

52:38-7

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2009 **CHAPTER:** 313

NJSA: 52:38-7 (quires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts)

BILL NO: S2730 (Substituted for A4082)

SPONSOR(S) Rice and Others

DATE INTRODUCED: April 27, 2009

COMMITTEE: **ASSEMBLY:** Appropriations

SENATE: Labor
Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** January 11, 2010

SENATE: January 11, 2010

DATE OF APPROVAL: January 18, 2010

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Third reprint enacted)

S2730

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY:	Yes
	SENATE:	Yes Lab. 5-18-09 Bud. 6-11-09

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
LEGISLATIVE FISCAL ESTIMATE:	Yes	6-18-09 1-15-10

A4082

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY:	Yes
	SENATE:	No

(continued)

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes 12-30-09
1-15-10

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government
Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

LAW/RWH

[Third Reprint]

SENATE, No. 2730

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED APRIL 27, 2009

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

Senator M. TERESA RUIZ

District 29 (Essex and Union)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Co-Sponsored by:

Senators Redd, Buono, Turner, Assemblywoman Pou, Assemblymen Caputo, Johnson, Assemblywomen Jasey, Oliver, Spencer and Rodriguez

SYNOPSIS

Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on January 4, 2010, with amendments.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT requiring public bodies to provide funds for outreach and
 2 training programs for minority group members and women in
 3 connection with certain construction contracts.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. a. Notwithstanding the provisions of any law or regulation
 9 to the contrary, upon entering into any ³[construction] public
 10 works³ contract in excess of \$1,000,000 which is funded, in whole
 11 or in part, by funds of a public body, or any ³[construction] public
 12 works³ contract of any size which is funded, in whole or in part, by
 13 funds provided to the public body pursuant to the “American
 14 Recovery and Reinvestment Act of 2009,” Pub.L.111-5, the public
 15 body entering into the contract shall transfer an amount equal to one
 16 half of one percent (0.5%) of the portion of the contract amount
 17 funded by funds of the public body, or provided to the public body
 18 pursuant to the “American Recovery and Reinvestment Act of
 19 2009,” Pub.L.111-5, to the Department of Labor and Workforce
 20 Development¹, except that ²any State-wide authority which enters
 21 into the contract and administers a program which meets the
 22 requirements of this section may retain all or a portion of the 0.5%
 23 share of the funds under the contract as is necessary for the
 24 operation of the program, but shall transfer to the department any
 25 portion of the funds not necessary for the program, and except that²
 26 funds shall not be transferred ²or retained² pursuant to this section
 27 if the transfer ²or retaining of the funds² is contrary to any federal
 28 requirement and may result in the loss of federal funds. For a
 29 project in which federal and State funds are combined, the entire
 30 ²[transfer] amount² may be ²[made] transferred or retained² from
 31 the State portion of the funds if doing so is necessary to prevent any
 32 loss of federal funds¹.

33 ³b.³ The department ²or authority² shall use the transferred ²or
 34 retained² funds to provide on-the-job or off-the-job outreach and
 35 training programs for minority group members and women in
 36 ³[the]³ construction ³[trades] trade occupations or other
 37 occupations, including engineering and management occupations,³
 38 ²utilized ³[under the contract², including] in the performance of
 39 public works contracts. The programs funded pursuant to this
 40 subsection, shall include, but not be limited to,³ programs preparing
 41 minority group members and women for admission into registered

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted May 18, 2009.

²Senate SBA committee amendments adopted June 11, 2009.

³Assembly AAP committee amendments adopted January 4, 2010.

1 apprenticeships ¹with opportunities for long-term employment ²in
2 ³[those] construction³ trades² providing economic self-sufficiency
3 for the minority group members and women³, with priority given,
4 with respect to the funds from a contract used for apprenticeship
5 programs or apprenticeship-related programs, to trades utilized in
6 that contract, and shall include programs providing supportive
7 services to help facilitate successful completion of any
8 apprenticeship or other training assisted pursuant to this section³.
9 The department ²or authority² shall use funds transferred ²or
10 retained² pursuant to this ²[act] section² to provide grants to
11 implement such programs to consortia which include those
12 community-based organizations, faith-based organizations, labor
13 organizations, employers, contractors and trade organizations,
14 institutions of higher education, and schools and other local public
15 agencies which the department ²or authority² determines are best
16 able to facilitate entry ²and success² of minority group members
17 and women into training and long-term ³trade and professional³
18 employment in the construction industry³, and may use a portion of
19 the funds for initiatives to prepare minority group members and
20 women for registered apprenticeship programs and related post-
21 secondary education, such as grants to consortia provided pursuant
22 to the "Youth Transitions to Work Partnership Act," P.L.1993, c.
23 268 (C.34:15E-1 et seq.), and for initiatives, such as those of the NJ
24 PLACE program established pursuant to P.L.2009, c. (C.) (now
25 pending before the Legislature as Senate Bill, No. 3093 (1R)), to
26 facilitate the coordination and articulation of registered
27 apprenticeship programs with degree programs in institutions of
28 higher education, including initiatives to articulate programs in a
29 manner which may assist in providing transitions from trade
30 occupations to professional occupations utilized in the construction
31 industry³. The department ²or authority² shall seek agreements and
32 commitments from grant participants to provide long-term
33 employment to successful applicants and trainees where possible¹.
34 The department ²or authority² shall be reimbursed from the
35 transferred ²or retained² funds for any reasonable and necessary
36 costs incurred ¹by the department¹ ²or authority² in administering
37 those programs.

38 ³[b.] c.³ The Department of ³[Labor and Workforce
39 Development, in coordination with the Department of]³ the
40 Treasury, ³and the Division of Contract Compliance and Equal
41 Employment Opportunities in Public Contracts in that department,³
42 shall ³provide, and³ make available to the public on the Internet ³[a
43 full disclosure, by construction], an annual report, not later than
44 December 31 of 2010 and each year after that year, which shall list
45 all public works contracts subject to this act and report, for each
46 public works³ contract, ³[of]³ the ³percentage and amount of³

1 funds ³withheld and³ provided to programs funded pursuant to this
 2 section and ³~~2~~³a full disclosure, by program, of²³ the numbers
 3 ³and percentages of apprentices and other workers under each
 4 contract who are³ of minority group members and women
 5 ³~~participating in the programs~~³. The Department of Labor and
 6 Workforce Development shall, not later than December 31 of ³2010
 7 and³ each year after ³~~the~~ that³ year ³~~of the effective date of~~
 8 this³ ²~~act~~ ³~~section~~²³, provide an annual report, which shall
 9 also be made available to the public on the Internet, on all of the
 10 programs funded pursuant to this ²~~act~~ section², which shall
 11 include, for each ²~~contract~~ program², data regarding the
 12 ³performance³ results ³~~with respect to the enrollment~~³ of
 13 minority group members and women ³~~into registered~~³
 14 ¹~~apprenticeship~~ ³~~apprenticeships~~¹ and participating in the
 15 programs, including outcome measures detailing employment
 16 placement, increased earnings and employment retention, as those
 17 terms are used in the federal Workforce Investment Act of 1998,
 18 Pub.L.105-220 (29 U.S.C. s.2801 et seq.), and shall include data
 19 regarding enrollment into registered apprentice programs and³
 20 results regarding their retention in long-term employment¹³~~[.]~~³
 21 ²~~including~~ ³~~and shall include~~² the numbers and percentages of
 22 apprentices and other workers under each construction public works
 23 contract who are women and minority group members¹³. ²Public
 24 bodies entering into ³~~construction~~ public works³ contracts subject
 25 to the provisions of this section, including State-wide authorities,
 26 and the Department of the Treasury shall provide such information
 27 to the ³~~department~~ Department of Labor and Workforce
 28 Development and the Department of the Treasury³ as ³~~it deems~~
 29 the departments deem³ necessary for the purposes of this section.²

30 ³~~[c.] d.~~³ For the purposes of this section¹~~[,]~~¹ "public body"
 31 means the State of New Jersey, any of its political subdivisions, any
 32 authority created by the Legislature of the State of New Jersey and
 33 any instrumentality or agency of the State of New Jersey or of any
 34 of its political subdivisions;¹ ²~~and~~² ³~~public works contract~~³
 35 means public works contract as defined in section 1 of P.L.1975,
 36 c.127 (C.10:5-31);³ "registered apprenticeship" means
 37 apprenticeship in a program providing to each trainee combined
 38 classroom and on-the-job training under the direct and close
 39 supervision of a highly skilled worker in an occupation recognized
 40 as an apprenticeable trade, and registered by the Office of
 41 Apprenticeship of the United States Department of Labor and
 42 meeting the standards established by that office¹; and "Statewide
 43 authority" means any authority created by the Legislature which is
 44 authorized by law to enter into contracts for construction at
 45 locations throughout the State².

S2730 [3R] RICE, CUNNINGHAM

5

- 1 2. This act shall take effect immediately.

SENATE, No. 2730

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED APRIL 27, 2009

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator SANDRA B. CUNNINGHAM

District 31 (Hudson)

SYNOPSIS

Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring public bodies to provide funds for outreach and
2 training programs for minority group members and women in
3 connection with certain construction contracts.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. Notwithstanding the provisions of any law or regulation
9 to the contrary, upon entering into any construction contract in
10 excess of \$1,000,000 which is funded, in whole or in part, by funds
11 of a public body, or any construction contract of any size which is
12 funded, in whole or in part, by funds provided to the public body
13 pursuant to the “American Recovery and Reinvestment Act of
14 2009,” Pub.L.111-5, the public body entering into the contract shall
15 transfer an amount equal to one half of one percent (0.5%) of the
16 portion of the contract amount funded by funds of the public body,
17 or provided to the public body pursuant to the “American Recovery
18 and Reinvestment Act of 2009,” Pub.L.111-5, to the Department of
19 Labor and Workforce Development. The department shall use the
20 transferred funds to provide on-the-job or off-the-job outreach and
21 training programs for minority group members and women in the
22 construction trades, including programs preparing minority group
23 members and women for admission into registered apprenticeships.
24 The department shall be reimbursed from the transferred funds for
25 any reasonable and necessary costs incurred in administering those
26 programs.

27 b. The Department of Labor and Workforce Development, in
28 coordination with the Department of the Treasury, shall make
29 available to the public on the Internet a full disclosure, by
30 construction contract, of the funds provided to programs funded
31 pursuant to this section and the numbers of minority group members
32 and women participating in the programs. The Department of
33 Labor and Workforce Development shall, not later than December
34 31 of each year after the year of the effective date of this act,
35 provide an annual report, which shall also be made available to the
36 public on the Internet, on all of the programs funded pursuant to
37 this act, which shall include, for each contract, data regarding the
38 results with respect to the enrollment of minority group members
39 and women into registered apprenticeship and results regarding
40 their retention in long-term employment.

41 c. For the purposes of this section, “public body” means the
42 State of New Jersey, any of its political subdivisions, any authority
43 created by the Legislature of the State of New Jersey and any
44 instrumentality or agency of the State of New Jersey or of any of its
45 political subdivisions.

46
47 2. This act shall take effect immediately.

STATEMENT

1

2

3 This bill requires any State or local public body, upon entering
4 into any construction contract in excess of \$1,000,000 funded, in
5 whole or in part, by funds of the public body, or any construction
6 contract of any size which is funded, in whole or in part, by funds
7 provided to the public body pursuant to the “American Recovery
8 and Reinvestment Act of 2009,” to transfer an amount equal to
9 0.5% of the portion of the contract amount funded by those funds,
10 to the Department of Labor and Workforce Development. The bill
11 requires the department to use the transferred funds to provide on-
12 the-job or off-the-job outreach and training programs, including
13 programs of preparation for admission into registered
14 apprenticeships, for minority group members and women in the
15 construction trades.

16 In addition, the bill requires the department, in coordination with
17 the Department of the Treasury, to make public on the Internet a
18 full disclosure, by construction contract, of the funds provided to
19 programs funded pursuant to the bill and the numbers of minority
20 group members and women participating in the programs. Finally,
21 the Department of Labor and Workforce Development is required to
22 provide annual reports, also made public on the Internet, on all
23 programs funded pursuant to the bill, including, for each contract,
24 data regarding the results with respect to the enrollment of minority
25 group members and women into registered apprenticeship and
26 results regarding their long-term employment.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 2730

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 2009

The Senate Labor Committee reports favorably, and with committee amendments, Senate Bill No. 2730.

As amended by the committee, this bill requires any State or local public body, upon entering into any construction contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any construction contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the "American Recovery and Reinvestment Act of 2009," to transfer an amount equal to 0.5% of the portion of the contract amount funded by those funds, to the Department of Labor and Workforce Development, unless the transfer is contrary to any federal requirement and may result in the loss of federal funds. If federal and State funds are combined, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal fund. The bill requires the department to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships, for minority group members and women in the construction trades, with opportunities for long-term employment providing economic self-sufficiency for the minority group members and women.

The department is required to use the funds to provide grants to implement such programs to those public, private, not-for-profit, employer and labor organizations that the department deems most capable of implementing outreach and training programs and facilitating the entry of minority group members and women into training and long-term employment in the construction industry. The department is directed to seek agreements and commitments from grant participants to provide long-term employment to successful applicants and trainees where possible.

In addition, the bill requires the department, in coordination with the Department of the Treasury, to make public on the Internet a full disclosure, by construction contract, of the funds provided to programs funded pursuant to the bill and the numbers of minority group members and women participating in the programs. Finally, the Department of Labor and Workforce Development is required to

provide annual reports, also made public on the Internet, on all programs funded pursuant to the bill, including, for each contract, data regarding the results with respect to the enrollment of minority group members and women into registered apprenticeships and results regarding their long-term employment, including the numbers and percentages of apprentices and other workers under each contract who are women and minority group members.

The amendments adopted by the committee:

1. Exempt from the bill any transfer that may be contrary to any federal requirement and would result in the loss of federal funds;
2. Allow for transfers from a project in which federal and State funds are combined to be made entirely from the State portion of the funds, if needed to prevent the loss of federal funds;
3. Require the department to award grants to consortia of those public, private, not-for-profit, employer and labor organizations that the department deems most capable of implementing outreach and training programs and facilitating the entry of minority group members and women into training and long-term employment in the construction industry;
4. Direct the department to seek agreements and commitments from grant participants to provide long-term employment to successful applicants and trainees where possible;
5. Define “registered apprenticeship” for purposes of the bill; and
6. Specify that the reports issued by the department regarding results with respect to employment and training of minority group members and women include the numbers and percentages of apprentices and other workers under each contract who are women and minority members.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2730

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 11, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2730 (1R), with committee amendments.

This bill, as amended by the committee, requires any State or local public body, upon entering into any construction contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any construction contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5% of the portion of the contract amount funded by those funds, to the Department of Labor and Workforce Development, except that:

1. Any State-wide authority which enters into the contract and administers a program which meets the requirements of the bill may retain all or a portion of the 0.5% share of the funds under the contract as is necessary for the operation of program, but shall transfer to the department any portion of the funds not necessary for the program; and

2. Funds may not be transferred or retained if that is contrary to any federal requirement and may result in the loss of federal funds, although, if federal and State funds are combined, the entire amount transferred or retained may be from the State portion of the funds if necessary to prevent any loss of federal funds.

The bill, as amended, requires the department or authority to use the transferred or retained funds to provide on-the-job or off-the-job outreach and training programs in the construction trades utilized under the contracts, including programs of preparation for admission into registered apprenticeships for minority group members and women in those trades, with opportunities for long-term employment providing economic self-sufficiency for the minority group members and women.

The department or authority is required to use the funds to provide grants to implement such programs to those public, private, not-for-profit, employer and labor organizations that the department or authority determines are best able to facilitate the entry and success of

minority group members and women into training and long-term employment in the construction industry. The department or authority is directed to seek agreements and commitments from grant participants to provide long-term employment to successful applicants and trainees where possible.

In addition, the bill, as amended, requires the department, in coordination with the Department of the Treasury, to make public on the Internet a full disclosure, by construction contract, of the funds provided to programs funded pursuant to the bill and a full disclosure, by program, of the numbers of minority group members and women participating in the programs. Finally, the Department of Labor and Workforce Development is required to provide annual reports, also made public on the Internet, on all programs funded pursuant to the bill, including, for each program, data regarding the results with respect to the enrollment of minority group members and women into registered apprenticeships and results regarding their retention in long-term employment, including the numbers and percentages of apprentices and other workers under each contract who are women and minority group members.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1. Permit any State-wide authority which administers a program meeting the requirements of the bill to retain all or a portion of the 0.5% share of the minority and women outreach and training funds under the contract as is necessary for the operation of the program, but requires the transfer to the department any portion of the funds not necessary for the program;
2. Require that the minority and women outreach and training funds transferred or retained under the bill with respect to a contract be used for outreach and training specifically in the trades which are utilized under the contract; and
3. Clarify the reporting requirements of the bill by specifying that minority and women hiring and employment numbers and rates are reported by construction contract and the success rates of outreach and training programs are reported by program.

FISCAL IMPACT:

While the Office of Legislative Services (OLS) can not quantify the cost or expected revenue of this bill due to a lack of information on the number, source and amount of funding for future construction contracts, the revenue generated for the department could be significant. The State and local costs could also be significant; however, it is important to note that the cost of construction contracts is frequently funded through the issuance of bonds, and in these cases the cost will be amortized over the period of bond financing.

In summary, the bill may result in significant revenues for the department and corresponding costs to State and local public bodies, but it is not possible for OLS to quantify the total amounts due to inadequate information regarding future construction contracts in the State.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 2730

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Appropriations Committee reports favorably Senate Bill No. 2730 (2R), with committee amendments.

The bill, as amended, requires any State or local public body, upon entering into any public works contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5% of the portion of the contract amount funded by those funds, to the Department of Labor and Workforce Development, except that:

1. Any State-wide authority which enters into the contract and administers a program which meets the requirements of the bill may retain part or all of the 0.5% share of the funds under the contract as is needed to operate of program, but shall transfer to the department any portion of the funds not needed for the program; and

2. Funds may not be transferred or retained if that is contrary to any federal requirement and may result in the loss of federal funds.

The bill requires the department or authority to use the transferred or retained funds to provide on-the-job or off-the-job outreach and training programs in trade and professional occupations in the construction industry, giving priority, in the case of training in the trades, to the trades used in each project.

The programs funded under the bill would include programs of preparation for admission into registered apprenticeships for minority group members and women in those trades, with opportunities for long-term employment providing economic self-sufficiency, and programs of supportive services to facilitate successful completion of training, programs to prepare youth for registered apprenticeship programs and related higher education, such as grants to consortia provided under the “Youth Transitions to Work Partnership Act,” and programs, like the NJ PLACE program, to coordinate and articulate registered apprenticeship programs with college degree programs,

including transitions from trade occupations to professional occupations in the construction industry.

The department or authority is required to use the funds to provide grants to those public, private, not-for-profit, employer and labor organizations that the department or authority finds are best able to facilitate the entry and success of minority group members and women into training and long-term trade and professional employment in the construction industry. The department or authority is directed to seek agreements and commitments from grant participants to provide long-term employment to successful applicants and trainees.

The bill also requires the Department of the Treasury and the Department of Labor and Workforce Development to issue annual reports. The Department of the Treasury report would include the percentage and amounts of funds provided for programs funded under the bill and the numbers and percentages of apprentices and other workers under each contract who are women and minority group members. The Department of Labor and Workforce Development report is required to provide, for each program funded under the bill, data regarding the performance results of minority group member and women participants, including outcome measures detailing employment placement, increased earnings and employment retention and data regarding enrollment into registered apprenticeships and retention in long-term employment.

As amended, this bill is identical to Assembly Bill No. 4082, as amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) can not quantify the cost of this legislation or the expected revenue due to a lack of information on the number, source and amount of funding for future construction contracts. However, the OLS was able to ascertain examples of a similar program currently in operation and it appears likely that both State and local public bodies may incur significant costs. It is important to note that any cost incurred will be received as revenue by the Department of Labor and Workforce Development or retained by the administering State-wide authority.

Currently, the Construction Trades Training Program for Women and Minorities is jointly administered by the department and the New Jersey School Development Authority (NJSDA). Funding for this program is established pursuant to P.L.2007, c.137 (C.52:18A-235 et al) which provides that up to one half of one percent (0.5 percent) of the annual value of the NJSDA's construction program may be allocated to the financing of minority and women worker outreach and training programs. State regulation (N.J.A.C.19:39-5.1) requires this amount be allocated to programs pertinent to school facilities projects construction. Since its inception, the NJSDA has entered into approximately \$3.6 billion in construction contracts; thus, 0.5 percent

of this amount (\$18 million) has been set aside by the NJSDA for minority and women outreach and training programs. According to the authority, the program has expended approximately \$8 million to date, leaving \$10 million in an account dedicated to this purpose. Additionally, P.L.2008, c.39 authorized \$3.2 billion for the NJSDA to apply to school construction over the next several years. It is unknown what portion of these funds will be expended in construction contracts worth more than \$1 million. If the funds are all dedicated to construction contracts worth more than \$1 million; then, an additional \$16 million may be retained by the authority or transferred to the department for apprenticeship/training programs for women and minorities. (It should be noted that this is not an additional cost resulting from this bill.)

In summary, it is possible that significant revenue, for example, approximately \$16 million from the NJSDA, could be generated from State and local public bodies pursuant to this bill but it is not possible for the OLS to quantify this number due to a lack of information in the number, source and amount of funding for future construction contracts in the State. Likewise, a significant cost could be borne by local and State public bodies for the cost of the transfer required pursuant to this bill.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1. Replace the term “construction contract” with “public works contract” as defined the State's existing anti-discrimination law, thus linking the bill's 0.5% assessment for women and minority recruitment to findings, made pursuant to that law, of underrepresentation of women and minority group member due to historic patterns of discrimination in the industry;

2. Have the training programs funded under the bill apply to all occupations utilized in the performance of public works contacts, including professional occupations like engineering and management occupations, thus addressing all areas of discrimination in the industry;

3. Modify the bill’s requirement that training be in construction trades utilized in the contract to instead permit training in professional, as well as trade, construction occupations, but require that, in the case of training in the trades, that priority be given to the trades used in each project;

4. Authorize the use of funds under the bill for supportive services to facilitate successful completion of training, and for related training initiatives like the NJ PLACE program and the grants provided under the “Youth Transitions to Work Partnership Act.”

5. Modify bill requirements regarding annual progress reports to specify that both the Department of Labor and Workforce Development and the Department of the Treasury issue reports and distinguish which issues and data would be covered in each report.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2730

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JUNE 18, 2009

SUMMARY

- Synopsis:** Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.
- Type of Impact:** Revenue increase, Department of Labor and Workforce Development Expenditure increase, all other State and local public bodies.
- Agencies Affected:** All State and local public bodies.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011
<u>Cost - State</u> (excluding Department of Labor and Workforce Development)		Indeterminate increase.	
<u>Revenue</u> Department of Labor and Workforce Development		Indeterminate increase - Revenue will equal cost incurred by all independent State entities and local public bodies	
<u>Cost</u> Department of Labor and Workforce Development		Indeterminate - Department's cost will equal revenue.	
<u>Cost</u> Independent State entities and local public bodies		Indeterminate increase.	

- The Office of Legislative Services (OLS) can not quantify the cost of Senate Bill No. 2730 (2R) or the revenue generated by it due to a lack of information on the number, source and amount of funding for future construction contracts. However, it is noted that the revenue generated for the department, or retained by the administering authority, could be significant.
- The costs to public bodies at both the local and State levels can not be determined but also could be significant. However, it is noted that any cost incurred will be received as revenue by the Department of Labor and Workforce Development or retained by the administering State-wide authority. Additionally, the cost of construction contracts is frequently funded

through the issuance of bonds, and in these cases the cost of the legislation to public bodies will be amortized over the period of bond financing.

- The bill requires all public bodies entering into any construction contract in excess of \$1 million which is funded, in whole or in part, by funds of a public body, to transfer an amount equal to one half of one percent (0.5 percent) to the Department of Labor and Workforce Development (department). The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in the construction trades.
- The bill requires all public bodies entering into a construction contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” (ARRA) (Public Law 111-5) to transfer an amount equal to one half of one percent (0.5 percent) to the department. The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in the construction trades.
- The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible construction contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program.
- Federal requirements dictating allowable expenses for grants issued under ARRA to local and State entities may differ by federal agency. Therefore, it is not possible to determine if any or all funds granted to State and local bodies for construction contracts under ARRA may include the transfer required by S 2730 (2R). Due to this uncertainty, S 2730 (2R) includes a provision exempting any public body from the requirement to transfer funds pursuant to this legislation, if the transfer is contrary to any federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant’s authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds.
- “Public body” is defined as the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey or of any of its political subdivisions.

BILL DESCRIPTION

Senate Bill No. 2730 (2R) of 2009 requires any State or local public body, upon entering into any construction contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any construction contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5 percent of the portion of the contract amount funded by those funds, to the department, unless the transfer is contrary to any federal requirement and may result in the loss of federal funds. If federal and State funds are combined, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of

federal funds. The bill requires the department to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships, for minority group members and women in the construction trades, with opportunities for long-term employment providing economic self-sufficiency for the minority group members and women.

The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible construction contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program. In addition, the bill requires the department, in coordination with the Department of the Treasury, to make public on the Internet a full disclosure, by construction contract, of the funds provided to programs funded pursuant to the bill and the numbers of minority group members and women participating in the programs. Finally, the Department of Labor and Workforce Development is required to provide annual reports, also made public on the Internet, on all programs funded pursuant to the bill, including, for each contract, data regarding the results with respect to the enrollment of minority group members and women into registered apprenticeships and results regarding their long-term employment, including the numbers and percentages of apprentices and other workers under each contract who are women and minority group members.

FISCAL ANALYSIS

OFFICE OF LEGISLATIVE SERVICES

The OLS can not quantify the cost of this legislation or the expected revenue due to a lack of information in the number, source and amount of funding for future construction contracts. However, it is noted that the revenue generated for the department could be significant. The State and local costs also could be significant; however, it is important to note that the cost of construction contracts is frequently funded through the issuance of bonds, and in these cases the cost will be amortized over the period of bond financing.

Revenue from the legislation is generated from two categories of construction contracts. First, all public bodies entering into construction contracts over \$1 million would be required to transfer funds equal to 0.5 percent of that contract to the Department of Labor and Workforce Development; except that, any State-wide authority administering such a program may retain the funds necessary to administer the program. Additionally, 0.5 percent of any construction contract funded in part, or in whole, by the “American Recovery and Reinvestment Act of 2009” must be transferred to the department or retained by the administering authority. To better understand the potential revenue impact of this legislation, it is useful to examine examples, such as: capital construction expenditures by State agencies; and, an existing program administered by a State Authority identical to the program proposed in S 2730 (2R).

The OLS is not aware of a source reporting all construction contracts entered into by public bodies. The FY 2010 proposed budget (page H-29) displays FY 2010 expenditures of the Transportation Trust Fund from State, federal (non ARRA) and third-party resources in the amount of \$3.3 billion. It is unknown what portion of these funds will be expended in construction contracts exceeding \$1 million. However, if 50 percent of this total are expended through construction contracts worth over \$1 million, then about \$8.25 million will be required to be transferred to the department for apprenticeship/training programs for women and minorities or otherwise expended for this purpose.

Currently, the Construction Trades Training Program for Women and Minorities is jointly administered by the department and the New Jersey School Development Authority (NJSDA). Funding for this program is established pursuant to P.L.2007, c.137 (C.52:18A-235 et al) which provides that up to one half of one percent (0.5 percent) of the annual value of the NJSDA's construction program may be allocated to the financing of minority and women worker outreach and training programs. State regulation (N.J.A.C.19:39-5.1) requires, rather than permits, this amount be allocated to programs pertinent to school facilities projects construction. Since its inception, the NJSDA has entered into approximately \$3.6 billion in construction contracts; thus, 0.5 percent of this amount (\$18 million) has been set aside by the NJSDA for minority and women outreach and training programs. According to the authority, the program has expended approximately \$8 million to date, leaving \$10 million in an account dedicated to this purpose. Additionally, P.L.2008, c.39 authorized \$3.2 billion for the NJSDA to apply to school construction over the next several years. It is unknown what portion of these funds will be expended in construction contracts worth more than \$1 million. If the funds are all dedicated to construction contracts worth more than \$1 million; then, an additional \$16 million may be retained by the authority or transferred to the department for apprenticeship/training programs for women and minorities. (It should be noted that this is not an additional cost resulting from this bill.)

Furthermore, revenue may be collected as a percentage of the estimated \$17.5 billion in grants to be received by public bodies in New Jersey for construction projects from programs established pursuant to ARRA. It is unclear at this time what percentage of that funding will be dedicated to construction contracts. It is also unclear if any of the funds granted public bodies through ARRA will include restrictions prohibiting the transfer required by S 2730 (2R). It does not appear that ARRA prohibits the use of funds for this purpose. However, ARRA does allow federal departments to adopt their own rules and regulations regarding the allowable expenses on funds distributed pursuant to ARRA. S 2730 (2R) includes a provision that exempts public bodies from transferring any funds if the transfer is contrary to a federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant's authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds. In summary, it is possible that significant revenue, for example, approximately \$16 million from one authority, could be generated from State and local public bodies pursuant to S 2730 (2R) but it is not possible for OLS to quantify this number due to a lack of information in the number, source and amount of funding for future construction contracts in the State. Likewise, a significant cost could be borne by local and State public bodies for the cost of the transfer required pursuant to S 2730 (2R).

Section: Commerce, Labor and Industry
Analyst: Robin C. Ford
Associate Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2730

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JANUARY 15, 2010

SUMMARY

- Synopsis:** Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.
- Type of Impact:** Revenue increase, Department of Labor and Workforce Development. Expenditure increase, all other State and local public bodies.
- Agencies Affected:** All State and local public bodies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2009</u>	<u>Fiscal Year 2010</u>	<u>Fiscal Year 2011</u>
<u>Cost-State</u> (excluding Department of Labor and Workforce Development)		Indeterminate increase.	
<u>Revenue</u> Department of Labor and Workforce Development	Indeterminate increase - Revenue will equal cost incurred by all independent State entities and local public bodies.		
<u>Cost</u> Department of Labor and Workforce Development	Indeterminate - Department's cost will equal revenue.		
<u>Cost</u> Independent State entities and local public bodies		Indeterminate increase.	

- The Office of Legislative Services (OLS) can not quantify the cost of Senate Bill No. 2730 (3R) or the revenue generated by it due to a lack of information on the number, source and amount of funding for future public works contracts. However, it is noted that the revenue generated for the department, or retained by the administering authority, could be significant.
- The costs to public bodies at both the local and State levels can not be determined but also could be significant. However, it is noted that any cost incurred will be received as revenue by the Department of Labor and Workforce Development or retained by the administering State-wide authority. Additionally, the cost of public works contracts is frequently funded

through the issuance of bonds, and in these cases the cost of the legislation to public bodies will be amortized over the period of bond financing.

- The bill requires all public bodies entering into any public works contract in excess of \$1 million which is funded, in whole or in part, by funds of a public body, to transfer an amount equal to one half of one percent (0.5 percent) to the Department of Labor and Workforce Development (department). The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in the construction trades.
- The bill requires all public bodies entering into a public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” (ARRA) (Public Law 111-5) to transfer an amount equal to one half of one percent (0.5 percent) to the department. The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in construction trade occupations, or other occupations utilized in the performance of public works contracts.
- The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible public works contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program.
- Federal requirements dictating allowable expenses for grants issued under ARRA to local and State entities may differ by federal agency. Therefore, it is not possible to determine if any or all funds granted to State and local bodies for public works contracts under ARRA may include the transfer required by S 2730 (3R). Due to this uncertainty, S 2730 (3R) includes a provision exempting any public body from the requirement to transfer funds pursuant to this legislation, if the transfer is contrary to any federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant’s authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds.
- “Public body” is defined as the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey or of any of its political subdivisions.

BILL DESCRIPTION

Senate Bill No. 2730 (3R) of 2009 requires any State or local public body, upon entering into any public works contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5 percent of the portion of the contract amount funded by those funds, to the department, unless the transfer is contrary to any federal requirement and may result in the loss of federal funds. If federal and State funds are combined, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of

federal funds. The bill requires the department to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships, for minority group members and women in the construction trades, with opportunities for long-term trade and professional employment providing economic self-sufficiency for the minority group members and women.

The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible public works contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program.

In addition, the bill requires the Division of Contract Compliance and Equal Employment Opportunities, in the Department of the Treasury, to make public on the Internet an annual report which provides a full disclosure, by public works contract, of the percentage and amount of funds withheld and provided to programs funded pursuant to the bill and the numbers and percentages of minority group members and women participating in the programs. Finally, the Department of Labor and Workforce Development is required to provide annual reports, also made public on the Internet, on all programs funded pursuant to the bill, including, for each program, data regarding the performance results of minority group members and women participating in the programs. The reports should include outcome measures detailing employment placement, increased earnings, and employment retention. Furthermore, the reports should include data regarding enrollment into registered apprenticeship programs and retention in long term employment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS can not quantify the cost of this legislation or the expected revenue due to a lack of information on the number, source and amount of funding for future public works contracts. However, it is noted that the revenue generated for the department could be significant. The State and local costs also could be significant; however, it is important to note that the cost of public works contracts is frequently funded through the issuance of bonds, and in these cases the cost will be amortized over the period of bond financing.

Revenue from the legislation is generated from two categories of public works contracts. First, all public bodies entering into public works contracts over \$1 million would be required to transfer funds equal to 0.5 percent of that contract to the Department of Labor and Workforce Development; except that, any State-wide authority administering such a program may retain the funds necessary to administer the program. Additionally, 0.5 percent of any public works contract funded in part, or in whole, by the “American Recovery and Reinvestment Act of 2009” must be transferred to the department or retained by the administering authority. To better understand the potential revenue impact of this legislation, it is useful to examine examples, such as: capital construction expenditures by State agencies; and, an existing program administered by a State Authority identical to the program proposed in S 2730 (3R).

The OLS is not aware of a source reporting all public works contracts entered into by public bodies. The FY 2010 proposed budget (page H-29) displays FY 2010 expenditures of the Transportation Trust Fund from State, federal (non ARRA) and third-party resources in the amount of \$3.3 billion. It is unknown what portion of these funds will be expended in public works contracts exceeding \$1 million. However, if 50 percent of this total are expended through public works contracts worth over \$1 million, then about \$8.25 million will be required to be transferred to the department for apprenticeship/training programs for women and minorities or otherwise expended for this purpose.

Currently, the Construction Trades Training Program for Women and Minorities is jointly administered by the department and the New Jersey School Development Authority (NJSDA). Funding for this program is established pursuant to P.L.2007, c.137 (C.52:18A-235 et al) which provides that up to one half of one percent (0.5 percent) of the annual value of the NJSDA's construction program may be allocated to the financing of minority and women worker outreach and training programs. State regulation (N.J.A.C.19:39-5.1) requires, rather than permits, this amount be allocated to programs pertinent to school facilities projects construction. Since its inception, the NJSDA has entered into approximately \$3.6 billion in construction contracts; thus, 0.5 percent of this amount (\$18 million) has been set aside by the NJSDA for minority and women outreach and training programs. According to the authority, the program has expended approximately \$8 million to date, leaving \$10 million in an account dedicated to this purpose. Additionally, P.L.2008, c.39 authorized \$3.2 billion for the NJSDA to apply to school construction over the next several years. It is unknown what portion of these funds will be expended in construction contracts worth more than \$1 million. If the funds are all dedicated to construction contracts worth more than \$1 million; then, an additional \$16 million may be retained by the authority or transferred to the department for apprenticeship/training programs for women and minorities. (It should be noted that this is not an additional cost resulting from this bill.)

Furthermore, revenue may be collected as a percentage of the estimated \$17.5 billion in grants to be received by public bodies in New Jersey for public works projects from programs established pursuant to ARRA. It is unclear at this time what percentage of that funding will be dedicated to public works contracts. It is also unclear if any of the funds granted public bodies through ARRA will include restrictions prohibiting the transfer required by S 2730 (3R). It does not appear that ARRA prohibits the use of funds for this purpose. However, ARRA does allow federal departments to adopt their own rules and regulations regarding the allowable expenses on funds distributed pursuant to ARRA. S 2730 (3R) includes a provision that exempts public bodies from transferring any funds if the transfer is contrary to a federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant's authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds.

In summary, it is possible that significant revenue, for example, approximately \$16 million from one authority, could be generated from State and local public bodies pursuant to S 2730 (3R) but it is not possible for OLS to quantify this number due to a lack of information in the number, source and amount of funding for future public works contracts in the State. Likewise, a significant cost could be borne by local and State public bodies for the cost of the transfer required pursuant to S 2730 (3R).

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4082

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JUNE 11, 2009

Sponsored by:

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Co-Sponsored by:

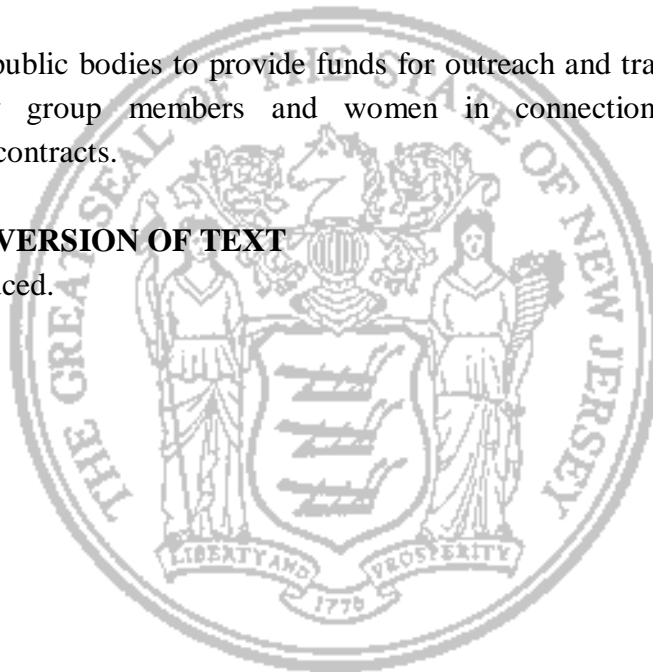
**Assemblywoman Pou, Assemblymen Caputo, Johnson, Assemblywomen
Jasey, Oliver, Spencer and Rodriguez**

SYNOPSIS

Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2009)

1 AN ACT requiring public bodies to provide funds for outreach and
2 training programs for minority group members and women in
3 connection with certain construction contracts.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. a. Notwithstanding the provisions of any law or regulation
9 to the contrary, upon entering into any construction contract in
10 excess of \$1,000,000 which is funded, in whole or in part, by funds
11 of a public body, or any construction contract of any size which is
12 funded, in whole or in part, by funds provided to the public body
13 pursuant to the “American Recovery and Reinvestment Act of
14 2009,” Pub.L.111-5, the public body entering into the contract shall
15 transfer an amount equal to one half of one percent (0.5%) of the
16 portion of the contract amount funded by funds of the public body,
17 or provided to the public body pursuant to the “American Recovery
18 and Reinvestment Act of 2009,” Pub.L.111-5, to the Department of
19 Labor and Workforce Development, except that any State-wide
20 authority which enters into the contract and administers a program
21 which meets the requirements of this section may retain all or a
22 portion of the 0.5% share of the funds under the contract as is
23 necessary for the operation of the program, but shall transfer to the
24 department any portion of the funds not necessary for the program,
25 and except that funds shall not be transferred or retained pursuant to
26 this section if the transfer or retaining of the funds is contrary to
27 any federal requirement and may result in the loss of federal funds.
28 For a project in which federal and State funds are combined, the
29 entire amount may be transferred or retained from the State portion
30 of the funds if doing so is necessary to prevent any loss of federal
31 funds. The department or authority shall use the transferred or
32 retained funds to provide on-the-job or off-the-job outreach and
33 training programs for minority group members and women in the
34 construction trades utilized under the contract, including programs
35 preparing minority group members and women for admission into
36 registered apprenticeships with opportunities for long-term
37 employment in those trades providing economic self-sufficiency for
38 the minority group members and women. The department or
39 authority shall use funds transferred or retained pursuant to this
40 section to provide grants to implement such programs to consortia
41 which include those community-based organizations, faith-based
42 organizations, labor organizations, employers, contractors and trade
43 organizations, institutions of higher education, and schools and
44 other local public agencies which the department or authority
45 determines are best able to facilitate entry and success of minority
46 group members and women into training and long-term employment
47 in the construction industry. The department or authority shall seek
48 agreements and commitments from grant participants to provide

1 long-term employment to successful applicants and trainees where
2 possible. The department or authority shall be reimbursed from the
3 transferred or retained funds for any reasonable and necessary costs
4 incurred by the department or authority in administering those
5 programs.

6 b. The Department of Labor and Workforce Development, in
7 coordination with the Department of the Treasury, shall make
8 available to the public on the Internet a full disclosure, by
9 construction contract, of the funds provided to programs funded
10 pursuant to this section and a full disclosure, by program, of the
11 numbers of minority group members and women participating in the
12 programs. The Department of Labor and Workforce Development
13 shall, not later than December 31 of each year after the year of the
14 effective date of this section, provide an annual report, which shall
15 also be made available to the public on the Internet, on all of the
16 programs funded pursuant to this section, which shall include, for
17 each program, data regarding the results with respect to the
18 enrollment of minority group members and women into registered
19 apprenticeships and results regarding their retention in long-term
20 employment, and shall include the numbers and percentages of
21 apprentices and other workers under each construction contract who
22 are women and minority group members. Public bodies entering
23 into construction contracts subject to the provisions of this section,
24 including State-wide authorities, and the Department of the
25 Treasury shall provide such information to the department as it
26 deems necessary for the purposes of this section.

27 c. For the purposes of this section: "public body" means the
28 State of New Jersey, any of its political subdivisions, any authority
29 created by the Legislature of the State of New Jersey and any
30 instrumentality or agency of the State of New Jersey or of any of its
31 political subdivisions; "registered apprenticeship" means
32 apprenticeship in a program providing to each trainee combined
33 classroom and on-the-job training under the direct and close
34 supervision of a highly skilled worker in an occupation recognized
35 as an apprenticeable trade, and registered by the Office of
36 Apprenticeship of the United States Department of Labor and
37 meeting the standards established by the office; and "Statewide
38 authority" means any authority created by the Legislature which is
39 authorized by law to enter into contracts for construction at
40 locations throughout the State.

41

42 2. This act shall take effect immediately.

43

44

45

STATEMENT

46

47 This bill requires any State or local public body, upon entering
48 into any construction contract in excess of \$1,000,000 funded, in

1 whole or in part, by funds of the public body, or any construction
2 contract of any size which is funded, in whole or in part, by funds
3 provided to the public body pursuant to the “American Recovery
4 and Reinvestment Act of 2009,” to transfer an amount equal to
5 0.5% of the portion of the contract amount funded by those funds,
6 to the Department of Labor and Workforce Development, except
7 that:

8 1. Any State-wide authority which enters into the contract and
9 administers a program which meets the requirements of the bill may
10 retain all or a portion of the 0.5% share of the funds under the
11 contract as is necessary for the operation of program, but shall
12 transfer to the department any portion of the funds not necessary for
13 the program; and

14 2. Funds may not be transferred or retained if that is contrary to
15 any federal requirement and may result in the loss of federal funds,
16 although, if federal and State funds are combined, the entire amount
17 transferred or retained may be from the State portion of the funds if
18 necessary to prevent any loss of federal funds.

19 The bill requires the department or authority to use the
20 transferred or retained funds to provide on-the-job or off-the-job
21 outreach and training programs in the construction trades utilized
22 under the contracts, including programs of preparation for
23 admission into registered apprenticeships for minority group
24 members and women in those trades, with opportunities for long-
25 term employment providing economic self-sufficiency for the
26 minority group members and women.

27 The department or authority is required to use the funds To
28 Whom It May Concern:To Whom It May Concern: provide grants
29 to implement such programs to those public, private, not-for-profit,
30 employer and labor organizations that the department or authority
31 determines are best able to facilitate the entry and success of
32 minority group members and women into training and long-term
33 employment in the construction industry. The department or
34 authority is directed to seek agreements and commitments from
35 grant participants to provide long-term employment to successful
36 applicants and trainees where possible.

37 In addition, the bill requires the department, in coordination with
38 the Department of the Treasury, to make public on the Internet a
39 full disclosure, by construction contract, of the funds provided to
40 programs funded pursuant to the bill and a full disclosure, by
41 program, of the numbers of minority group members and women
42 participating in the programs. Finally, the Department of Labor and
43 Workforce Development is required to provide annual reports, also
44 made public on the Internet, on all programs funded pursuant to the
45 bill, including, for each program, data regarding the results with
46 respect to the enrollment of minority group members and women
47 into registered apprenticeships and results regarding their retention
48 in long-term employment, including the numbers and percentages of

A4082 TUCKER, EVANS

5

- 1 apprentices and other workers under each contract who are women
- 2 and minority group members.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4082

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4082, with committee amendments.

The bill, as amended, requires any State or local public body, upon entering into any public works contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5% of the portion of the contract amount funded by those funds, to the Department of Labor and Workforce Development, except that:

1. Any State-wide authority which enters into the contract and administers a program which meets the requirements of the bill may retain part or all of the 0.5% share of the funds under the contract as is needed to operate of program, but shall transfer to the department any portion of the funds not needed for the program; and

2. Funds may not be transferred or retained if that is contrary to any federal requirement and may result in the loss of federal funds.

The bill requires the department or authority to use the transferred or retained funds to provide on-the-job or off-the-job outreach and training programs in trade and professional occupations in the construction industry, giving priority, in the case of training in the trades, to the trades used in each project.

The programs funded under the bill would include programs of preparation for admission into registered apprenticeships for minority group members and women in those trades, with opportunities for long-term employment providing economic self-sufficiency, and programs of supportive services to facilitate successful completion of training, programs to prepare youth for registered apprenticeship programs and related higher education, such as grants to consortia provided under the “Youth Transitions to Work Partnership Act,” and programs, like the NJ PLACE program, to coordinate and articulate registered apprenticeship programs with college degree programs, including transitions from trade occupations to professional occupations in the construction industry.

The department or authority is required to use the funds to provide grants to those public, private, not-for-profit, employer and labor organizations that the department or authority finds are best able to facilitate the entry and success of minority group members and women into training and long-term trade and professional employment in the construction industry. The department or authority is directed to seek agreements and commitments from grant participants to provide long-term employment to successful applicants and trainees.

The bill also requires the Department of the Treasury and the Department of Labor and Workforce Development to issue annual reports. The Department of the Treasury report would include the percentage and amounts of funds provided for programs funded under the bill and the numbers and percentages of apprentices and other workers under each contract who are women and minority group members. The Department of Labor and Workforce Development report is required to provide, for each program funded under the bill, data regarding the performance results of minority group member and women participants, including outcome measures detailing employment placement, increased earnings and employment retention and data regarding enrollment into registered apprenticeships and retention in long-term employment.

As reported, this bill is identical to Senate Bill No. 2730 (2R), as amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) can not quantify the cost of this legislation or the expected revenue due to a lack of information on the number, source and amount of funding for future construction contracts. However, the OLS was able to ascertain examples of a similar program currently in operation and it appears likely that both State and local public bodies may incur significant costs. It is important to note that any cost incurred will be received as revenue by the Department of Labor and Workforce Development or retained by the administering State-wide authority.

Currently, the Construction Trades Training Program for Women and Minorities is jointly administered by the department and the New Jersey School Development Authority (NJSDA). Funding for this program is established pursuant to P.L.2007, c.137 (C.52:18A-235 et al) which provides that up to one half of one percent (0.5 percent) of the annual value of the NJSDA's construction program may be allocated to the financing of minority and women worker outreach and training programs. State regulation (N.J.A.C.19:39-5.1) requires this amount be allocated to programs pertinent to school facilities projects construction. Since its inception, the NJSDA has entered into approximately \$3.6 billion in construction contracts; thus, 0.5 percent of this amount (\$18 million) has been set aside by the NJSDA for minority and women outreach and training programs. According to the

authority, the program has expended approximately \$8 million to date, leaving \$10 million in an account dedicated to this purpose. Additionally, P.L.2008, c.39 authorized \$3.2 billion for the NJSDA to apply to school construction over the next several years. It is unknown what portion of these funds will be expended in construction contracts worth more than \$1 million. If the funds are all dedicated to construction contracts worth more than \$1 million; then, an additional \$16 million may be retained by the authority or transferred to the department for apprenticeship/training programs for women and minorities. (It should be noted that this is not an additional cost resulting from this bill.)

In summary, it is possible that significant revenue, for example, approximately \$16 million from the NJSDA, could be generated from State and local public bodies pursuant to this bill but it is not possible for the OLS to quantify this number due to a lack of information in the number, source and amount of funding for future construction contracts in the State. Likewise, a significant cost could be borne by local and State public bodies for the cost of the transfer required pursuant to this bill.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1. Replace the term “construction contract” with “public works contract” as defined in the State's existing anti-discrimination law, thus linking the bill's 0.5% assessment for women and minority recruitment to findings, made pursuant to that law, of underrepresentation of women and minority group member due to historic patterns of discrimination in the industry;

2. Have the training programs funded under the bill apply to all occupations utilized in the performance of public works contracts, including professional occupations like engineering and management occupations, thus addressing all areas of discrimination in the industry;

3. Modify the bill's requirement that training be in construction trades utilized in the contract to instead permit training in professional, as well as trade, construction occupations, but require that, in the case of training in the trades, that priority be given to the trades used in each project;

4. Authorize the use of funds under the bill for supportive services to facilitate successful completion of training, and for related training initiatives like the NJ PLACE program and the grants provided under the “Youth Transitions to Work Partnership Act.”

5. Modify bill requirements regarding annual progress reports to specify that both the Department of Labor and Workforce Development and the Department of the Treasury issue reports and distinguish which issues and data would be covered in each report.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4082
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: DECEMBER 30, 2009

SUMMARY

Synopsis: Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.

Type of Impact: Revenue increase, Department of Labor and Workforce Development. Expenditure increase, all other State and local public bodies.

Agencies Affected: All State and local public bodies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2009</u>	<u>Fiscal Year 2010</u>	<u>Fiscal Year 2011</u>
<u>Cost-State</u> (excluding Department of Labor and Workforce Development)		Indeterminate increase.	
<u>Revenue</u> Department of Labor and Workforce Development	Indeterminate increase - Revenue will equal cost incurred by all independent State entities and local public bodies.		
<u>Cost</u> Department of Labor and Workforce Development	Indeterminate - Department's cost will equal revenue.		
<u>Cost</u> Independent State entities and local public bodies		Indeterminate increase.	

- The Office of Legislative Services (OLS) can not quantify the cost of Assembly Bill No. 4082 or the revenue generated by it due to a lack of information on the number, source and amount of funding for future construction contracts. However, it is noted that the revenue generated for the department, or retained by the administering authority, could be significant.
- The costs to public bodies at both the local and State levels can not be determined but also could be significant. However, it is noted that any cost incurred will be received as revenue by the Department of Labor and Workforce Development or retained by the administering State-wide authority. Additionally, the cost of construction contracts is frequently funded

through the issuance of bonds, and in these cases the cost of the legislation to public bodies will be amortized over the period of bond financing.

- The bill requires all public bodies entering into any construction contract in excess of \$1 million which is funded, in whole or in part, by funds of a public body, to transfer an amount equal to one half of one percent (0.5 percent) to the Department of Labor and Workforce Development (department). The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in the construction trades.
- The bill requires all public bodies entering into a construction contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” (ARRA) (Public Law 111-5) to transfer an amount equal to one half of one percent (0.5 percent) to the department. The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in the construction trades.
- The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible construction contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program.
- Federal requirements dictating allowable expenses for grants issued under ARRA to local and State entities may differ by federal agency. Therefore, it is not possible to determine if any or all funds granted to State and local bodies for construction contracts under ARRA may include the transfer required by A 4082. Due to this uncertainty, A 4082 includes a provision exempting any public body from the requirement to transfer funds pursuant to this legislation, if the transfer is contrary to any federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant’s authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds.
- “Public body” is defined as the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey or of any of its political subdivisions.

BILL DESCRIPTION

Assembly Bill No. 4082 of 2009 requires any State or local public body, upon entering into any construction contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any construction contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5 percent of the portion of the contract amount funded by those funds, to the department, unless the transfer is contrary to any federal requirement and may result in the loss of federal funds. If federal and State funds are combined, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of

federal funds. The bill requires the department to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships, for minority group members and women in the construction trades, with opportunities for long-term employment providing economic self-sufficiency for the minority group members and women.

The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible construction contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program. In addition, the bill requires the department, in coordination with the Department of the Treasury, to make public on the Internet a full disclosure, by construction contract, of the funds provided to programs funded pursuant to the bill and the numbers of minority group members and women participating in the programs. Finally, the Department of Labor and Workforce Development is required to provide annual reports, also made public on the Internet, on all programs funded pursuant to the bill, including, for each contract, data regarding the results with respect to the enrollment of minority group members and women into registered apprenticeships and results regarding their long-term employment, including the numbers and percentages of apprentices and other workers under each contract who are women and minority group members.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS can not quantify the cost of this legislation or the expected revenue due to a lack of information on the number, source and amount of funding for future construction contracts. However, it is noted that the revenue generated for the department could be significant. The State and local costs also could be significant; however, it is important to note that the cost of construction contracts is frequently funded through the issuance of bonds, and in these cases the cost will be amortized over the period of bond financing.

Revenue from the legislation is generated from two categories of construction contracts. First, all public bodies entering into construction contracts over \$1 million would be required to transfer funds equal to 0.5 percent of that contract to the Department of Labor and Workforce Development; except that, any State-wide authority administering such a program may retain the funds necessary to administer the program. Additionally, 0.5 percent of any construction contract funded in part, or in whole, by the "American Recovery and Reinvestment Act of 2009" must be transferred to the department or retained by the administering authority. To better understand the potential revenue impact of this legislation, it is useful to examine examples, such as: capital construction expenditures by State agencies; and, an existing program administered by a State Authority identical to the program proposed in A 4082.

The OLS is not aware of a source reporting all construction contracts entered into by public bodies. The FY 2010 proposed budget (page H-29) displays FY 2010 expenditures of the Transportation Trust Fund from State, federal (non ARRA) and third-party resources in the amount of \$3.3 billion. It is unknown what portion of these funds will be expended in

construction contracts exceeding \$1 million. However, if 50 percent of this total are expended through construction contracts worth over \$1 million, then about \$8.25 million will be required to be transferred to the department for apprenticeship/training programs for women and minorities or otherwise expended for this purpose.

Currently, the Construction Trades Training Program for Women and Minorities is jointly administered by the department and the New Jersey School Development Authority (NJSDA). Funding for this program is established pursuant to P.L.2007, c.137 (C.52:18A-235 et al) which provides that up to one half of one percent (0.5 percent) of the annual value of the NJSDA's construction program may be allocated to the financing of minority and women worker outreach and training programs. State regulation (N.J.A.C.19:39-5.1) requires, rather than permits, this amount be allocated to programs pertinent to school facilities projects construction. Since its inception, the NJSDA has entered into approximately \$3.6 billion in construction contracts; thus, 0.5 percent of this amount (\$18 million) has been set aside by the NJSDA for minority and women outreach and training programs. According to the authority, the program has expended approximately \$8 million to date, leaving \$10 million in an account dedicated to this purpose. Additionally, P.L.2008, c.39 authorized \$3.2 billion for the NJSDA to apply to school construction over the next several years. It is unknown what portion of these funds will be expended in construction contracts worth more than \$1 million. If the funds are all dedicated to construction contracts worth more than \$1 million; then, an additional \$16 million may be retained by the authority or transferred to the department for apprenticeship/training programs for women and minorities. (It should be noted that this is not an additional cost resulting from this bill.)

Furthermore, revenue may be collected as a percentage of the estimated \$17.5 billion in grants to be received by public bodies in New Jersey for construction projects from programs established pursuant to ARRA. It is unclear at this time what percentage of that funding will be dedicated to construction contracts. It is also unclear if any of the funds granted public bodies through ARRA will include restrictions prohibiting the transfer required by A 4082. It does not appear that ARRA prohibits the use of funds for this purpose. However, ARRA does allow federal departments to adopt their own rules and regulations regarding the allowable expenses on funds distributed pursuant to ARRA. A 4082 includes a provision that exempts public bodies from transferring any funds if the transfer is contrary to a federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant's authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds. In summary, it is possible that significant revenue, for example, approximately \$16 million from one authority, could be generated from State and local public bodies pursuant to A 4082 but it is not possible for OLS to quantify this number due to a lack of information in the number, source and amount of funding for future construction contracts in the State. Likewise, a significant cost could be borne by local and State public bodies for the cost of the transfer required pursuant to A 4082.

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4082

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JANUARY 15, 2010

SUMMARY

- Synopsis:** Requires public bodies to provide funds for outreach and training programs for minority group members and women in connection with certain construction contracts.
- Type of Impact:** Revenue increase, Department of Labor and Workforce Development. Expenditure increase, all other State and local public bodies.
- Agencies Affected:** All State and local public bodies.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2009</u>	<u>Fiscal Year 2010</u>	<u>Fiscal Year 2011</u>
<u>Cost-State</u> (excluding Department of Labor and Workforce Development)		Indeterminate increase.	
<u>Revenue</u> Department of Labor and Workforce Development	Indeterminate increase - Revenue will equal cost incurred by all independent State entities and local public bodies.		
<u>Cost</u> Department of Labor and Workforce Development	Indeterminate - Department's cost will equal revenue.		
<u>Cost</u> Independent State entities and local public bodies		Indeterminate increase.	

- The Office of Legislative Services (OLS) can not quantify the cost of Assembly Bill No. 4082 (1R) or the revenue generated by it due to a lack of information on the number, source and amount of funding for future public works contracts. However, it is noted that the revenue generated for the department, or retained by the administering authority, could be significant.
- The costs to public bodies at both the local and State levels can not be determined but also could be significant. However, it is noted that any cost incurred will be received as revenue

by the Department of Labor and Workforce Development or retained by the administering State-wide authority. Additionally, the cost of public works contracts is frequently funded through the issuance of bonds, and in these cases the cost of the legislation to public bodies will be amortized over the period of bond financing.

- The bill requires all public bodies entering into any public works contract in excess of \$1 million which is funded, in whole or in part, by funds of a public body, to transfer an amount equal to one half of one percent (0.5 percent) to the Department of Labor and Workforce Development (department). The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in the construction trades.
- The bill requires all public bodies entering into a public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” (ARRA) (Public Law 111-5) to transfer an amount equal to one half of one percent (0.5 percent) to the department. The department is required to use the funds received pursuant to this legislation to provide on-the-job or off-the-job outreach and training programs for minority group members and women in construction trade occupations, or other occupations utilized in the performance of public works contracts.
- The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible public works contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program.
- Federal requirements dictating allowable expenses for grants issued under ARRA to local and State entities may differ by federal agency. Therefore, it is not possible to determine if any or all funds granted to State and local bodies for public works contracts under ARRA may include the transfer required by A-4082 (1R). Due to this uncertainty, A-4082 (1R) includes a provision exempting any public body from the requirement to transfer funds pursuant to this legislation, if the transfer is contrary to any federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant’s authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds.
- “Public body” is defined as the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey or of any of its political subdivisions.

BILL DESCRIPTION

Assembly Bill No. 4082 (1R) of 2009 requires any State or local public body, upon entering into any public works contract in excess of \$1,000,000 funded, in whole or in part, by funds of the public body, or any public works contract of any size which is funded, in whole or in part, by funds provided to the public body pursuant to the “American Recovery and Reinvestment Act of 2009,” to transfer an amount equal to 0.5 percent of the portion of the contract amount funded by those funds, to the department, unless the transfer is contrary to any federal requirement and

may result in the loss of federal funds. If federal and State funds are combined, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds. The bill requires the department to use the transferred funds to provide on-the-job or off-the-job outreach and training programs, including programs of preparation for admission into registered apprenticeships, for minority group members and women in the construction trades, with opportunities for long-term trade and professional employment providing economic self-sufficiency for the minority group members and women.

The bill excludes certain State-wide authorities from the requirement to transfer the funds to the department. A State-wide authority which enters into an eligible public works contract and administers a program providing outreach and training programs for minority group members and women in the construction trades may retain the funds as necessary for the program.

In addition, the bill requires the Division of Contract Compliance and Equal Employment Opportunities, in the Department of the Treasury, to make public on the Internet an annual report which provides a full disclosure, by public works contract, of the percentage and amount of funds withheld and provided to programs funded pursuant to the bill and the numbers and percentages of minority group members and women participating in the programs. Finally, the Department of Labor and Workforce Development is required to provide annual reports, also made public on the Internet, on all programs funded pursuant to the bill, including, for each program, data regarding the performance results of minority group members and women participating in the programs. The reports should include outcome measures detailing employment placement, increased earnings, and employment retention. Furthermore, the reports should include data regarding enrollment into registered apprenticeship programs and retention in long term employment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS can not quantify the cost of this legislation or the expected revenue due to a lack of information on the number, source and amount of funding for future public works contracts. However, it is noted that the revenue generated for the department could be significant. The State and local costs also could be significant; however, it is important to note that the cost of public works contracts is frequently funded through the issuance of bonds, and in these cases the cost will be amortized over the period of bond financing.

Revenue from the legislation is generated from two categories of public works contracts. First, all public bodies entering into public works contracts over \$1 million would be required to transfer funds equal to 0.5 percent of that contract to the Department of Labor and Workforce Development; except that, any State-wide authority administering such a program may retain the funds necessary to administer the program. Additionally, 0.5 percent of any public works contract funded in part, or in whole, by the "American Recovery and Reinvestment Act of 2009" must be transferred to the department or retained by the administering authority. To better understand the potential revenue impact of this legislation, it is useful to examine examples, such

as: capital construction expenditures by State agencies; and, an existing program administered by a State Authority identical to the program proposed in A-4082 (1R).

The OLS is not aware of a source reporting all public works contracts entered into by public bodies. The FY 2010 proposed budget (page H-29) displays FY 2010 expenditures of the Transportation Trust Fund from State, federal (non ARRA) and third-party resources in the amount of \$3.3 billion. It is unknown what portion of these funds will be expended in public works contracts exceeding \$1 million. However, if 50 percent of this total are expended through public works contracts worth over \$1 million, then about \$8.25 million will be required to be transferred to the department for apprenticeship/training programs for women and minorities or otherwise expended for this purpose.

Currently, the Construction Trades Training Program for Women and Minorities is jointly administered by the department and the New Jersey School Development Authority (NJSDA). Funding for this program is established pursuant to P.L.2007, c.137 (C.52:18A-235 et al) which provides that up to one half of one percent (0.5 percent) of the annual value of the NJSDA's construction program may be allocated to the financing of minority and women worker outreach and training programs. State regulation (N.J.A.C.19:39-5.1) requires, rather than permits, this amount be allocated to programs pertinent to school facilities projects construction. Since its inception, the NJSDA has entered into approximately \$3.6 billion in construction contracts; thus, 0.5 percent of this amount (\$18 million) has been set aside by the NJSDA for minority and women outreach and training programs. According to the authority, the program has expended approximately \$8 million to date, leaving \$10 million in an account dedicated to this purpose. Additionally, P.L.2008, c.39 authorized \$3.2 billion for the NJSDA to apply to school construction over the next several years. It is unknown what portion of these funds will be expended in construction contracts worth more than \$1 million. If the funds are all dedicated to construction contracts worth more than \$1 million; then, an additional \$16 million may be retained by the authority or transferred to the department for apprenticeship/training programs for women and minorities. (It should be noted that this is not an additional cost resulting from this bill.)

Furthermore, revenue may be collected as a percentage of the estimated \$17.5 billion in grants to be received by public bodies in New Jersey for public works projects from programs established pursuant to ARRA. It is unclear at this time what percentage of that funding will be dedicated to public works contracts. It is also unclear if any of the funds granted public bodies through ARRA will include restrictions prohibiting the transfer required by A-4082 (1R). It does not appear that ARRA prohibits the use of funds for this purpose. However, ARRA does allow federal departments to adopt their own rules and regulations regarding the allowable expenses on funds distributed pursuant to ARRA. A-4082 (1R) includes a provision that exempts public bodies from transferring any funds if the transfer is contrary to a federal requirement and may result in the loss of federal funds. However, if federal and State funds are combined and it is permitted under the grant's authority, the entire transfer may be made from the State portion of the funds if necessary to prevent any loss of federal funds.

In summary, it is possible that significant revenue, for example, approximately \$16 million from one authority, could be generated from State and local public bodies pursuant to A-4082 (1R) but it is not possible for OLS to quantify this number due to a lack of information in the number, source and amount of funding for future public works contracts in the State. Likewise, a significant cost could be borne by local and State public bodies for the cost of the transfer required pursuant to A-4082 (1R).

Section: Commerce, Labor and Industry

*Analyst: Robin C. Ford
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-6 et seq.).