building or public work or for the acquisition of materials,  
16 equipment, supplies or services with respect to which discrimination  
17 in the hiring of persons for the performance of work thereunder or  
18 under any subcontract thereunder by reason of race, creed, color,  
19 national origin, ancestry, marital status, affectional or sexual  
20 orientation, nationality, gender identity or expression, disability or  
21 sex is prohibited under R.S.10:2-1.

22 b. "Equal employment opportunity" means equality in  
23 opportunity for employment by any contractor, subcontractor or  
24 business firm engaged in the carrying out of a public works project  
25 including its development, design, acquisition, construction,  
26 management and operation.

27 c. "Affirmative action," whether used separately or in  
28 conjunction with other words or phrases (including, but not limited  
29 to, "program" and "equal employment opportunity") means good-  
30 faith steps taken to ensure equal employment opportunity for women  
31 and minority workers and workers with disabilities; but does not  
32 mean employment quotas, except where otherwise permitted and  
33 appropriate under applicable laws.

34 (cf: P.L.2006, c.100, s.12)

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36 2. Section 4 of P.L.1975, c.127 (C.10:5-34) is amended to read  
37 as follows:

38 4. Each prospective bidder on a public works contract or  
39 contracts and each subcontract bidder to a prime contract bidder shall  
40 formulate and submit to the State Treasurer his or its affirmative  
41 action program of equal opportunity whereby he or it guarantees  
42 minorities and individuals with disabilities employment in all  
43 employment categories; the submission shall be accompanied by a  
44 fee in an amount to be fixed by the State Treasurer. For the purposes  
45 of this section, equal employment opportunity but not affirmative

**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.

1 action is required with respect to persons identified solely by their  
2 affectional or sexual orientation and gender identity or expression.  
3 The State Treasurer shall notify the bidder of approval or disapproval  
4 of his or its program within 60 days of its submission; failure of the  
5 State Treasurer to so act within 60 days shall constitute approval of  
6 the program. Any existing federally approved or sanctioned  
7 affirmative action program shall be approved by the State Treasurer.

8 No subcontract bidder who has less than five employees need  
9 comply with the provisions of this section.

10 (cf: P.L.2006, c.100, s.15)

11  
12 3. Section 6 of P.L.1975, c.127 (C.10:5-36) is amended to read  
13 as follows:

14 6. In carrying out his responsibilities under this act, the State  
15 Treasurer, in addition to and without limitation of other powers  
16 which he may have by law, shall have the following powers:

17 a. To investigate and determine the percentage of population of  
18 minority groups and individuals with disabilities in the State or areas  
19 thereof from which the work force for public works contracts is or  
20 may be drawn;

21 b. To establish and promulgate such percentages as guidelines  
22 in determining the adequacy of affirmative action programs  
23 submitted for approval pursuant to section 2 of this act;

24 c. To require all State and local agencies awarding public works  
25 contracts to submit for approval their affirmative action programs;

26 d. To prescribe those affirmative action program provisions to  
27 be included in all public works contracts;

28 e. To provide guidelines to assist governmental agencies in the  
29 formulation of and the administration and enforcement of affirmative  
30 action programs , including guidelines regarding the establishment of  
31 goals, performance of workforce analyses, recordkeeping, and  
32 reporting of demographic data for applicants and employees related  
33 to disability status that is comparable to those implemented on behalf  
34 of women and racial and ethnic minorities;

35 f. To require State and local agencies awarding public works  
36 contracts to designate appropriate officers or employees to maintain  
37 liaison with and assist the State Treasurer in the implementation of  
38 this act and affirmative action programs, adopted pursuant thereto;

39 g. To prescribe appropriate administrative procedures relating to  
40 prequalification of bidders, bidding practices and contract awards to  
41 assure equal employment opportunities;

42 h. To provide staff and technical assistance to public bodies,  
43 contractors and subcontractors in furtherance of the objectives of this  
44 act;

45 i. To levy on contractors and subcontractors fees and charges  
46 found by him to be reasonable and necessary to accomplish the  
47 objectives of this act;

1 j. To refer to the Attorney General or his designee  
2 circumstances which may constitute violations of the "Law Against  
3 Discrimination";

4 k. To issue, amend and rescind rules and regulations in  
5 accordance with the "Administrative Procedure Act" (C. 52:14B-1  
6 et seq.);

7 l. To enforce in a court of law the provisions of this act or to  
8 join in or assist any enforcement proceeding initiated by any  
9 aggrieved person;

10 m. To make and execute contracts and all other instruments with  
11 other public agencies and private firms or individuals necessary or  
12 convenient for the exercise of their powers and functions hereunder,  
13 including contracts with consultants for rendering professional or  
14 technical assistance and advice;

15 n. To contract for or accept any gifts or grants or loans of funds  
16 or property or financial or other aid in any form from the Federal  
17 government or any agency or instrumentality thereof, or from the  
18 State or any agency or instrumentality thereof, or from any other  
19 source and to comply, subject to the provisions of this act, with the  
20 terms and conditions thereof.

21 o. To issue rules and regulations that will expand business  
22 opportunities for socially and economically disadvantaged  
23 contractors and vendors and disability-owned business enterprises  
24 seeking to provide materials and services for State contracts.

25 (cf: P.L.1979, c.266, s.1)

26  
27 4. (New section) The Division of Vocational Rehabilitation  
28 Services in the Department of Labor and Workforce Development  
29 shall establish a recruitment and referral program to connect college  
30 students, recent graduates, and other workers with disabilities with  
31 private sector employers offering summer or permanent jobs.

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33 5. This act shall take effect immediately.

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36 STATEMENT

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38 Current law requires affirmative action goals, workforce analysis,  
39 and data collection in public works contracts for racial and ethnic  
40 minorities. However, there are no comparable requirements  
41 applicable to individuals with disabilities.

42 This bill adds a definition of affirmative action to statutes  
43 concerning public works contracting. Affirmative action is defined  
44 as "good-faith steps taken to ensure equal opportunity employment  
45 for women and minority workers and workers with disabilities; but  
46 does not include employment quotas, except where otherwise  
47 permitted and appropriate under applicable laws."

1       The bill also adds disability-owned business enterprises to the list  
2 of requirements for each prospective bidder on a public works  
3 contract to include in their affirmative action program submitted to  
4 the State Treasurer, and instructs the State Treasurer to include  
5 individuals with disabilities in demographic data and rules and  
6 regulations pertaining to public works contracting.  
7       Finally, the bill directs the New Jersey Division of Vocational  
8 Rehabilitation Services to adopt a recruitment and referral program  
9 connecting private sector employers with college students, recent  
10 graduates, and others with disabilities for summer or permanent jobs.