

10:5-39 to 10:5-42

LEGISLATIVE HISTORY CHECKLIST

NJSA: 10:5-39 to 10:5-42

(State purchases -- require contractors to establish affirmative action programs for veterans)

LAWS OF: 1983

CHAPTER: 197

Bill No: A1261

Sponsor(s): Schwartz

Date Introduced: May 13, 1982

Committee: Assembly: State Government, Civil Service, Elections, Pensions and Veterans Affairs

Senate: State Government, Federal and Interstate Relations and Veterans Affairs

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

Date of Passage: Assembly: Nov. 29, 1982 Re-enacted 4-25-83

Senate: Feb. 9, 1983 Re-enacted 5-23-83

Date of Approval: May 27, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly /// No

Senate Yes //

Fiscal Note: /// No

Veto Message: Yes //

Message on Signing: Yes //

Following were printed:

Reports: /// No

Hearings: /// No

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ASSEMBLY, No. 1261

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1982

By Assemblyman SCHWARTZ

AN ACT concerning veterans' employment and providing for penalties.

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

1. 1. As used in this act:

2 a. "Affirmative action program for veterans **of the Vietnam*
3 *era**" means a plan guaranteeing to veterans **of the Vietnam*
4 *era** an equal employment opportunity, which includes but is not
5 limited to the following areas: recruitment, selection, hiring,
6 training, promotion, transfer, layoff, return from layoff, compensa-
6A tion, and fringe benefits.

7 b. "Public works contract" means any contract exceeding
8 \$250,000.00 in price to be performed for or on behalf of the State
9 for the construction, alteration, or repair of any building or public
10 work ***[or for the acquisition of materials, equipment, supplies, or**
11 **services]***.

12 c. "Veteran **of the Vietnam era**" means any ***[honorably**
13 **discharged soldier, sailor, marine or nurse who served in any**
14 **army or navy of the allies of the United States in World War I,**
15 **between July 14, 1914, and November 11, 1918, or who served in any**
16 **army or navy of the allies of the United States in World War II,**
17 **between September 1, 1939, and September 2, 1945, and who was**
18 **inducted into such service through voluntary enlistment, and was**
19 **a citizen of the United States at the time of such enlistment, and**
20 **who did not, during or by reason of such service, renounce or lose**
21 **his United States citizenship, and any]*** soldier, sailor, marine,
22 airman, nurse or army field clerk, who has served ***[in the active**

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:

***—Assembly amendments adopted in accordance with Governor's recommendations April 11, 1983.**

23 military or naval service]* **at least 90 days in the active military,*
 24 *naval or air service** of the United States **commencing in the*
 25 *period between the dates of January 1, 1960 and August 1, 1974**
 26 and has **[or shall be]* *been** discharged or released therefrom
 27 under conditions other than dishonorable, **[In any of the following*
 28 *wars, uprisings, insurrections or expeditions,]** and who has pre-
 28A sented to the Civil Service Commission of New Jersey full and
 28B convincing evidence of such record of service on or before the date
 28C of making application for a position governed by this act*[:]*
 28D **The 90 day requirement for active service is exclusive of any time*
 28E *such veteran was assigned (1) for a course of education or training*
 28F *under the Army Specialized Training Program or the Navy Col-*
 28G *lege Training Program which course was a continuation of his*
 28H *civilian course and was pursued to completion, or (2) as a cadet or*
 28I *midshipman at one of the service academies, any part of which*
 28J *90 days was served between said dates; and exclusive of any*
 28K *service performed pursuant to the provisions of section 511 (d)*
 28L *of Title 10, United States Code, pursuant to an enlistment in the*
 28M *Army National Guard or as a reserve for service in the Army*
 28N *Reserve, Naval Reserve, Air Force Reserve, Marine Corps Re-*
 28O *serve, or Coast Guard Reserve; provided, that any person receiv-*
 28P *ing an actual service-incurred injury or disability shall be classed*
 28Q *as a veteran whether or not he has completed the 90 days service*
 28R *as herein provided.**

29 **[(1) The Indian wars and uprisings during any of the periods*
 30 *recognized by the War Department of the United States as periods*
 31 *of active hostility;*

32 *(2) The Spanish-American War between April 20, 1898, and*
 33 *April 11, 1899;*

34 *(3) The Philippine insurrections and expeditions during the*
 35 *periods recognized by the War Department of the United States*
 36 *as of active hostility from February 4, 1899, to the end of 1913;*

37 *(4) The Peking relief expedition between June 20, 1900, and*
 38 *May 27, 1902;*

39 *(5) The army of Cuban occupation between July 18, 1898, and*
 40 *May 20, 1902;*

41 *(6) The army of Cuban pacification between October 6, 1906,*
 42 *and April 1, 1909;*

43 *(7) The Mexican punitive expedition between March 14, 1916,*
 44 *and February 7, 1917;*

45 *(8) The Mexican border patrol, having actually participated in*
 46 *engagements against Mexicans between April 12, 1911, and June*
 47 *16, 1919;*

48 (9) World War I between April 6, 1917, and November 11, 1918;

49 (10) World War II, after September 16, 1940, who shall have
50 served at least 90 days commencing on or before September 2, 1945,
51 in such active service, exclusive of any period he was assigned
52 (1) for a course of education or training under the Army Special-
53 ized Training Program or the Navy College Training Program,
54 which course was a continuation of his civilian course and was
55 pursued to completion, or (2) as a cadet or midshipman at one
56 of the service academies; provided, that any person receiving an
57 actual service-incurred injury or disability shall be classed as a
58 veteran whether or not he has completed the 90-day service as
59 herein provided;

60 (11) Korean conflict, after June 23, 1950, who shall have served
61 at least 90 days commencing on or before July 27, 1953, in such
62 active service, exclusive of any period he was assigned (1) for a
63 course of education or training under the Army Specialized Train-
64 ing Program or the Navy College Training Program which course
65 was a continuation of his civilian course and was pursued to com-
66 pletion, or (2) as a cadet or midshipman at one of the service
67 academies, any part of which 90 days was served between said
68 dates; provided, that any person receiving an actual service-in-
69 curred injury or disability shall be classed as a veteran whether
70 or not he has completed the 90-day service as herein provided;

71 (12) Vietnam conflict, after December 31, 1960, who shall have
72 served at least 90 days commencing on or before the date of termi-
73 nation as proclaimed by the Governor in such active service, ex-
74 clusive of any period he was assigned (1) for a course of education
75 or training under the Army Specialized Training Program or the
76 Navy College Training Program which course was a continuation
77 of his civilian course and was pursued to completion, or (2) as a
78 cadet or midshipman at one of the service academies, any part of
79 which 90 days was served between said dates; and exclusive of any
80 service performed pursuant to the provisions of section 511 (d)
81 of Title 10, United States Code, pursuant to an enlistment in the
82 Army National Guard or as a reserve for service in the Army
83 Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve,
84 or Coast Guard Reserve; provided, that any person receiving an
85 actual service-incurred injury or disability shall be classed as a
86 veteran whether or not he has completed the 90 days service as
87 herein provided.]*

1 2. ***[**For the benefit of veterans and other interested persons, any
2 contractor, subcontractor, or their assignees working under a public
3 works contract shall list all vacancies in permanent jobs within 5

4 days of their occurrence with the Division of Employment Services
 5 in the Department of Labor, established pursuant to the "Reorgani-
 6 zation Plan of the Department of Labor and Industry" filed on
 7 June 20, 1972]* **Each public works contract shall contain appro-
 8 priate provisions in which contractors, subcontractors, or their
 9 assignees shall guarantee an equal employment opportunity to
 10 veterans of the Vietnam era. If any veteran believes any contractor
 11 of the State has failed to comply or refuses to comply with the pro-
 12 visions of the contractor's contract relating to the employment of
 13 Vietnam era veterans, such veteran may file a complaint with the
 14 State Treasurer, who shall promptly investigate such complaint
 15 and take appropriate action.**

1 3. **[The State Treasurer shall prescribe an affirmative action
 2 program for veterans. Each public works contract shall contain ap-
 3 propriate provisions in which contractors, subcontractors, or their
 4 assignees shall guarantee an equal employment opportunity to
 5 veterans in accordance with the affirmative action program for
 6 veterans adopted by the State Treasurer]* **The State Treasurer
 7 shall prescribe an affirmative action program for veterans of the
 8 Vietnam era. The Treasurer shall designate an appropriate official
 9 in the Department of the Treasury to receive and investigate any
 10 complaints charging discriminatory employment practices toward
 11 such veterans.***

1 4. Any person who violates this law or the provisions of a public
 2 works contract guaranteeing an equal employment opportunity to
 3 veterans shall **[, in addition]* **be subject* to any **[other]*
 4 penalties allowable under law*[, be subject to a fine of up to
 5 \$1,000.00 for each violation for each day during which the violation
 6 continues, the fine to be collected in a summary manner pursuant
 7 to "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.)]*.***

1 5. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to guarantee an equal employment opportunity to veterans. It requires that all contractors providing goods or services in excess of \$250,000.00 to the State list all permanent job vacancies with the Division of Employment Services in the Department of Labor and that these contractors establish affirmative action programs for veterans.

A1261 (1982)

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1261

STATE OF NEW JERSEY

DATED: DECEMBER 13, 1982

This bill establishes a public works affirmative action program for veterans. Public works contract means any contract in excess of \$250,000.00 to be performed for or on behalf of the State for the construction, alteration, or repair of any building or public work or for the acquisition of materials, equipment, supplies or services. Affirmative action program means a plan guaranteeing veterans an equal employment opportunity in such areas as job recruitment, selection, hiring, training, promotion, transfer, layoff, compensation and fringe benefits.

Under the provisions of this bill, the State Treasurer shall prescribe an affirmative action program for veterans. Each public works contract shall contain appropriate provisions in which contractors, subcontractors or their assignees shall guarantee an equal employment opportunity to veterans in accordance with the State Treasurer's affirmative action program. The bill also provides that a contractor, subcontractor or their assignees working under a public works contract shall list with the Division of Employment Services in the Department of Labor all vacancies in permanent jobs within five days of their occurrence.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

April 11, 1983

ASSEMBLY BILL NO. 1261

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the Constitution, I herewith return Assembly Bill No. 1261 with my objections.

The purpose of this legislation is to establish an affirmative action program for veterans by requiring that every public works contract contain appropriate provisions by which contractors, subcontractors, or their assignees must guarantee an equal employment opportunity to veterans in accordance with a program to be prescribed and adopted by the State Treasurer.

Although I am aware of, and sympathetic toward, the problems faced by veterans in finding employment after their separation from service, I cannot responsibly sign this bill in its present form due to the numerous legal, constitutional, and administrative problems it raises.

The Attorney General has informed me that this legislation may contravene the Commerce Clause of the United States Constitution in that it goes well beyond what the United States Supreme Court has suggested were the limits on a State's ability to prescribe the terms and conditions under which it will participate in the labor market.

The definition of "public works contract" in this bill is so broad that it can extend to work performed outside the State of New Jersey. In order to correct this defect, this definition must be limited to work actually performed within the State.

Furthermore, I have been informed by veterans' groups throughout the State that Vietnam era veterans, as a group, are the primary victims of the employment problems addressed by this legislation. In fact, many job training and affirmative action programs for veterans on both the State and Federal level are specifically targeted at Vietnam era veterans. Vietnam era veterans have faced unique problems which have impeded their entry into the labor force. For this reason, I believe the scope of this bill should be limited to this class of veterans.

Finally, this legislation fails to set forth any procedure by which the State Treasurer shall monitor and enforce the provisions of this affirmative

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

action program. I have made some recommendations which would clarify the role of the State Treasurer in this process.

Therefore, I herewith return Assembly Bill No. 1261 and recommend that it be amended as follows:

Page 1, Section 1, Line 2: After "veterans", insert
"of the Vietnam era".

Page 1, Section 1, Line 3: After "veterans", insert
"of the Vietnam era".

Page 1, Section 1, Lines 10-11: Delete

"or for the acquisition of materials, equipment, supplies, or services."

Page 1, Section 1, Line 12: After "veteran", insert
"of the Vietnam era".

Page 1, Section 1, Lines 12-21: Delete

"honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any army or navy of the allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any".

Page 1, Section 1, Line 22: After "served", delete in entirety and insert

"at least 90 days in the active military, naval or air service".

Page 2, Section 1, Line 23: After "United States", insert

commencing "in the period between the dates of January 1, 1960 and August 1, 1974".

Page 2, Section 1, Line 23: Delete "or shall be", and insert "been".

Page 2, Section 1, Line 24-25: Delete

"in any of the following wars, uprisings, insurrections or expeditions,"

Page 2, Section 1, Line 28: After "act", delete ":" and insert "."

Page 2, Section 1, Line 28: After "act.", insert

"The 90 day requirement for active service is exclusive of any time such veteran was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511 (d) of Title 10, United States Code,

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service as herein provided."

Page 2-3, Section 1, Lines 29-87: Delete

Page 3, Section 2, Line 1-7: Omit lines 1-7, insert the following:

"Each public works contract shall contain appropriate provisions in which contractors, subcontractors, or their assignees shall guarantee an equal employment opportunity to veterans. If any veteran of the Vietnam era believes any contractor of the State has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the State Treasurer, who shall promptly investigate such complaint and take appropriate action.

Page 3, Section 3, Line 1-6: Omit lines 1-6, insert the following:

"The State Treasurer shall prescribe an affirmative action program for veterans. The Treasurer shall designate an appropriate official in the Department of the Treasury to receive and investigate any complaints charging discriminatory employment practices toward veterans."

Page 3, Section 4, Line 3: After "shall", delete ", in addition" and insert "be subject". Delete "other".

Page 3, Section 4, Line 4-7: Delete in entirety, insert "law."

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards

Chief Counsel to the Governor

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

FRIDAY, MAY 27, 1983

Governor Thomas H. Kean today signed legislation designed to guarantee equal employment opportunities to veterans by requiring that all public contracts contain affirmative action clauses.

"Every American owes a debt to those who have served in the defense of our country," the Governor said. "I think it is absolutely fitting that we take every step we can to repay that debt. Certainly creating job opportunities for veterans is a basic part of that payment."

The bill, A-1261, sponsored by Assemblyman David C. Schwartz, D-Middlesex, requires that affirmative action programs for veterans be a part of any public works contract over \$250,000. It also directs that all contractors, subcontractors or assignees working on an eligible contract list all their vacancies and permanent jobs with the Department of Labor.

The State Treasurer is charged, under the terms of the bill, with developing the affirmative action program.

The Governor also signed A-610, sponsored by Assemblyman John W. Markert, R-Bergen, which amends the Child Labor Act to permit children under the age of 16 to work performing domestic services such as cleaning or dishwashing in homes other than their own, with the consent of their parent or guardian.

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