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MEMORANDUM

TO: ~~Mr. [Redacted]~~

FROM: Herta Prager, Head, Bureau of Law & Legislative Reference

DATE: October 21, 1959

SUBJECT: Legislative History of RS 2A: 44-143. Bonds of Contractors on Public Works.

This Statute was originally passed by

Laws 1913, Chapter 75 Assembly 270 Mr. Winne

The bill had the following

Statement

This act is designed to protect laborers and materialmen who do work on public buildings for a general contractor. Under the present law it is very difficult for them to collect their claims in case the contractor refuses to pay them, and this act would require the contractor to give a bond conditioned not only for the proper completion of the work, but also for the payment of all claims of laborers or materialmen.

It was passed without amendment.

The Statute was amended by

Laws 1932, Chapter 142 Senate 65 Mr. Albright

Legislative Index, 1932

February 1	Labor Committee
February 29	Reported with Senate Committee Amendments
April 19	Passed Senate Amended
April 26	Passed Assembly
May 2	Approved, Chapter 142

The original bill with statement is enclosed.

Page 224 Journal of the Senate, February 29, 1932 is enclosed. It contains the Senate Amendment.

SENATE, No. 65

(Chap. 75, Laws 1918, p. 203)

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 1, 1932

By Mr. ALBRIGHT

Referred to Committee on Labor, Industries and Social Welfare

AN ACT to amend the title and also the body of an act entitled "An act to protect persons performing labor or furnishing materials for the construction, alteration or repair of public works," approved February sixteenth, one thousand nine hundred and eighteen.

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

1 1. The title of the act mentioned in the title of this act is hereby amended to
2 read as follows:

3 An act to protect persons performing labor or employed by contractors upon pub-
4 lic works, and to secure claims of persons who furnish [furnishing] materials, sup-
5 plies, teams, implements or machinery used or consumed by such contractors in and
6 about the performance of such [for the construction, alteration or repair of public]
7 works.

1 2. Section one of the act mentioned in the title hereof is hereby amended so as
2 to read as follows:

3 1. When public buildings or other public works or improvements are about to be
4 constructed, erected, altered or repaired under contract, at the expense of the State or
5 any county, city, town, township, village, borough, municipality governed by a board
6 of commissioners, or improvement commission, or school district thereof, it shall be
7 the duty of the board, officer or agent, contracting on behalf of the State or any
8 county, city, town, township, village, borough, municipality governed by a board of
9 commissioners, or improvement commission or school district, to require the usual

10 bond, as provided for in the statute, with good and sufficient sureties, with an addi-
11 tional obligation for the payment by the contractor, and by all subcontractors, for all
12 labor performed or materials [furnished], provisions, provender or other supplies,
13 teams, fuels, oils, implements or machinery used or consumed in, upon, for or about
14 the construction, erection, alteration, or repair of such building, works or improve-
15 ments.

1 3. Section two of the act mentioned in the title hereof is hereby amended so as
2 to read as follows:

3 2. Such bond shall be executed by such contractor with such sureties as shall be
4 approved by the board, officer or agent acting on behalf of the State or any county,
5 city, town, township, village, borough, municipality governed by a board of commis-
6 sioners, or improvement commission, or school district aforesaid, in an amount equal
7 to at least one hundred per centum (100 %) of the contract price, and conditioned for
8 the payment by the contractor, and by all subcontractors, or his or its sub-contractor,
9 of all indebtedness which may accrue to any person, firm or corporation, in an amount
10 not exceeding the sum specified in the bond, on account of any labor performed or
11 materials [furnished], provisions, provender or other supplies, or teams, fuels, oils,
12 implements or machinery used or consumed in, upon, for or about [in] the con-
13 struction, erection, alteration or repair to such building, works or improvements.
14 Such bond shall be deposited with, and held by, such board, officer or agent for the
15 use of any party interested therein.

1 4. Section three of the act mentioned in the title hereof is hereby amended so as
2 to read as follows:

3 3. Any person, firm or corporation to whom any money shall be due on account
4 of having performed any labor, or furnished any [material] materials, provisions,
5 provender or other supplies, teams, fuel, oils, implements or machinery in, upon, for
6 or about the construction, erection, alteration or repair of any such building, work or
7 improvement, within eighty (80) days after the acceptance thereof by the duly au-
8 thorized board or officer, shall furnish the sureties on said bond a statement of the
9 amount due to any such person, firm, or corporation. No suit shall be brought
10 against said sureties on said bond until the expiration of sixty (60) days after the
11 furnishing of said statement. If said indebtedness shall not be paid in full at the ex-

12 piration of said sixty days, said person, firm or corporation may bring an action in his
13 or its own name upon such bond, said action to be commenced within one year from
14 the date of the acceptance of said building, work or improvement. And upon the
15 trial of any such action, the court shall award to the prevailing party a reasonable at-
16 torney's fee, to be taxed as costs, and to be included in the judgment therein ren-
17 dered.

1 5. Section four of the act mentioned in the title hereof is hereby amended so as
2 to read as follows:

3 4. The bond hereinbefore provided for shall be substantially the following form,
4 and recovery of any claimant thereunder shall be subject to the conditions and pro-
5 visions of this act to the same extent as if such conditions and provisions were fully
6 incorporated in said bond form.

7 Know all men by these presents, that we, the undersigned
8 as principal and as sureties, are hereby held and firmly bound
9 unto in the penal sum of dollars, for the
10 payment of which well and truly to be made, we hereby jointly and severally bind our-
11 selves, our heirs, executors, administrators, successors and assigns.

12 Signed this day of, 19....

13 The condition of the above obligation is such that whereas, the above named
14 principal did on the day of, 19.... enter
15 into a contract with, which said contract is made
16 a part of this the bond the same as though set forth herein;

17 Now, if the said shall well and faithfully do and
18 perform the things agreed by to be done and performed
19 according to the terms of said contract, and shall pay all lawful claims of sub-
20 contractors, materialmen, [and] laborers, persons, firms or corporations for labor
21 performed [and] or materials, provisions, provender or other supplies or teams, fuel,
22 oils, implements or machinery furnished, used or consumed in the carrying forward,
23 performing or completing of said contract, we agreeing and assenting that this un-
24 dertaking shall be for the benefit of any subcontractor, materialman, [or] laborer,
25 person, firm or corporation having a just claim, as well as for the obligee herein;
26 then this obligation shall be void; otherwise the same shall remain in full force and

27 effect; it being expressly understood and agreed that the liability of the surety for
28 any and all claims hereunder shall in no event exceed the penal amount of this obli-
29 gation as herein stated.

30 The said surety hereby stipulates and agrees that no modifications, omissions or
31 additions in or to the terms of the said contract or in or to the plans or specifications
32 therefor shall in any wise affect the obligation of said surety on its bond.

1 6. 【This act shall take effect immediately.】 All acts or parts of acts inconsis-
2 ent herewith be and the same are hereby repealed.

1 7. This act shall take effect immediately.

STATEMENT

The purpose of this act is to broaden the scope of protection of bonds to those who supply labor, materials, provisions, provender or other supplies including teams, fuel, oils, implements or machinery used or consumed in the furtherance or completion of contracts concerning public works in line with similar statutes in other States so that all suppliers should be so protected.

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Mr. Leap, Chairman of the Committee on Taxation, reported Senate Bill No. 63,
Favorably.

Signed—S. Rusling Leap, Arthur N. Pierson, Theodore B. Dawes.

Mr. Albright, Chairman of the Committee on Labor, Industries, and Social Welfare, reported

Senate Bill No. 65,

Favorably, with committee amendment.

Signed—William H. Albright, Dryden Kuser.

The following proposed amendments to Senate Bill No. 65 were read:

Amend paragraph one by striking out the words "by contractors" in line three, also by striking out the words "by such contractors" in line five.

Amend paragraph four by striking out all of section three and insert in lieu thereof the following:

"3. Any person, firm or corporation to whom any money shall be due on account of having performed any labor or furnished any materials, provisions, provender or other supplies, teams, fuel, oils, implements or machinery, in, upon, for or about the construction, erection, alteration or repair of any such building, work or improvement, at any time before the acceptance thereof by the duly authorized board or officer, or within eighty (80) days thereafter, shall furnish the sureties on said bond a statement of the amount due to any such person, firm or corporation. No suit shall be brought against any said sureties on said bond until the expiration of eighty (80) days after the acceptance thereof by the duly authorized board or officer. If said indebtedness shall not be paid in full at the expiration of said eighty (80) days, said person, firm or corporation may bring an action in his or its own name upon such bond, said action to be commenced within one year from the date of the acceptance of said building, work or improvement, and upon the trial of any such action the court shall award to the prevailing party a reasonable attorney's fee to be taxed as costs, and to be included in the judgment therein rendered."

Mr. Albright moved the adoption of the amendments to Senate Bill No. 65.

Which motion was adopted.

2A:44 - 144

November 19, 1969

LEGISLATIVE HISTORY OF R.S. 2A:44-144
(Sureties, amount of bond, condition for payment of claims)

L. 1918 - C.75 See Legislative History of R.S. 2A:44-143.

Amended by the following laws:

L. 1920 - C110 - A169

February 8 - Introduced by Donovan.

March 9 - Passed Assembly.

March 30 - Passed Senate.

April 7 - Approved, chapter 110.

Not amended during passage.

Statement reads:

"The purpose of this amendment is to guard against a
bond being made in excess of one hundred per centum (100%).

L. 1932 - C.142 See Legislative History of R.S. 2A:44-143.

We have no newspaper clippings dating to the enactment of this law or
its amendments.

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