

27:1A-52

LEGISLATIVE HISTORY CHECKLIST

NJSA 27:1A-52 (Transportation, Department of--
extend time for certain new contractor
defense & indemnification agreements)

LAWS 1987 CHAPTER 417

Bill No. S3770

Sponsor (s) Lesniak

Date Introduced December 7, 1986

Committee: Assembly -----

Senate Transportation and Communications

Amended during passage Yes Amendments
during passage denoted
by asterisks.

Date of Passage: Assembly January 11, 1988

Senate December 14, 1987

Date of approval January 14, 1988

Following statements are attached if available:

Sponsor statement Yes

Committee Statement: Assembly No

Senate Yes

Fiscal Note No

Veto Message No

Message on signing No

Following were printed:

Reports No

Hearings No

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SENATE, No. 3770

STATE OF NEW JERSEY

INTRODUCED DECEMBER 7, 1987

By Senator LESNIAK

Referred to Committee on Transportation and Communications

AN ACT extending the time period during which the Commissioner of Transportation may enter certain agreements to defend and indemnify contractors, and amending P. L. 1986, c. 81.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1986, c. 81 (C. 27:1A-5.2) is amended to
2 read as follows:

3 1. The Commissioner of Transportation, in consultation with the
4 Attorney General, may agree to defend and indemnify any person
5 who, pursuant to a written contract with the Department of Trans-
6 portation, constructs public works or improvements or provides
7 services to the department for claims, causes of action, demands,
8 costs or judgments against that person arising as a direct result
9 of the contamination of the environment by hazardous substances
10 if the contamination is a direct result of the construction or ser-
11 vices. The commissioner shall not agree to indemnify a person
12 unless the commissioner determines that adequate environmental
13 liability insurance is either unavailable to that person in connec-
14 tion with a particular contract or that the cost therefor is pro-
15 hibitive.

16 The commissioner is authorized to enter into an agreement to
17 defend and indemnify a person upon the terms and limitations the
18 commissioner deems reasonable and appropriate. The commissioner
19 shall not enter into an agreement **after January 1, 1990** to pro-

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted December 7, 1987.**

20 vide legal defense and indemnification to any person pursuant to
 21 this section ***[after January 1, ~~1983~~ 1990]***. The commissioner
 22 shall not agree to defend or indemnify any person for acts which
 23 arise from gross negligence, willful misconduct, fraud, intentional
 24 tort, bad faith or criminal wrongdoing or for claims for punitive
 25 or exemplary damages.

26 An agreement to defend and indemnify pursuant to this section
 27 does not bar, reduce, limit or affect any remedies which the depart-
 28 ment may have to enforce its contract or to assert a claim for
 29 damages to which the department may be entitled arising out of
 30 the person's failure to perform the contract, or for the recovery of
 31 funds expended for the defense of a person if the defense was under-
 32 taken in response to a claim or cause of action brought against the
 33 person which is proven to have arisen from gross negligence, willful
 34 misconduct, fraud, intentional tort, bad faith, or criminal mis-
 35 conduct.

36 No one other than the person performing construction or services
 37 pursuant to a written contract with the department has the right
 38 to enforce any agreement for defense or indemnification between
 39 that person and the commissioner. For purposes of this section, the
 40 term "person" means public or private corporations, companies,
 41 associations, societies, firms, partnerships, joint stock companies, in-
 42 dividuals, public authorities, the United States, the State of New
 43 Jersey and any of its political subdivisions or agents. The term
 44 "services" means work performed by design or other expert con-
 45 sultants and work or technical functions performed by nonexperts
 46 on projects for public works, building or improvements, including
 47 work preliminary to construction under a contract and work which
 48 results in or from a contract modification. The term "hazardous
 49 substances" shall have the same meaning as provided in section 3
 50 of P. L. 1976, c. 141 (C. 58:10-23.11b).

1 2. Section 2 of P. L. 1986, c. 81 (C. 27:1A-5.3) is amended to
 2 read as follows:

3 2. Notwithstanding the time limitation established by section 1
 4 of this act, the commissioner may defend and indemnify any person
 5 covered by an agreement which was made by him **[prior to January**
 6 **1, 1988]** *on or before January 1, 1990.*

1 3. Section 4 of P. L. 1986, c. 81 is amended to read as follows:

2 4. This act shall take effect immediately, and shall apply to con-
 3 tracts entered into prior to the effective date of this act on which
 4 work is still in progress on the effective date of this act and to con-

5 tracts entered into on *or after* the effective date of this act **through*
6 *January 1, 1990**.

1 4. This act shall take effect immediately.

TRANSPORTATION—GENERAL

Extends time period during which the Commissioner of DOT
may enter into certain contractor defense and indemnification
agreements.

ASSEMBLY, No. 3770

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 23, 1987

By Assemblyman ALBOHN

AN ACT concerning the introduction of legislative proposals and supplementing Subtitle 2 of Title 52 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. No member or member-elect of the Senate or General Assem-
2 bly shall pre-file for introduction as the prime sponsor more than
3 a combined total of 10 bills and resolutions. The term "pre-file"
4 means the process of request and preparation for introduction of
5 bills and resolutions by members and members-elect of the Legisla-
6 ture prior to the commencement of a two-year Legislature as
7 provided in the Joint Rules of the Senate and General Assembly.

1 2. No member shall introduce as the prime sponsor more than a
2 combined total of 10 bills and resolutions during a two-year Legisla-
3 ture, exclusive of any pre-filed bills or resolutions, except that:

4 a. A member may introduce as the prime sponsor not more than
5 a combined total of 10 additional bills and resolutions if each
6 additional bill or resolution is cosponsored by at least five members
7 of the House; and

8 b. A member may introduce as the prime sponsor not more than a
9 combined total of five additional bills and resolutions if each
10 additional bill or resolution is cosponsored by a number of members
11 of either political party equal to the lesser of either a majority of
12 members of the prime sponsor's political party in the House or
13 one-fifth of the total membership of the House.

1 3. A member may introduce as the prime sponsor any number
2 of bills and resolutions in addition to the number otherwise per-

3 mitted by this act if each additional bill or resolution is cosponsored
4 by not less than one-third of the members of the House, or co-
5 sponsored by the presiding officer, the majority leader and the
6 minority leader, each of whom must be the member officially
7 designated to the respective position and not a member serving
8 temporarily in an acting capacity.

1 4. An accounting of the prime and any cosponsors of a bill or
2 resolution for the purposes of this act shall be made by each
3 House at the time of introduction, and no addition or withdrawal
4 of a prime or cosponsor after the introduction shall affect the
5 initial accounting.

1 5. This act shall take effect immediately and shall apply to the
2 two-year Legislature next following enactment and to each Legisla-
3 ture thereafter.

STATEMENT

This bill establishes limits on the number of bills and resolutions that a member of the Legislature may introduce as the prime sponsor. Each member is subject to an overall limit of 35 bills and resolutions. Of these, 10 may be pre-filed, 10 may be introduced during the two-year session, 10 more may be introduced with at least five cosponsors, and 5 more may be introduced with cosponsorship from the lesser of either at least $1/5$ of the members of the House or a number equal to a majority of the member's political party in the House.

To cover emergency situations, the bill also provides that a bill may be introduced in addition to these limits if it is cosponsored by at least $1/3$ of the members of the House or by the presiding officer, the majority leader and the minority leader.

LEGISLATURE

Establishes certain limits on the introduction of bills and resolutions.

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SENATE TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

SENATE, No. 3770

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 7, 1987

The Senate Transportation and Communications Committee favorably reports Senate Bill No. 3770 with Senate committee amendments.

P. L. 1986, c. 81 provides that the Commissioner of Transportation may enter into an agreement to defend and indemnify any person who, pursuant to a written contract with DOT, constructs public works or improvements or provides services to the department for claims, causes of action, demands, costs or judgments against that person arising as a direct result of the contamination of the environment by hazardous substances if the contamination is a direct result of the construction or services. However, pursuant to that law, the commissioner shall not enter into one of these agreements after January 1, 1988. This amended bill would extend that deadline to January 1, 1990, and would clarify the original effective date of P. L. 1986, c. 81 to more accurately reflect the intent of that law.

Amendments approved by the committee were technical in nature, clarifying the new deadline.