

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:18A-51 et seq. (Minority and female business set-aside programs--permit Boards of Education to establish)

LAWS OF: 1985 **CHAPTER:** 490

BILL NO: A2974

Sponsor(s): Charles and others

Date Introduced: December 13, 1984

Committee: **Assembly:** Education
Senate: Education

Amended during passage: Yes **Amendments denoted by asterisks**
 according to Governor's recommendations

Date of Passage: **Assembly:** February 25, 1985 Re-enacted 1-13-86
Senate: December 9, 1985 Re-enacted 1-13-86

Date of Approval: January 17, 1986

following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** ~~No~~ Yes
Senate ~~No~~ Yes

Fiscal Note: No

Veto Message: Yes

Message on Signing: ~~No~~ Yes

Following were printed:

Reports: No

Hearings: No

SECOND [OFFICIAL COPY REPRINT]

ASSEMBLY, No. 2974

STATE OF NEW JERSEY

INTRODUCED DECEMBER 13, 1984

By Assemblymen CHARLES, DORIA, WATSON, BROWN, Assem-
blywoman GARVIN and Assemblyman BRYANT

AN ACT concerning the establishment of *small* women and
minority businesses set-aside programs by boards of education
and **[supplementing chapter 18A of Title 18A of the New Jer-
sey Statutes]** **[*and]** *revising parts of the statutory law*.

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

1 1. *(New section)* As used in this act:

2 a. "Minority group members" means **[New Jersey residents]**
3 *persons* who are Black, Hispanic, Portuguese, Asian American,
4 American Indian or Alaskan natives;

5 b. "Qualified women business enterprise" means a business which
6 *has its principal place of business in the State,* is *independ-*
7 *ently owned and operated and* at least 51% *of which is*
8 owned and controlled by women **[who are New Jersey resi-**
9 **dents]** and which is qualified pursuant to N. J. S. 18A:18A-27;

10 c. "Qualified minority business enterprise" means a business
11 which *has its principal place of business in the State,* is *in-*
12 *dependently owned and operated and* at least 51% *of which*
13 *is* owned and controlled by minority group members and which
14 is qualified pursuant to N. J. S. 18A:18A-27;

15 *d. "Qualified small business enterprise" means a business*
16 *which has its principal place of business in the State, is indepen-*
17 *dently owned and operated, meets all other qualifications as may*
18 *be established in accordance with P. L. 1981, c. 283 (C. 52:27H-21.1*
19 *et seq.) and which is qualified pursuant to section 1 of P. L. 1977,*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

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

*—Senate committee amendments adopted May 2, 1985.

**—Assembly amendments adopted in accordance with Governor's recommen-
dations January 13, 1986.

20 *c. 114 (C. 18A:18A-27);***

21 ****[d.]**** ****e.**** "Set-aside contract" means (1) a contract for
22 goods, equipment, construction, or services which is designated as
23 a contract for which bids are invited and accepted only from
24 ****qualified small business enterprises,**** qualified minority busi-
25 ness enterprises or qualified women business enterprises, as appro-
26 priate, (2) a portion of a contract when that portion has been so
27 designated, or (3) any other purchase or procurement so desig-
28 nated; and

29 ****[e.]**** ****f.**** "Total procurements" means all purchases, con-
30 tracts or acquisitions of a board of education, whether by competi-
31 tive bidding, single source contracting, or other method of pro-
32 curement, as prescribed or permitted by law.

1 2. **(New section)** a. A board of education may, by resolution,
2 establish a qualified minority business enterprise set-aside program.
3 In authorizing such a program, the board of education shall estab-
4 lish a goal of setting aside a certain percentage of the dollar value
5 of total procurements to be awarded as set-aside contracts to quali-
6 fied minority business enterprises.

7 b. A board of education may, by resolution, establish a qualified
8 women business enterprise set-aside program. In authorizing such
9 a program, the board of education shall establish a goal of setting
10 aside a certain percentage of the dollar value of total procurements
11 to be awarded as set-aside contracts to qualified women business
12 enterprises.

13 ****c.** *A board of education may, by resolution, establish a quali-*
14 *fied small business enterprise set-aside program. In authorizing*
15 *such a program, the board of education shall establish a goal of*
16 *setting aside a certain percentage of the dollar value of total pro-*
17 *curements to be awarded as set-aside contracts to qualified small*
18 *business enterprises.***

1 3. **(New section)** a. Any goal established pursuant to section 2
2 of this act may be attained by requiring that a portion of a contract
3 shall be subcontracted to a ****qualified small business enterprise,****
4 qualified minority business enterprise or qualified women business
5 enterprise, in addition to designating entire contracts to these
5A enterprises.

6 b. Each board of education shall make a good faith effort to
7 attain any goal established.

1 4. **(New section)** All provisions of the "Public School Con-
2 tracts Law," N. J. S. 18A:18A-1 et seq. and any supplements thereto,
3 shall apply to purchases, contracts and agreements made pursuant

4 to this act unless otherwise superseded by the provisions of this act.

1 5. **(New section)** Notwithstanding the provisions of any law
2 to the contrary, a board of education which has established a
2A ***qualified small business enterprise set-aside program, a*** quali-
3 fied minority business enterprise set-aside program or a qualified
4 women business enterprise set-aside program shall designate that
5 a contract, sub-contract or other means of procurement of goods,
6 services, equipment, or construction shall be awarded to a ***quali-*
7 *fied small business enterprise, a*** qualified minority business en-
8 terprise or a qualified women business enterprise, if the board is
9 likely to receive bids from at least two ***qualified small business*
10 *enterprises,*** qualified minority business enterprises or qualified
10A women business enterprises, as appropriate, at a fair and reason-
10B able price.

11 The designations shall be made prior to any advertisement for
12 bids, if required. Once designated, the advertisement for bids, if
13 necessary, shall indicate that the contract to be awarded is a
14 ***qualified small business enterprise, a*** qualified minority busi-
15 ness enterprise set-aside contract or a qualified women business
16 enterprise set-aside contract, as appropriate. All advertisements
17 for bids shall be published in at least one newspaper which will
18 best provide notice thereof to ***qualified small business enter-*
19 *prises,*** qualified minority business enterprises or to qualified
20 women business enterprises, as appropriate, sufficiently in advance
21 of the date fixed for receiving the bids to promote competitive
22 bidding, but shall not be published less than 10 days prior to that
23 date.

1 6. **(New section)** a. If the board of education determines that
2 two bids from qualified ***small business*** minority or women
3 businesses cannot be obtained, the board may withdraw the desig-
4 nation of the set-aside contracts and resolicit bids on an unrestricted
5 basis pursuant to the provisions of N. J. S. 18A:18A-1 et seq. The
6 cancelled designation shall not be considered in determining
7 whether or not the board attained its goal established pursuant
7A to section 2 of this act.

8 b. If the board of education determines that the acceptance of
9 the lowest responsible bid will result in the payment of an un-
10 reasonable price, the board shall reject all bids and withdraw the
11 designation of the set-aside contracts. Qualified ***small business-*
12 *enterprises, qualified*** minority business enterprises or qualified
13 women business enterprises, as appropriate, shall be notified in
14 writing of the set-aside cancellation, the reasons for the rejection

15 and the board's intent to resolicit bids on an unrestricted basis
16 pursuant to the provisions of N. J. S. 18A:18A-1 et seq. The can-
17 celled bid solicitation shall not be considered in determining
18 whether or not the board attained its goal established pursuant to
19 section 2 of this act.

1 7. **(New section)** Any board of education which has established
2 a qualified ***small business set-aside program, a qualified*** minor-
3 ity business enterprise set-aside program or a qualified women
4 business enterprise set-aside program shall prepare a report by
5 January 31 of each year describing the board's efforts in attaining
6 the set-aside goals and the percentage of the dollar value of total
7 procurements awarded in the immediately preceding local fiscal
8 year. The board of education shall publish a list of its attainments
9 in at least one newspaper circulating in the school district by March
10 1 of each year.

1 8. **(New section)** The State Board of Education or any State
2 department or agency the State Board may designate, may adopt
3 rules and regulations pursuant to the provisions of the "Adminis-
4 trative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as
5 it may deem necessary to effectuate the purposes of this act.

1 *9. R. S. 10:2-1 is amended to read as follows:

2 10:2-1. Every contract for or on behalf of the State or any
3 county or municipality or other political subdivision of the State,
4 or any agency of or authority created by any of the foregoing,
5 for the construction, alteration or repair of any public building
6 or public work or for the acquisition of materials, equipment, sup-
7 plies or services shall contain provisions by which the contractor
8 agrees that:

9 a. In the hiring of persons for the performance of work under
10 this contract or any subcontract hereunder, or for the procurement,
11 manufacture, assembling or furnishing of any such materials,
12 equipment, supplies or services to be acquired under this contract,
13 no contractor, nor any person acting on behalf of such contractor
14 or subcontractor, shall by reason of race, creed, color, national
15 origin, ancestry, marital status or sex, discriminate against any
16 person who is qualified and available to perform the work to which
17 the employment relates;

18 b. No contractor, subcontractor, nor any person on his behalf
19 shall, in any manner, discriminate against or intimidate any em-
20 ployee engaged in the performance of work under this contract or
21 any subcontract hereunder, or engaged in the procurement, manu-
22 facture, assembling or furnishing of any such materials, equipment,

23 supplies or services to be acquired under such contract, on account
24 of race, creed, color, national origin, ancestry, marital status or sex;

25 c. There may be deducted from the amount payable to the con-
26 tractor by the contracting public agency, under this contract, a
27 penalty of \$50.00 for each person for each calendar day during
28 which such person is discriminated against or intimidated in vio-
29 lation of the provisions of the contract; and

30 d. This contract may be canceled or terminated by the contract-
31 ing public agency, and all money due or to become due hereunder
32 may be forfeited, for any violation of this section of the contract
33 occurring after notice to the contractor from the contracting public
34 agency of any prior violation of this section of the contract.

35 *No provision in this section shall be construed to prevent a board*
36 *of education from designating that a contract, subcontract or other*
37 *means of procurement of goods, services, equipment or construction,*
38 *shall be awarded to a **qualified small business enterprise,** quali-*
39 *minority business enterprise or a qualified women business enter-*
40 *prise pursuant to P. L., c. (C.) (now pending*
41 *before the Legislature as Senate Reprint of Assembly Bill No. 2974*
42 *and Senate Bill No. 2658 (OCR) of 1984).*

1 10. Section 8 of P. L. 1962, c. 37 (C. 10:5-2.1) is amended to
2 read as follows:

3 8. Nothing contained in this act or in ****[the act to which this is**
4 **a supplement]**** ***P. L. 1945, c. 169 (C. 10:5-1 et seq.)*** shall be
5 construed to require or authorize any act prohibited by law, *nor to*
6 *prevent the award of a contract to a **qualified small business*
7 *enterprise,** qualified minority business enterprise or qualified*
8 *women business enterprise under P. L., c. (C.)*
9 *(now pending before the Legislature as Senate Reprint of Assem-*
10 *bly Bill No. 2974 and Senate Bill No. 2658 (OCR) of 1984)* nor to
11 conflict with the provisions of chapter 2 (child labor) of Title 34
12 of the Revised Statutes, nor to require the employment of any per-
13 son under the age of 18, nor to prohibit the establishment and
14 maintenance of bona fide occupational qualifications or the estab-
15 lishment and maintenance of apprenticeship requirements based
16 upon a reasonable minimum age nor to prevent the termination or
17 change of the employment of any person who in the opinion of the
18 employer, reasonably arrived at, is unable to perform adequately
19 the duties of employment, nor to preclude discrimination among
20 individuals on the basis of competence, performance, conduct or
21 any other reasonable standards, nor to interfere with the operation
22 of the terms or conditions and administration of any bona fide re-

23 tirement, pension, employee benefit or insurance plan or program
 24 ***including any State or locally administered public retirement*
 25 *system, provided that the provisions of those plans or programs*
 26 *are not used to establish an age for mandatory retirement**.*

1 11. N. J. S. 18A:18A-15 is amended to read as follows:

2 18A:18A-15. Specifications generally. Any specifications for an
 3 acquisition under this chapter, whether by purchase, contract or
 4 agreement, shall be drafted in a manner to encourage free, open
 5 and competitive bidding. In particular, no specifications under
 6 this chapter may:

7 a. Require any standard, restriction, condition or limitation not
 8 directly related to the purpose, function or activity for which the
 9 purchase, contract or agreement is made; or

10 b. Require that any bidder be a resident of, or that his place
 11 of business be located in, the county or school district in which the
 12 purchase will be made or the contract or agreement performed,
 13 unless the physical proximity of the bidder is requisite to the
 14 efficient and economical purchase or performance of the contract or
 15 agreement; or

16 c. Discriminate on the basis of race, religion, sex, national
 17 origin; or

18 d. Require, with regard to any purchase, contract or agreement,
 19 the furnishing of any "brand name," but may in all cases require
 20 "brand name or equivalent," except that if the materials to be
 21 supplied or purchased are patented or copyrighted, such materials
 22 or supplies may be purchased by specification in any case in which
 23 the resolution authorizing the purchase, contract, sale or agree-
 24 ment so indicates, and the special need for such patented or copy-
 25 righted materials or supplies is directly related to the performance,
 26 completion or undertaking of the purpose for which the purchase,
 27 contract or agreement is made; or

28 e. Fail to include any option for renewal, extension, or release
 29 which the board of education may intend to exercise or require;
 30 or any terms and conditions necessary for the performance of any
 31 extra work; or fail to disclose any matter necessary to the sub-
 32 stantial performance of the contract or agreement.

33 The specifications for every contract for public work, the entire
 34 cost whereof will exceed \$20,000.00 shall provide that the board of
 35 education, through its authorized agent, shall upon completion of
 36 the contract report to the department as to the contractor's per-
 37 formance, and shall also furnish such report from time to time
 38 during performance if the contractor is then in default.

39 Any specification adopted by the board of education which know-
 40 ingly excludes prospective bidders by reason of the impossibility
 41 of performance, bidding or qualification by any but one bidder,
 42 except as provided herein, shall be null and void and of no effect
 43 and such purchase, contract or agreement shall be readvertised,
 44 and the original purchase, contract or agreement shall be set aside
 45 by the board of education.

46 *No provision in this section shall be construed to prevent a board*
 47 *of education from designating that a contract, subcontract or other*
 48 *means of procurement of goods, services, equipment or construction*
 49 *shall be awarded to a **qualified small business enterprise, a***
 50 *qualified minority business enterprise or a qualified women busi-*
 51 *ness enterprise pursuant to P. L. , c. (C.)*
 52 *(now pending before the Legislature as Senate Reprint of Assembly*
 53 *Bill No. 2974 and Senate Bill No. 2658 (OCR) of 1984).*

1 12. N. J. S. 18A:18A-21 is amended to read as follows:

2 18A:18A-21. Advertisements for bids; bids; general require-
 3 ments. **[All]** *Except as provided in section 5 of P. L. , c.*
 4 *(C.) (now pending before the Legislature as Senate*
 5 *Reprint of Assembly Bill No. 2974 and Senate Bill No. 2658 (OCR)*
 6 *of 1984) all advertisements for bids shall be published in a Legal*
 7 *Newspaper sufficiently in advance of the date fixed for receiving*
 8 *the bids to promote competitive bidding, but in no event less than*
 9 *10 days prior to such date. The advertisement shall designate the*
 10 *manner of submitting and of receiving the bids and the time and*
 11 *place at which the bids will be received. If the published specifica-*
 12 *tions provide for receipt of bids by mail, those bids which are*
 13 *mailed to the board of education shall be sealed and shall be*
 14 *opened only for examination at such time and place as all bids*
 15 *received are unsealed and announced. At such time and place the*
 16 *contracting agent of the board of education shall publicly receive*
 17 *the bids and thereupon immediately proceed to unseal them and*
 18 *publicly announce the contents, which announcement shall be made*
 19 *in the presence of any parties bidding or their agents who are then*
 20 *and there present. A proper record of the prices and terms shall be*
 21 *made in the minutes of the board. No bids shall be received after*
 22 *the time designated in the advertisement.**

1 ***13. Where the local board of education determines that a busi-*
 2 *ness has been classified as a qualified small business enterprise,*
 3 *qualified minority business enterprise or qualified women business*
 4 *enterprise on the basis of false information knowingly supplied by*
 5 *the business and has been awarded a contract to which it would*

6 not otherwise have been entitled under this act, local board of edu-
7 cation shall have the authority to:

8 a. Assess the business any difference between the contract
9 amount and what the local board of education's cost would have
10 been if the contract had not been awarded in accordance with the
11 provisions of this act;

12 b. In addition to the amount due under subsection a., assess the
13 business a penalty in an amount of not more than 10% of the
14 amount of the contract involved; and

15 c. Order the business ineligible to transact any business with
16 the local board of education for a period to be determined by the
17 local board of education.

18 Prior to any final determination, assessment or order under this
19 section, the local board of education shall afford the business an
20 opportunity for a hearing on the reasons for the imposition of
21 the penalties set forth in subsections a., b. or c. of this section.**

1 ***[9.]*** ****[*13.*]**** **14.** This act shall take effect immediately.

3 board may withdraw the designation of the set-aside contracts and
 4 resolicit bids on an unrestricted basis pursuant to the provisions
 5 of N. J. S. 18A:18A-1 et seq. The cancelled designation shall not
 6 be considered in determining whether or not the board attained
 7 its goal established pursuant to section 2 of this act.

8 b. If the board of education determines that the acceptance of
 9 the lowest responsible bid will result in the payment of an un-
 10 reasonable price, the board shall reject all bids and withdraw the
 11 designation of the set-aside contracts. Qualified minority business
 12 enterprises or qualified women business enterprises, as appropriate,
 13 shall be notified in writing of the set-aside cancellation, the reasons
 14 for the rejection and the board's intent to resolicit bids on an un-
 15 restricted basis pursuant to the provisions of N. J. S. 18A:18A-1
 16 et seq. The cancelled bid solicitation shall not be considered in
 17 determining whether or not the board attained its goal established
 18 pursuant to section 2 of this act.

1 7. Any board of education which has established a qualified
 2 minority business enterprise set-aside program or a qualified women
 3 business enterprise set-aside program shall prepare a report by
 4 January 31 of each year describing the board's efforts in attaining
 5 the set-aside goals and the percentage of the dollar value of total
 6 procurements awarded in the immediately preceding local fiscal
 7 year. The board of education shall publish a list of its attainments
 8 in at least one newspaper circulating in the school district by
 9 March 1 of each year.

1 8. The State Board of Education or any State department or
 2 agency the State Board may designate, may adopt rules and regu-
 3 lations pursuant to the provisions of the "Administrative Pro-
 4 cedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may
 5 deem necessary to effectuate the purposes of this act.

1 9. This act shall take effect immediately.

Sponsors'

STATEMENT

A-2974, 1984

This bill would permit a board of education to establish a quali-
 fied minority business set-aside program and a qualified women
 business set-aside program.

Under the provisions of the bill, each board of education may
 establish a percentage of contracts and purchases to be set aside
 for minority businesses or women businesses, as appropriate, as a
 goal for the board to achieve. At the end of each year, the board
 would prepare a report concerning its efforts to meet the estab-
 lished goal.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2974

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 2, 1985

PROVISIONS:

This bill authorizes boards of education to set aside a certain percentage of contracts and purchases to be awarded to businesses that are at least 51% owned and controlled by minority group members or women. If two qualified bidders cannot be found after a contract has been designated for businesses owned by either women or minorities the board is authorized to withdraw the designation and resolicit bids on an unrestricted basis. Also, if the board determines that the acceptance of the lowest bid yields an unreasonable price the board is required to reject all bids and resolicit bids on an unrestricted basis. Further, local boards with set-aside programs are required to prepare a report by January 31 describing the board's efforts in attaining the goals of a set-aside program and stating the percentage of the dollar value to total procurements awarded in that year. A report is to be published in a local newspaper by March 1 of each year.

The committee amended this bill to provide for specific set-aside authorization in the "Law Against Discrimination," R. S. 10:2-1 and section 8 of P. L. 1962, c. 37 (C. 10:5-21) and also the Public School Contracts Law, N. J. S. 18A:18A-1 et seq. The amendments clarify and reinforce the intent of this bill.

As amended, this bill is identical to Senate Bill No. 2658 with Senate Education Committee amendments.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2974

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 1985

PROVISIONS:

This bill authorizes boards of education to set aside a certain percentage of contracts and purchases to be awarded to businesses that are at least 51% owned and controlled by minority group members or women. If two qualified bidders cannot be found after a contract has been designated for businesses owned by either women or minorities the board is authorized to withdraw the designation and resolicit bids on an unrestricted basis. Also, if the board determines that the acceptance of the lowest bid yields an unreasonable price the board is required to reject all bids and resolicit bids on an unrestricted basis. Further, local boards with set-aside programs are required to prepare a report by January 31 describing the board's efforts in attaining the goals of a set-aside program and stating the percentage of the dollar value of total procurements awarded in that year. A report is to be published in a local newspaper by March 1 of each year.

The committee favorably reports this bill without amendment.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 13, 1986

ASSEMBLY BILL NO. 2974 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 2974 (OCR) with my objections and recommendations for amendment.

This legislation permits local boards of education to establish set-aside programs for qualified minority-owned and women-owned businesses.

My strong support for the concept of this bill was exemplified by my recent enactment of Senate Bill No. 1776 (P.L. 1985, c.384), which amended the Small Business Set-Aside Act to require State contracting agencies to establish set-aside programs for minority owned and female-owned businesses. However, Senate Bill No. 1776 was procedurally superior in several regards. and I am recommending amendments to this bill in order to improve it and to provide consistency to the small businesses, minority businesses and female businesses which qualify under these programs.

In order to fully promote the policy espoused by Senate Bill No. 1776 and to provide the greatest possible flexibility to local boards of education, I am recommending that the concept of this bill be expanded to include qualified small business enterprises as well as minority-owned and female-owned businesses. I am also conforming the definitions of "qualified women business enterprise" and "qualified minority business enterprise" to those in Senate Bill No. 1776 in order to provide consistency and to ensure that non-qualified minority and women's businesses cannot operate as "fronts" for other businesses wishing to take advantage of these set-aside programs.

In addition, I am deleting the requirement that minority group or women business owners must be New Jersey residents to qualify under this bill and replacing it with a provision that qualified businesses must be located in New Jersey. This will serve to enhance the underlying policy of this bill, which is to encourage economic growth in the State. Finally, I am recommending the

insertion of penalty provisions to be assessed against businesses which are awarded contracts under this act on the basis of false information knowingly submitted by them which lead to their classification as qualified small business, minority business or female business enterprises. These penalty provisions are found in Senate Bill No. 1776 and will serve as a further assurance that set-aside contracts will be awarded only to qualified businesses.

Therefore, I herewith return Assembly Bill No. 2974 and recommend that it be amended as follows:

- Page 1, Title, Line 1: After "of" insert "small,"
- Page 1, Title, Line 4: Delete "and"
- Page 1, Section 1, Line 2: Delete "New Jersey residents" and insert "persons"
- Page 1, Section 1, Line 5: After "which" insert "has its principal place of business in the State,"
- Page 1, Section 1, Line 6: After "is" insert "independently owned and operated and"; after "51%" insert "of which is"; delete "who are New Jersey"
- Page 1, Section 1, Line 7: Delete "residents"
- Page 1, Section 1, Line 9: After "which" insert "has its principal place of business in the State,"; after "is" insert "independently owned and operated and"; after "51 %" insert "of which is"
- Page 1, Section 1, After Line 10: Insert new subsection as follows:
 "d. Qualified small business enterprise" means a business which has its principal place of business in the State, is independently owned and operated, meets all other qualifications as may be established in accordance with P.L. 1981, c.283 (C. 52:27H-21.1 et seq.) and which is qualified pursuant to section 1 of P.L. 1977, c.114 (C. 18A:18A-27);"
- Page 1, Section 1, Line 11: Delete "d." and insert "e."
- Page 1, Section 1, Line 13: After "from" insert "qualified small business enterprises,"
- Page 1, Section 1, Line 17: Delete "e." and insert "f."
- Page 2, Section 2, After Line 12: Insert new subsection as follows:
 "c. A board of education may, by resolution, establish a qualified small business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to qualified small business enterprises."

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EXECUTIVE DEPARTMENT

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- Page 2, Section 3, Line 3: After "a" insert "qualified small business enterprise,"
- Page 2, Section 5, Line 2: After "established a" insert "qualified small business enterprise set-aside program, a"
- Page 2, Section 5, Line 6: After "to a" insert "qualified small business enterprise, a"
- Page 2, Section 5, Line 8: After "two" insert "qualified small business enterprises,"
- Page 2, Section 5 Line 13: After "is a" insert "qualified small business enterprise, a"
- Page 2, Section 5, Line 17: After "thereof to" insert "qualified small business enterprises,"
- Page 3, Section 6, Line 2: After "qualified" insert "small business,"
- Page 3, Section 6, Line 11: After "Qualified" insert "small business enterprises, qualified"
- Page 3, Section 7, Line 2: After "qualified" insert "small business set-aside program, a qualified"
- Page 4, Section 9, Line 38: After "to a" insert "qualified small business enterprise,"
- Page 4, Section 10, Lines 3-4: Delete "the act to which this is a supplement" insert "P.L. 1945, c.169 (C.10:5-1 et seq.)"
- Page 4 Section 10, Line 5: After "to a" insert "qualified small business enterprise,"
- Page 5, Section 10, Line 22: After "program" insert "including any State or locally administered public retirement system, provided that the provisions of those plans or programs are not used to establish an age for mandatory retirement"
- Page 6, Section 11, Line 49: After "to a" insert "qualified small business enterprise, a"
- Page 6, Section 12, After Line 22: Insert new section as follows:
- "13. Where the local board of board of education determines that a business has been classified as a qualified small business enterprise, qualified minority business enterprise or qualified women business enterprise on the basis of false information knowingly supplied by the business and has been awarded a contract to which it would not otherwise have been entitled under this act, local board of education shall have the authority to:

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a. Assess the business any difference between the contract amount and what the local board of education's cost would have been if the contract had not been awarded in accordance with the provisions of this act;

b. In addition to the amount due under subsection a., assess the business a penalty in an amount of not more than 10% of the amount of the contract involved; and

c. Order the business ineligible to transact any business with the local board of education for a period to be determined by the local board of education.

Prior to any final determination, assessment or order under this section, the local board of education shall afford the business an opportunity for a hearing on the reasons for the imposition of the penalties set forth in subsections a., b. or c. of this section."

Page 6, Section 13, Line 1:

Delete "13." insert "14."

Respectfully.

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:
/s/ W. Cary Edwards
Chief Counsel

ASSEMBLY RECORDS

Signed Bills
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S-3491, sponsored by State Senator Carmen A. Orechio, D-Essex, which appropriates \$47,758, in Federal funds to Montclair State College under a College Work Study Program grant.

A-632, sponsored by Assemblyman Joseph V. Doria, Jr., D-Hudson, which requires local boards of education to establish policies and procedures, along with parents, teachers and students, for student promotion and remediation.

The bill had been conditionally vetoed to remove similar requirements for grade and subject standards for pupil retention and promotion.

A-2229, sponsored by Assemblyman Robert Martin, R-Morris, which directs the Commissioner of Human Services to establish a one year demonstration rehabilitation program for adults with severe head injuries. The program will be done through contract with a nonprofit agency.

A-2385, sponsored by Assemblyman Joseph Charles, Jr., D-Hudson, which permits the governing body of a county or municipality to establish a minority business set aside program and/or a women's business set aside program. The bill was conditionally vetoed to conform with State laws establishing such programs in State agencies.

S-2577, sponsored by Assemblyman Anthony S. Marcella, D-Gloucester, which amends the Solid Waste Management Act of 1970 to empower the Department of Environmental Protection to assess and collect administrative penalties for violations of the Act, or rules promulgated pursuant to the Act.

A-2974, sponsored by Assemblyman Joseph Charles, Jr., D-Hudson, which permits local boards of education to establish set aside programs for qualified minority-owned and women-owned businesses. The bill was conditionally vetoed to conform with State laws establishing similar programs.