

52:15D-1 & 52:15D-2
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2013 **CHAPTER:** 37

NJSA: 52:15D-1 & 52:15D-2 (Authorizes deployment of integrity oversight monitors in implementation of certain recovery and rebuilding projects)

BILL NO: A60 (Substituted for S2536)

SPONSOR(S) Oliver and others

DATE INTRODUCED: February 7, 2013

COMMITTEE: **ASSEMBLY:** Budget

SENATE: State Government, Wagering, Tourism & Historic Preservation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 21, 2013

SENATE: February 26, 2013

DATE OF APPROVAL: March 27, 2013

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted)

A60 **SPONSOR'S STATEMENT:** (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(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: Yes

LEGISLATIVE FISCAL NOTE: No

S2536

SPONSOR'S STATEMENT: (Begins on page 5 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

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: Yes

OTHER: Yes

"State to Monitor Sandy funds," The Record, 3-28-13

"Christie signs Sandy Monitor Legislation," Asbury Park Press, 3-28-13

974.905 I48

Integrity Oversight Monitoring Quarterly Reports
Trenton, N.J. : New Jersey Treasury Department, 2014-

<https://dspace.njstatelib.org/xmlui/handle/10929/32618>

LAW/KR

Title 52.
Subtitle 3.
Chapter
15D.(New)
Integrity
Oversight
Monitors
§§1-2 –
C.52:15D-1 &
52:15D-2

P.L.2013, CHAPTER 37, *approved March 27, 2013*
Assembly, No. 60 (*Second Reprint*)

1 AN ACT authorizing the deployment of ²**[integrity]** oversight²
2 monitors in the implementation of certain ²**[Hurricane Sandy]**²
3 recovery and rebuilding projects, supplementing Title 52 of the
4 Revised Statutes.

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

- 8
9 1. The Legislature finds and declares that:
10 a. Hurricane Sandy has inflicted approximately
11 \$30,000,000,000 worth of damage upon the State and exposed the
12 need for more than \$7,000,000,000 in mitigation efforts to buttress
13 the State's defenses from future storms, according to the
14 Governor's initial estimates of November of 2012;
15 b. The State of New Jersey, with the assistance of the federal
16 government, shall endeavor to repair, rebuild, and ¹**[revive]**
17 revitalize¹ the portions of the State devastated by Hurricane Sandy;
18 c. The State of New Jersey is duty bound to its residents ¹and
19 all taxpayers in the United States¹ to ensure that all resources
20 dedicated to the recovery from Hurricane Sandy be applied in an
21 efficient manner and that the State should take all necessary
22 ¹**[precaution]** precautions¹ to prevent, detect, and remediate waste,
23 fraud, and abuse;
24 d. Given the severity of the damage caused by Hurricane Sandy
25 and the magnitude of the resources necessary to begin the recovery
26 process there is a ¹**[potential for the influx of federal assistance to**
27 **stretch]** need to ensure that¹ the ¹**[State's]** State has sufficient¹
28 capacity for efficient oversight; and
29 e. The use of integrity monitors as independent oversight
30 providers may be an effective measure to supplement the State's

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 SSG committee amendments adopted February 21, 2013.

²Senate floor amendments adopted February 26, 2013.

1 existing compliance control mechanisms to prevent the inefficient
2 expenditure of Hurricane Sandy recovery resources.

3

4 2. a. (1) ¹~~For~~ Subject to the availability of federal funding,
5 for¹ each State contract involving ¹consideration of \$5,000,000 or
6 more for¹ a ²~~Hurricane Sandy~~² recovery and rebuilding project,
7 the State Treasurer shall ¹~~cause the following contractual~~
8 ~~conditions~~¹ require¹ to be included in the contract ¹~~:~~

9 The contract recipient shall procure the services of an integrity
10 monitor from the qualified integrity monitor database established
11 pursuant to subsection b. of this section during the initial
12 implementation of the contract, unless this condition is waived by
13 the State Treasurer upon a determination of sufficient contract
14 recipient compliance controls; and ²~~such conditions as~~² ~~are~~² the
15 State Treasurer deems² necessary to facilitate the use of integrity
16 oversight² monitors.

17 The State Treasurer shall select integrity² oversight² monitors for
18 the implementation of a contract, unless this condition is waived by
19 the State Treasurer upon a determination that sufficient integrity
20 oversight is already present in the contract or a funding recipient's
21 existing compliance controls.¹

22 The State Treasurer shall have the authority to require that ¹~~a~~
23 ~~contract recipient procure~~¹ the services of an integrity ²oversight²
24 monitor ¹~~be retained~~¹ from the qualified integrity ²oversight²
25 monitor ¹~~database~~¹ pool¹ established pursuant to subsection b. of
26 this section for any duration of the contract upon a determination by
27 the State Treasurer that an integrity ²oversight² monitor is necessary
28 to alleviate potential or ongoing inefficiency or that the size or
29 nature of the contract makes the procurement of an integrity
30 ²oversight² monitor prudent.

31 (2) ¹~~For~~ Subject to the availability of federal funding, for¹
32 ²~~Hurricane Sandy~~² recovery and rebuilding projects not involving
33 a State contract, ²~~the governmental entity that is a party to such~~
34 contract shall provide the State Treasurer, in such form as the State
35 Treasurer may prescribe, notice of such contract, a description of
36 the recovery and rebuilding project, the parties thereto, and the
37 funding source for the project costs, including integrity oversight
38 monitoring services. Upon receipt of such notice, and subject to the
39 availability of federal funding,² the State Treasurer shall procure
40 the services of an integrity ²oversight² monitor from the qualified
41 integrity ²oversight² monitor ¹~~database~~¹ pool¹ established pursuant
42 to subsection b. of this section during the initial implementation of
43 the ²~~Hurricane Sandy~~² recovery and rebuilding project ¹involving
44 a contract that includes consideration of \$5,000,000 or more¹,
45 unless this condition is waived by the State Treasurer upon a
46 determination of sufficient funding recipient compliance controls.

1 For ²[Hurricane Sandy]² recovery and rebuilding projects not
2 involving a State contract, the State Treasurer shall have the
3 authority to procure the services of an integrity ²oversight² monitor
4 from the qualified integrity ²oversight² monitor ¹[database] pool¹
5 established pursuant to subsection b. of this section for any duration
6 of a ²[Hurricane Sandy]² recovery and rebuilding project
7 ¹involving a contract that includes consideration of \$5,000,000 or
8 more¹ upon a determination by the State Treasurer that an integrity
9 ²oversight² monitor is necessary to alleviate potential or ongoing
10 inefficiency or that the size or nature of the ²[Hurricane Sandy]²
11 recovery and rebuilding project makes the procurement of an
12 integrity ²oversight² monitor prudent.

13 (3) If the State Treasurer issues ¹[an] a waiver of the
14 requirement for an¹ integrity ²oversight² monitor ¹[service
15 condition waiver]¹ pursuant to this subsection, the State Treasurer
16 shall provide the ¹Governor, the¹ Senate President¹,¹ and the
17 Speaker of the General Assembly a report in accordance with
18 section 2 of P.L.1991, c.164 (C.52:14-19.1), which report shall
19 detail the reasoning associated with the waiver and the contract or
20 funding recipient's ¹existing¹ compliance controls. The report shall
21 be due within ten business days of the issuance of the waiver.

22 ¹(4) ²[For] Subject to the availability of federal funding, for² a
23 State or non-State contract involving consideration of less than
24 \$5,000,000 for a ²[Hurricane Sandy]² recovery and rebuilding
25 project, the State Treasurer's authorization to impose conditions
26 concerning integrity ²oversight² monitors pursuant to paragraphs (1)
27 and (2) of this subsection shall apply if the State Treasurer
28 determines that integrity ²oversight² monitor conditions are
29 necessary to alleviate potential or ongoing inefficiency or that the
30 size or nature of a ²[Hurricane Sandy]² recovery and rebuilding
31 project makes the procurement of an integrity ²oversight² monitor
32 prudent.¹

33 b. ¹[To facilitate the use of integrity monitors pursuant to
34 subsection a. of this section, the State Treasurer shall establish a
35 qualified integrity monitor database which shall identify the
36 integrity monitors that that State Treasurer has determined to be
37 qualified to provide integrity monitor services. The qualified
38 integrity monitor database shall be a publicly accessible database.

39 The State Treasurer shall administer a transparent process for
40 determining the qualification of an integrity monitor, which
41 determinations shall be based on a range of meritorious factors
42 established by the State Treasurer that emphasize the capacity of
43 integrity monitors to prevent, detect, and remediate inefficiency and
44 malfeasance in the implementation of Hurricane Sandy recovery
45 and rebuilding projects. The State Treasurer's decision and
46 reasoning as to the qualification of an integrity monitor for

1 inclusion in the qualified integrity monitor database shall be made
2 available through the database.]

3 The State Treasurer shall establish a pool of qualified integrity
4 ²oversight² monitors. The State Treasurer shall qualify integrity
5 ²oversight² monitors for inclusion in the pool through a public
6 procurement process in accordance with existing public contracting
7 laws and regulations. Provided, however, to expedite the
8 implementation of integrity ²oversight² monitor oversight for
9 ²[Hurricane Sandy]² recovery and rebuilding projects, the State
10 Treasurer is authorized to administer the public procurement
11 process for integrity ²oversight² monitors in as expeditious a
12 manner as is feasible under existing public contracting laws and
13 regulation and to take such anticipatory action as is necessary to
14 begin the selection process and creation of a qualified integrity
15 ²oversight² monitor pool in advance of the State's receipt of
16 applicable federal resources dedicated to the recovery from
17 Hurricane Sandy or other storms.

18 Upon inclusion on the qualified integrity ²oversight² monitor
19 pool, a qualified integrity ²oversight² monitor is eligible for
20 assignment pursuant to subsection a. of this section. The pool of
21 qualified integrity ²oversight² monitors shall be made available
22 through a public website. This section shall not be construed to
23 authorize the waiver of any applicable provision of law or
24 regulation governing conflicts of interest.¹

25 c. An integrity ²oversight² monitor shall ²periodically report to
26 the governmental entity that is a party to the contract as the State
27 Treasurer deems necessary and shall² be subject to the malfeasance
28 and inefficiency reporting protocol ²[imposed] developed² by the
29 State Treasurer ²in consultation with the State Comptroller². The
30 State Treasurer's reporting protocol shall require an integrity
31 ²oversight² monitor upon a finding of a likely criminal violation ¹or
32 lesser degree of waste, fraud, or abuse.¹ to make a report
33 ¹[forthwith] immediately¹ to the Attorney General ¹and State
34 Comptroller¹.

35 d. For purposes of executing the oversight functions of an
36 integrity ²oversight² monitor ²[relative to accessing State
37 government records, an integrity monitor shall be deemed to be an
38 agent of State government and shall be afforded all rights of access
39 associated thereto] an integrity oversight monitor shall be afforded
40 access to all records and information necessary to execute the
41 integrity oversight monitor's oversight functions². Provided
42 however, if an integrity ²oversight² monitor's access to ²[State
43 government]² records ²and information² may compromise sensitive
44 information²,² the chief executive officer of the entity in possession
45 of the ²[State government]² records may limit the integrity

1 ²oversight² monitor's access accordingly. If a chief executive
2 officer denies sensitive information to an integrity ²oversight²
3 monitor pursuant to this subsection, the chief executive officer shall
4 provide the integrity ²oversight² monitor with its reasoning for the
5 denial in a written notice.

6 e. ¹ ~~["To expedite the implementation of integrity monitors for~~
7 Hurricane Sandy recovery and rebuilding projects, the State
8 Treasurer's procurement of integrity monitors shall be exempt from
9 public contracting laws, rules, and regulations, except that this
10 exemption shall be contingent on the transparent administration of a
11 procurement process wherein the State Treasurer: publicly posts the
12 need and qualification for integrity monitor service contracts,
13 selects an integrity monitor service provider from integrity monitors
14 qualified pursuant to subsection b. of this section that respond to a
15 particular public posting, and maintains the application of conflict
16 of interest provisions associated with public contracting laws, rules,
17 and regulations.

18 f. ¹ ~~"]~~ ¹ On the first business day of each ²~~["even numbered month]~~
19 ~~calendar quarter,~~² each integrity ²oversight² monitor shall provide to
20 the State Treasurer for distribution to the Legislature, in
21 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), and
22 the Governor a report detailing the integrity ²oversight² monitor's
23 provision of services during the ²~~["two]~~ ²~~three~~² month period second
24 preceding the due date of the report and any previously unreported
25 provision of services, which shall include, but not be limited to,
26 detailed findings concerning the integrity ²oversight² monitor's
27 provision of services and recommendations for corrective or
28 remedial action relative to findings of malfeasance and inefficiency.
29 The report shall include a privilege log which shall detail each
30 denial of sensitive information that the integrity ²oversight² monitor
31 exercises in preparing the report for transmission to the Legislature
32 and the Governor pursuant to this subsection. The report shall not
33 include any information which may compromise a potential
34 criminal investigation or prosecution or any proprietary
35 information. The State Treasurer shall have the authority to specify
36 reporting requirements for an integrity ²oversight² monitor pursuant
37 to this subsection relative to the specific services provided by an
38 integrity ²oversight² monitor.

39 No report shall become due for an integrity ²oversight² monitor
40 until at least three months after commencing duties as an integrity
41 ²oversight² monitor. The State Treasurer shall provide the integrity
42 ²oversight² monitor reports received pursuant to this subsection to
43 the Legislature and the Governor within ten business days of
44 receipt.

45 ¹ ~~["g.] f.~~¹ As used in this section:

1 “²**[Hurricane Sandy recovery]** Recovery² and rebuilding
 2 project” means (1) the use of funds provided pursuant to federal
 3 legislation enacted by the 113th Congress of the United States of
 4 America which contains, but is not limited to, disaster assistance for
 5 impacts associated with Hurricane Sandy, or other major storms, in
 6 New Jersey; ¹**[and]**¹ (2) the use of funds disbursed through the
 7 State treasury for undertakings to address the damage associated
 8 with the State of Emergency identified in the Governor’s Executive
 9 Order 104, dated October 27, 2012, concerning Hurricane Sandy,
 10 which undertakings shall include emergency operations, loss
 11 reimbursement, repairs, rebuilding, restorations, reconstruction,
 12 removal of debris, temporary housing, household assistance, relief,
 13 hazard mitigation improvements, construction, and other recovery
 14 and rebuilding activities deemed to be a ²**[Hurricane Sandy]**²
 15 recovery and rebuilding project by the State Treasurer¹; and (3) the
 16 use of funds provided pursuant to federal legislation or disbursed
 17 through the State Treasury for undertakings to address the damage
 18 associated with any other major storm or natural disaster¹.

19 “Integrity ²oversight² monitor” means a private entity that
 20 contracts to provide ¹specialized¹ services to ensure legal
 21 compliance, detect misconduct, and promote best practices in the
 22 administration of ²**[Hurricane Sandy]**² recovery and rebuilding
 23 projects, which services may include, but shall not be limited to,
 24 legal, investigative, accounting, ¹forensic accounting,¹ engineering,
 25 other professional specialties, risk assessment, developing
 26 compliance system constructs, loss prevention, ¹**[and]** ¹
 27 monitoring ¹, contract managers and independent private inspectors
 28 general¹.

29 “Sensitive information” means information which if disclosed to
 30 an integrity ²oversight² monitor would jeopardize compliance with
 31 State or federal law, threaten public health, welfare, or safety, or
 32 harm the competitive economic position of a party ¹including, but
 33 not limited to, information deemed confidential or proprietary or
 34 related to copyright or trade secrets¹.

35
 36 3. This act shall take effect immediately.
 37
 38
 39

40
 41 _____
 42 Authorizes deployment of integrity oversight monitors in
 implementation of certain recovery and rebuilding projects.

ASSEMBLY, No. 60

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED FEBRUARY 7, 2013

Sponsored by:

Assemblywoman SHEILA Y. OLIVER

District 34 (Essex and Passaic)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Co-Sponsored by:

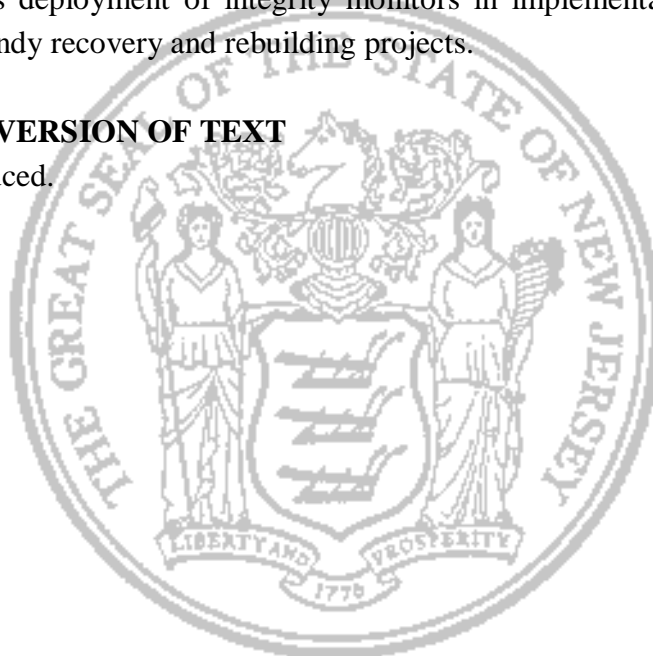
**Assemblymen Coughlin, Eustace, Assemblywoman Mosquera,
Assemblyman Conaway, Assemblywoman Sumter, Assemblymen Caputo
and Coutinho**

SYNOPSIS

Authorizes deployment of integrity monitors in implementation of certain Hurricane Sandy recovery and rebuilding projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2013)

1 AN ACT authorizing the deployment of integrity monitors in the
2 implementation of certain Hurricane Sandy recovery and
3 rebuilding projects, supplementing Title 52 of the Revised
4 Statutes.

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

8
9 1. The Legislature finds and declares that:

10 a. Hurricane Sandy has inflicted approximately \$30,000,000,000
11 worth of damage upon the State and exposed the need for more than
12 \$7,000,000,000 in mitigation efforts to buttress the State's defenses
13 from future storms, according to the Governor's initial estimates of
14 November of 2012;

15 b. The State of New Jersey, with the assistance of the federal
16 government, shall endeavor to repair, rebuild, and revive the
17 portions of the State devastated by Hurricane Sandy;

18 c. The State of New Jersey is duty bound to its residents to
19 ensure that all resources dedicated to the recovery from Hurricane
20 Sandy be applied in an efficient manner and that the State should
21 take all necessary precaution to prevent, detect, and remediate
22 waste, fraud, and abuse;

23 d. Given the severity of the damage caused by Hurricane Sandy
24 and the magnitude of the resources necessary to begin the recovery
25 process there is a potential for the influx of federal assistance to
26 stretch the State's capacity for efficient oversight; and

27 e. The use of integrity monitors as independent oversight
28 providers may be an effective measure to supplement the State's
29 existing compliance control mechanisms to prevent the inefficient
30 expenditure of Hurricane Sandy recovery resources.

31

32 2. a. (1) For each State contract involving a Hurricane Sandy
33 recovery and rebuilding project, the State Treasurer shall cause the
34 following contractual conditions to be included in the contract:

35 The contract recipient shall procure the services of an integrity
36 monitor from the qualified integrity monitor database established
37 pursuant to subsection b. of this section during the initial
38 implementation of the contract, unless this condition is waived by
39 the State Treasurer upon a determination of sufficient contract
40 recipient compliance controls; and

41 The State Treasurer shall have the authority to require that a
42 contract recipient procure the services of an integrity monitor from
43 the qualified integrity monitor database established pursuant to
44 subsection b. of this section for any duration of the contract upon a
45 determination by the State Treasurer that an integrity monitor is
46 necessary to alleviate potential or ongoing inefficiency or that the
47 size or nature of the contract makes the procurement of an integrity
48 monitor prudent.

1 (2) For Hurricane Sandy recovery and rebuilding projects not
2 involving a State contract, the State Treasurer shall procure the
3 services of an integrity monitor from the qualified integrity monitor
4 database established pursuant to subsection b. of this section during
5 the initial implementation of the Hurricane Sandy recovery and
6 rebuilding project, unless this condition is waived by the State
7 Treasurer upon a determination of sufficient funding recipient
8 compliance controls.

9 For Hurricane Sandy recovery and rebuilding projects not
10 involving a State contract, the State Treasurer shall have the
11 authority to procure the services of an integrity monitor from the
12 qualified integrity monitor database established pursuant to
13 subsection b. of this section for any duration of a Hurricane Sandy
14 recovery and rebuilding project upon a determination by the State
15 Treasurer that an integrity monitor is necessary to alleviate potential
16 or ongoing inefficiency or that the size or nature of the Hurricane
17 Sandy recovery and rebuilding project makes the procurement of an
18 integrity monitor prudent.

19 (3) If the State Treasurer issues an integrity monitor service
20 condition waiver pursuant to this subsection, the State Treasurer
21 shall provide the Senate President and the Speaker of the General
22 Assembly a report in accordance with section 2 of P.L.1991, c.164
23 (C.52:14-19.1), which report shall detail the reasoning associated
24 with the waiver and the contract or funding recipient's compliance
25 controls. The report shall be due within ten business days of the
26 issuance of the waiver.

27 b. To facilitate the use of integrity monitors pursuant to
28 subsection a. of this section, the State Treasurer shall establish a
29 qualified integrity monitor database which shall identify the
30 integrity monitors that that State Treasurer has determined to be
31 qualified to provide integrity monitor services. The qualified
32 integrity monitor database shall be a publicly accessible database.

33 The State Treasurer shall administer a transparent process for
34 determining the qualification of an integrity monitor, which
35 determinations shall be based on a range of meritorious factors
36 established by the State Treasurer that emphasize the capacity of
37 integrity monitors to prevent, detect, and remediate inefficiency and
38 malfeasance in the implementation of Hurricane Sandy recovery
39 and rebuilding projects. The State Treasurer's decision and
40 reasoning as to the qualification of an integrity monitor for
41 inclusion in the qualified integrity monitor database shall be made
42 available through the database.

43 c. An integrity monitor shall be subject to the malfeasance and
44 inefficiency reporting protocol imposed by the State Treasurer. The
45 State Treasurer's reporting protocol shall require an integrity
46 monitor upon a finding of a likely criminal violation to make a
47 report forthwith to the Attorney General.

1 d. For purposes of executing the oversight functions of an
2 integrity monitor relative to accessing State government records, an
3 integrity monitor shall be deemed to be an agent of State
4 government and shall be afforded all rights of access associated
5 thereto. Provided however, if an integrity monitor's access to State
6 government records may compromise sensitive information the
7 chief executive officer of the entity in possession of the State
8 government records may limit the integrity monitor's access
9 accordingly. If a chief executive officer denies sensitive
10 information to an integrity monitor pursuant to this subsection, the
11 chief executive officer shall provide the integrity monitor with its
12 reasoning for the denial in a written notice.

13 e. To expedite the implementation of integrity monitors for
14 Hurricane Sandy recovery and rebuilding projects, the State
15 Treasurer's procurement of integrity monitors shall be exempt from
16 public contracting laws, rules, and regulations, except that this
17 exemption shall be contingent on the transparent administration of a
18 procurement process wherein the State Treasurer: publicly posts the
19 need and qualification for integrity monitor service contracts,
20 selects an integrity monitor service provider from integrity monitors
21 qualified pursuant to subsection b. of this section that respond to a
22 particular public posting, and maintains the application of conflict
23 of interest provisions associated with public contracting laws, rules,
24 and regulations.

25 f. On the first business day of each even numbered month each
26 integrity monitor shall provide to the State Treasurer for
27 distribution to the Legislature, in accordance with section 2 of
28 P.L.1991, c.164 (C.52:14-19.1), and the Governor a report detailing
29 the integrity monitor's provision of services during the two month
30 period second preceding the due date of the report and any
31 previously unreported provision of services, which shall include,
32 but not be limited to, detailed findings concerning the integrity
33 monitor's provision of services and recommendations for corrective
34 or remedial action relative to findings of malfeasance and
35 inefficiency. The report shall include a privilege log which shall
36 detail each denial of sensitive information that the integrity monitor
37 exercises in preparing the report for transmission to the Legislature
38 and the Governor pursuant to this subsection. The report shall not
39 include any information which may compromise a potential
40 criminal investigation or prosecution or any proprietary
41 information. The State Treasurer shall have the authority to specify
42 reporting requirements for an integrity monitor pursuant to this
43 subsection relative to the specific services provided by an integrity
44 monitor.

45 No report shall become due for an integrity monitor until at least
46 three months after commencing duties as an integrity monitor. The
47 State Treasurer shall provide the integrity monitor reports received

1 pursuant to this subsection to the Legislature and the Governor
2 within ten business days of receipt.

3 g. As used in this section:

4 “Hurricane Sandy recovery and rebuilding project” means (1) the
5 use of funds provided pursuant to federal legislation enacted by the
6 113th Congress of the United States of America which contains, but
7 is not limited to, disaster assistance for impacts associated with
8 Hurricane Sandy, or other major storms, in New Jersey; and (2) the
9 use of funds disbursed through the State treasury for undertakings
10 to address the damage associated with the State of Emergency
11 identified in the Governor’s Executive Order 104, dated October 27,
12 2012, concerning Hurricane Sandy, which undertakings shall
13 include emergency operations, loss reimbursement, repairs,
14 rebuilding, restorations, reconstruction, removal of debris,
15 temporary housing, household assistance, relief, hazard mitigation
16 improvements, construction, and other recovery and rebuilding
17 activities deemed to be a Hurricane Sandy recovery and rebuilding
18 project by the State Treasurer.

19 “Integrity monitor” means a private entity that contracts to
20 provide services to ensure legal compliance, detect misconduct, and
21 promote best practices in the administration of Hurricane Sandy
22 recovery and rebuilding projects, which services may include, but
23 shall not be limited to, legal, investigative, accounting, engineering,
24 other professional specialties, risk assessment, developing
25 compliance system constructs, loss prevention, and monitoring.

26 “Sensitive information” means information which if disclosed to
27 an integrity monitor would jeopardize compliance with State or
28 federal law, threaten public health, welfare, or safety, or harm the
29 competitive economic position of a party.

30

31 3. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill authorizes the deployment of integrity monitors in the
37 implementation of Hurricane Sandy recovery and rebuilding
38 projects. The purpose of this bill is to reinforce the State’s
39 compliance control mechanisms given the potential for the pending
40 influx of federal assistance to strain the State’s capacity for efficient
41 oversight.

Authority to Deploy Integrity Monitors

42 The bill authorizes the State Treasurer to cause the use of
43 integrity monitors in two classes of Hurricane Sandy recovery and
44 rebuilding projects, those involving State contracts and those not
45 involving State contracts.

46 For Hurricane Sandy recovery and rebuilding projects involving
47 State contracts, the bill authorizes the State Treasurer to make the
48

1 use of an integrity monitor a contractual condition that may be
2 exercised to alleviate potential or ongoing inefficiency or in caution
3 due to the size or nature of the contract. The bill makes the use of
4 an integrity monitor during the initial stages of a contract's
5 implementation the default scenario, unless waived by the State
6 Treasurer upon a determination of sufficient compliance controls.

7 For Hurricane Sandy recovery and rebuilding projects not
8 involving State contracts, the bill authorizes the State Treasurer to
9 procure the services of an integrity monitor to service the project to
10 alleviate potential or ongoing inefficiency or in caution due to the
11 size or nature of the project. The bill makes the use of an integrity
12 monitor during the initial stages of a project's implementation the
13 default scenario, unless waived by the State Treasurer upon a
14 determination of sufficient compliance controls.

15 **Database of Qualified Integrity Monitors**

16 To facilitate the use of integrity monitors, the bill charges the
17 State Treasurer with establishing a qualified integrity monitor
18 database that is accessible to the public. The bill requires the State
19 Treasurer to administer a transparent process for qualifying
20 integrity monitors for inclusion in the database. The bill directs the
21 State Treasurer to base integrity monitor qualification on
22 meritorious factors established by the State Treasurer, which
23 emphasize the capacity of integrity monitors to prevent, detect, and
24 remediate inefficiency and malfeasance in Hurricane Sandy
25 recovery and rebuilding projects. The bill denotes that the State
26 Treasurer's decisions and reasoning as to integrity monitor
27 qualifications are to be made available through the database.

28 **Reporting Protocol**

29 The bill subjects all integrity monitors to malfeasance and
30 inefficiency reporting protocol imposed by the State Treasurer. The
31 bill specifies that the State Treasurer's reporting protocol must
32 require an integrity monitor to expediently report a finding of a
33 likely criminal violation to the Attorney General.

34 The bill also includes a two month reporting requirement for
35 integrity monitors for transmission to the Legislature and the
36 Governor, through the State Treasurer. The bill specifies that the
37 integrity monitor's report must detail the integrity monitor's
38 provision of services for the second most recently closed two month
39 period. The bill requires that the report must include a privilege log
40 that details the denial of any sensitive information to the Legislature
41 and Governor. The bill denotes that the integrity monitor's report
42 cannot include any information that may compromise a criminal
43 investigation or proprietary information. The bill authorizes the
44 State Treasurer to contour the reporting detail relative to the
45 specific services provided by an integrity monitor.

46 **Key Definitional Terms and Administrative Matters**

47 Generally, the bill defines a Hurricane Sandy recovery and
48 rebuilding project as a project relying on: (i) federal funding

1 provided through Hurricane Sandy, or other major storm, disaster
2 assistance legislation enacted by the current Congress; or (ii)
3 funding supplied through the State treasury to address the damage
4 associated with Hurricane Sandy.

5 The bill defines an integrity monitor as a private service provider
6 that strives to ensure legal compliance, detect misconduct, and
7 promote best administrative practices. The bill denotes that the
8 types of services provided by an integrity monitor include legal,
9 investigative, accounting, engineering, other professional
10 specialties, risk assessment, developing compliance system
11 constructs, loss prevention, and monitoring.

12 The bill qualifies an integrity monitor as a State agent for
13 purposes of accessing State government records, except that access
14 may be limited by chief executive officer of the possessing State
15 entity if access may compromise sensitive information. Generally,
16 the bill defines sensitive information as information that if disclosed
17 may violate State or federal law, threaten public welfare, or
18 compromise a party's economic position.

19 The bill allows the State Treasurer's procurement of integrity
20 monitors to bypass public procurement laws to expedite
21 implementation. However, the bill's exemption from public
22 procurement law is contingent on the State Treasurer's transparent
23 administration of a procurement process that satisfies three
24 conditions: (i) public posting of available integrity monitor service
25 contracts and the qualifications thereto; (ii) the selection of an
26 integrity monitor from qualified candidates that respond to a
27 posting; and (iii) application of standing conflict of interest law in
28 the field of public procurement.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 60

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2013

The Assembly Budget Committee reports favorably Assembly Bill No. 60.

This bill authorizes the deployment of integrity monitors in the implementation of Hurricane Sandy recovery and rebuilding projects. The purpose of this bill is to reinforce the State's compliance control mechanisms given the potential for the pending influx of federal assistance to strain the State's capacity for efficient oversight.

Authority to Deploy Integrity Monitors

The bill authorizes the State Treasurer to cause the use of integrity monitors in two classes of Hurricane Sandy recovery and rebuilding projects, those involving State contracts and those not involving State contracts.

For Hurricane Sandy recovery and rebuilding projects involving State contracts, the bill authorizes the State Treasurer to make the use of an integrity monitor a contractual condition that may be exercised to alleviate potential or ongoing inefficiency or in caution due to the size or nature of the contract. The bill makes the use of an integrity monitor during the initial stages of a contract's implementation the default scenario, unless waived by the State Treasurer upon a determination of sufficient compliance controls.

For Hurricane Sandy recovery and rebuilding projects not involving State contracts, the bill authorizes the State Treasurer to procure the services of an integrity monitor to service the project to alleviate potential or ongoing inefficiency or in caution due to the size or nature of the project. The bill makes the use of an integrity monitor during the initial stages of a project's implementation the default scenario, unless waived by the State Treasurer upon a determination of sufficient compliance controls.

Database of Qualified Integrity Monitors

To facilitate the use of integrity monitors, the bill charges the State Treasurer with establishing a qualified integrity monitor database that is accessible to the public. The bill requires the State Treasurer to administer a transparent process for qualifying integrity monitors for inclusion in the database. The bill directs the State Treasurer to base integrity monitor qualification on meritorious factors, established by the State Treasurer, which emphasize the capacity of integrity monitors to prevent, detect, and remediate inefficiency and

malfeasance in Hurricane Sandy recovery and rebuilding projects. The bill denotes that the State Treasurer's decisions and reasoning as to integrity monitor qualifications are to be made available through the database.

Reporting Protocol

The bill subjects all integrity monitors to malfeasance and inefficiency reporting protocol imposed by the State Treasurer. The bill specifies that the State Treasurer's reporting protocol must require an integrity monitor to expediently report a finding of a likely criminal violation to the Attorney General.

The bill also includes a two month reporting requirement for integrity monitors for transmission to the Legislature and the Governor, through the State Treasurer. The bill specifies that the integrity monitor's report must detail the integrity monitor's provision of services for the second most recently closed two month period. The bill requires the report to include a privilege log that details the denial of any sensitive information to the Legislature and Governor. The bill denotes that the integrity monitor's report cannot include any information that may compromise a criminal investigation or proprietary information. The bill authorizes the State Treasurer to contour the reporting detail relative to the specific services provided by an integrity monitor.

Key Definitional Terms and Administrative Matters

Generally, the bill defines a Hurricane Sandy recovery and rebuilding project as a project relying on: (i) federal funding provided through Hurricane Sandy, or other major storm, disaster assistance legislation enacted by the current Congress; or (ii) funding supplied through the State treasury to address the damage associated with Hurricane Sandy.

The bill defines an integrity monitor as a private service provider that strives to ensure legal compliance, detect misconduct, and promote best administrative practices. The bill denotes that the types of services provided by an integrity monitor include legal, investigative, accounting, engineering, other professional specialties, risk assessment, developing compliance system constructs, loss prevention, and monitoring.

The bill qualifies an integrity monitor as a State agent for purposes of accessing State government records, except that access may be limited by the chief executive officer of the possessing State entity if access may compromise sensitive information. Generally, the bill defines sensitive information as information that if disclosed may violate State or federal law, threaten public welfare, or compromise a party's economic position.

The bill allows the State Treasurer's procurement of integrity monitors to bypass public procurement laws to expedite implementation. However, the bill's exemption from public procurement law is contingent on the State Treasurer's transparent

administration of a procurement process that satisfies three conditions: (i) public posting of available integrity monitor service contracts and the qualifications thereto; (ii) the selection of an integrity monitor from qualified candidates that respond to a posting; and (iii) application of standing conflict of interest law in the field of public procurement.

FISCAL IMPACT:

This bill has not been certified as requiring a fiscal note.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO
ASSEMBLY, No. 60

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 21, 2013

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably and with committee amendments Assembly Bill No. 60.

This bill, as amended, authorizes the deployment of integrity monitors in the implementation of Hurricane Sandy recovery and rebuilding projects. The purpose of this bill is to reinforce the State's compliance control mechanisms given the potential for the pending influx of federal assistance to strain the State's capacity for efficient oversight.

Authority to Deploy Integrity Monitors

The bill authorizes the State Treasurer to use integrity monitors in two classes of Hurricane Sandy recovery and rebuilding projects: those involving State contracts and those not involving State contracts. The bill makes the State Treasurer's authority to deploy integrity monitors for either class of Hurricane Sandy recovery and rebuilding projects subject to the availability of federal funding. Additionally, the bill exempts contracts for Hurricane Sandy recovery and rebuilding projects involving consideration of less than five million dollars, unless the State Treasurer makes a determination that the exemption should be lifted to prevent inefficiency or to monitor large-scale projects.

For Hurricane Sandy recovery and rebuilding projects involving State contracts, the bill authorizes the State Treasurer to make the use of an integrity monitor a contractual condition that may be exercised to alleviate potential or ongoing inefficiency or in caution due to the size or nature of the contract. The bill makes the use of an integrity monitor during the initial stages of a contract's implementation the default scenario, unless waived by the State Treasurer upon a determination of sufficient compliance controls.

For Hurricane Sandy recovery and rebuilding projects not involving State contracts, the bill authorizes the State Treasurer to procure the services of an integrity monitor to service the project to alleviate potential or ongoing inefficiency or in caution due to the size

or nature of the project. The bill makes the use of an integrity monitor during the initial stages of a project's implementation the default scenario, unless waived by the State Treasurer upon a determination of sufficient compliance controls.

Qualified Integrity Monitor Pool

To facilitate the use of integrity monitors, the bill charges the State Treasurer with establishing a qualified integrity monitor pool from which integrity monitors may be assigned to a Hurricane Sandy recovery and rebuilding project. The bill denotes that the qualification of integrity monitors for inclusion in the pool shall be governed by a public procurement process in accordance with standing law and regulation. The bill allows the State Treasurer to take anticipatory action to establish the qualified integrity monitor pool. The bill requires that the pool must be made available through a public website.

Reporting Protocol

The bill subjects all integrity monitors to malfeasance and inefficiency reporting protocol imposed by the State Treasurer. The bill specifies that the State Treasurer's reporting protocol must require an integrity monitor to immediately report a finding of a likely criminal violation or lesser degree of waste, fraud, or abuse, to the Attorney General and State Comptroller.

The bill also includes a two month reporting requirement for integrity monitors for transmission to the Legislature and the Governor, through the State Treasurer. The bill specifies that the integrity monitor's report must detail the integrity monitor's provision of services for the second most recently closed two month period. The bill requires that the report must include a privilege log that details the denial of any sensitive information to the Legislature and Governor. The bill denotes that the integrity monitor's report cannot include any information that may compromise existing law, a criminal investigation or proprietary information. The bill authorizes the State Treasurer to contour the reporting detail relative to the specific services provided by an integrity monitor.

Key Definitional Terms and Administrative Matters

Generally, under the bill a Hurricane Sandy recovery and rebuilding project means a project relying on: (i) federal funding provided through Hurricane Sandy, or other major storm, disaster assistance legislation enacted by the current Congress; (ii) funding supplied through the State treasury to address the damage associated with Hurricane Sandy; or (iii) funds provided pursuant to federal legislation or through the State Treasury to address the damage associated any other major storm or natural disaster.

The bill defines an integrity monitor as a private entity that provides specialized services to ensure legal compliance, detect misconduct, and promote best administrative practices. The bill denotes that the types of services provided by an integrity monitor include legal, investigative, accounting, forensic accounting,

engineering, other professional specialties, risk assessment, developing compliance system constructs, loss prevention, monitoring, contract managers, and independent private inspectors general.

The bill qualifies an integrity monitor as a State agent for purposes of accessing State government records, except that access may be limited by the chief executive officer of the possessing State entity if access may compromise sensitive information. Generally, the bill defines sensitive information as information that if disclosed may violate State or federal law, threaten public welfare, or compromise a party's economic position.

As amended, this bill is identical to Senate Bill No. 2536 (1R), as also amended by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to: a) make deployment of an integrity monitor subject to the availability of federal funding; b) revise the duty of an integrity monitor to report a likely criminal violation to denote that said duty shall be carried out "immediately", to add the State Comptroller as a report recipient, and to encompass lesser degrees of waste, fraud, or abuse for report; c) install a public procurement law governed system for the creation of a pool of qualified integrity monitors to be assigned to Hurricane Sandy recovery and rebuilding projects; d) add the Governor as a recipient of the State Treasurer's report concerning an integrity monitor assignment waiver; e) expand the definition of a Hurricane Sandy recovery and rebuilding project to include the use of funds provided pursuant to federal legislation or disbursed through the State Treasury to address the damage associated with any other major storm or natural disaster; f) add specific references to specialized services in the definition of integrity monitor to include forensic accounting, contract managers, and independent private inspectors general; g) denote that sensitive information blocked from integrity monitor access would include, but not be limited to, information deemed confidential or proprietary or related to copyright or trade secrets; and h) require that recovery projects involving contracts of \$5 million or more be subject to the bill's substantive requirements, while providing the State Treasurer discretion to apply the bill to recovery projects involving contracts of less than \$5 million based on a determination made with due regard to preventing inefficiency or monitoring large-scale projects.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 60

with Senate Floor Amendment
(Proposed by Senator SWEENEY)

ADOPTED: FEBRUARY 26, 2013

Under the amendment, the bill authorizes the deployment of integrity oversight monitors in implementation of certain recovery and rebuilding projects.

Generally, the amendment has the following four components:

(i) Narrows the explicit scope of integrity oversight monitor deployment with reference to non-State contracts to those contracts involving a governmental entity;

(ii) Clarifies that certain requirements of the bill are subject to the availability of federal funding for the cost of integrity oversight monitors;

(iii) Requires the State Treasurer to consult the State Comptroller in developing malfeasance and inefficiency reporting protocol for integrity oversight monitors; and

(iv) Makes technical changes.

SENATE, No. 2536

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 4, 2013

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Senator Weinberg

SYNOPSIS

Authorizes deployment of integrity monitors in implementation of certain Hurricane Sandy recovery and rebuilding projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2013)

1 AN ACT authorizing the deployment of integrity monitors in the
2 implementation of certain Hurricane Sandy recovery and
3 rebuilding projects, supplementing Title 52 of the Revised
4 Statutes.

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

8
9 1. The Legislature finds and declares that:

10 a. Hurricane Sandy has inflicted approximately
11 \$30,000,000,000 worth of damage upon the State and exposed the
12 need for more than \$7,000,000,000 in mitigation efforts to buttress
13 the State's defenses from future storms, according to the
14 Governor's initial estimates of November of 2012;

15 b. The State of New Jersey, with the assistance of the federal
16 government, shall endeavor to repair, rebuild, and revive the
17 portions of the State devastated by Hurricane Sandy;

18 c. The State of New Jersey is duty bound to its residents to
19 ensure that all resources dedicated to the recovery from Hurricane
20 Sandy be applied in an efficient manner and that the State should
21 take all necessary precaution to prevent, detect, and remediate
22 waste, fraud, and abuse;

23 d. Given the severity of the damage caused by Hurricane Sandy
24 and the magnitude of the resources necessary to begin the recovery
25 process there is a potential for the influx of federal assistance to
26 stretch the State's capacity for efficient oversight; and

27 e. The use of integrity monitors as independent oversight
28 providers may be an effective measure to supplement the State's
29 existing compliance control mechanisms to prevent the inefficient
30 expenditure of Hurricane Sandy recovery resources.

31

32 2. a. (1) For each State contract involving a Hurricane Sandy
33 recovery and rebuilding project, the State Treasurer shall cause the
34 following contractual conditions to be included in the contract:

35 The contract recipient shall procure the services of an integrity
36 monitor from the qualified integrity monitor database established
37 pursuant to subsection b. of this section during the initial
38 implementation of the contract, unless this condition is waived by
39 the State Treasurer upon a determination of sufficient contract
40 recipient compliance controls; and

41 The State Treasurer shall have the authority to require that a
42 contract recipient procure the services of an integrity monitor from
43 the qualified integrity monitor database established pursuant to
44 subsection b. of this section for any duration of the contract upon a
45 determination by the State Treasurer that an integrity monitor is
46 necessary to alleviate potential or ongoing inefficiency or that the
47 size or nature of the contract makes the procurement of an integrity
48 monitor prudent.

1 (2) For Hurricane Sandy recovery and rebuilding projects not
2 involving a State contract, the State Treasurer shall procure the
3 services of an integrity monitor from the qualified integrity monitor
4 database established pursuant to subsection b. of this section during
5 the initial implementation of the Hurricane Sandy recovery and
6 rebuilding project, unless this condition is waived by the State
7 Treasurer upon a determination of sufficient funding recipient
8 compliance controls.

9 For Hurricane Sandy recovery and rebuilding projects not
10 involving a State contract, the State Treasurer shall have the
11 authority to procure the services of an integrity monitor from the
12 qualified integrity monitor database established pursuant to
13 subsection b. of this section for any duration of a Hurricane Sandy
14 recovery and rebuilding project upon a determination by the State
15 Treasurer that an integrity monitor is necessary to alleviate potential
16 or ongoing inefficiency or that the size or nature of the Hurricane
17 Sandy recovery and rebuilding project makes the procurement of an
18 integrity monitor prudent.

19 (3) If the State Treasurer issues an integrity monitor service
20 condition waiver pursuant to this subsection, the State Treasurer
21 shall provide the Senate President and the Speaker of the General
22 Assembly a report in accordance with section 2 of P.L.1991, c.164
23 (C.52:14-19.1), which report shall detail the reasoning associated
24 with the waiver and the contract or funding recipient's compliance
25 controls. The report shall be due within ten business days of the
26 issuance of the waiver.

27 b. To facilitate the use of integrity monitors pursuant to
28 subsection a. of this section, the State Treasurer shall establish a
29 qualified integrity monitor database which shall identify the
30 integrity monitors that that State Treasurer has determined to be
31 qualified to provide integrity monitor services. The qualified
32 integrity monitor database shall be a publicly accessible database.

33 The State Treasurer shall administer a transparent process for
34 determining the qualification of an integrity monitor, which
35 determinations shall be based on a range of meritorious factors
36 established by the State Treasurer that emphasize the capacity of
37 integrity monitors to prevent, detect, and remediate inefficiency and
38 malfeasance in the implementation of Hurricane Sandy recovery
39 and rebuilding projects. The State Treasurer's decision and
40 reasoning as to the qualification of an integrity monitor for
41 inclusion in the qualified integrity monitor database shall be made
42 available through the database.

43 c. An integrity monitor shall be subject to the malfeasance and
44 inefficiency reporting protocol imposed by the State Treasurer. The
45 State Treasurer's reporting protocol shall require an integrity
46 monitor upon a finding of a likely criminal violation to make a
47 report forthwith to the Attorney General.

1 d. For purposes of executing the oversight functions of an
2 integrity monitor relative to accessing State government records, an
3 integrity monitor shall be deemed to be an agent of State
4 government and shall be afforded all rights of access associated
5 thereto. Provided however, if an integrity monitor's access to State
6 government records may compromise sensitive information the
7 chief executive officer of the entity in possession of the State
8 government records may limit the integrity monitor's access
9 accordingly. If a chief executive officer denies sensitive
10 information to an integrity monitor pursuant to this subsection, the
11 chief executive officer shall provide the integrity monitor with its
12 reasoning for the denial in a written notice.

13 e. To expedite the implementation of integrity monitors for
14 Hurricane Sandy recovery and rebuilding projects, the State
15 Treasurer's procurement of integrity monitors shall be exempt from
16 public contracting laws, rules, and regulations, except that this
17 exemption shall be contingent on the transparent administration of a
18 procurement process wherein the State Treasurer: publicly posts the
19 need and qualification for integrity monitor service contracts,
20 selects an integrity monitor service provider from integrity monitors
21 qualified pursuant to subsection b. of this section that respond to a
22 particular public posting, and maintains the application of conflict
23 of interest provisions associated with public contracting laws, rules,
24 and regulations.

25 f. On the first business day of each even numbered month each
26 integrity monitor shall provide to the State Treasurer for
27 distribution to the Legislature, in accordance with section 2 of
28 P.L.1991, c.164 (C.52:14-19.1), and the Governor a report detailing
29 the integrity monitor's provision of services during the two month
30 period second preceding the due date of the report and any
31 previously unreported provision of services, which shall include,
32 but not be limited to, detailed findings concerning the integrity
33 monitor's provision of services and recommendations for corrective
34 or remedial action relative to findings of malfeasance and
35 inefficiency. The report shall include a privilege log which shall
36 detail each denial of sensitive information that the integrity monitor
37 exercises in preparing the report for transmission to the Legislature
38 and the Governor pursuant to this subsection. The report shall not
39 include any information which may compromise a potential
40 criminal investigation or prosecution or any proprietary
41 information. The State Treasurer shall have the authority to specify
42 reporting requirements for an integrity monitor pursuant to this
43 subsection relative to the specific services provided by an integrity
44 monitor.

45 No report shall become due for an integrity monitor until at least
46 three months after commencing duties as an integrity monitor. The
47 State Treasurer shall provide the integrity monitor reports received

1 pursuant to this subsection to the Legislature and the Governor
2 within ten business days of receipt.

3 g. As used in this section:

4 “Hurricane Sandy recovery and rebuilding project” means (1) the
5 use of funds provided pursuant to federal legislation enacted by the
6 113th Congress of the United States of America which contains, but
7 is not limited to, disaster assistance for impacts associated with
8 Hurricane Sandy, or other major storms, in New Jersey; and (2) the
9 use of funds disbursed through the State treasury for undertakings
10 to address the damage associated with the State of Emergency
11 identified in the Governor’s Executive Order 104, dated October 27,
12 2012, concerning Hurricane Sandy, which undertakings shall
13 include emergency operations, loss reimbursement, repairs,
14 rebuilding, restorations, reconstruction, removal of debris,
15 temporary housing, household assistance, relief, hazard mitigation
16 improvements, construction, and other recovery and rebuilding
17 activities deemed to be a Hurricane Sandy recovery and rebuilding
18 project by the State Treasurer.

19 “Integrity monitor” means a private entity that contracts to
20 provide services to ensure legal compliance, detect misconduct, and
21 promote best practices in the administration of Hurricane Sandy
22 recovery and rebuilding projects, which services may include, but
23 shall not be limited to, legal, investigative, accounting, engineering,
24 other professional specialties, risk assessment, developing
25 compliance system constructs, loss prevention, and monitoring.

26 “Sensitive information” means information which if disclosed to
27 an integrity monitor would jeopardize compliance with State or
28 federal law, threaten public health, welfare, or safety, or harm the
29 competitive economic position of a party.

30

31 3. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill authorizes the deployment of integrity monitors in the
37 implementation of Hurricane Sandy recovery and rebuilding
38 projects. The purpose of this bill is to reinforce the State’s
39 compliance control mechanisms given the potential for the pending
40 influx of federal assistance to strain the State’s capacity for efficient
41 oversight.

Authority to Deploy Integrity Monitors

42 The bill authorizes the State Treasurer to cause the use of
43 integrity monitors in two classes of Hurricane Sandy recovery and
44 rebuilding projects, those involving State contracts and those not
45 involving State contracts.

46 For Hurricane Sandy recovery and rebuilding projects involving
47 State contracts, the bill authorizes the State Treasurer to make the
48

1 use of an integrity monitor a contractual condition that may be
2 exercised to alleviate potential or ongoing inefficiency or in caution
3 due to the size or nature of the contract. The bill makes the use of
4 an integrity monitor during the initial stages of a contract's
5 implementation the default scenario, unless waived by the State
6 Treasurer upon a determination of sufficient compliance controls.

7 For Hurricane Sandy recovery and rebuilding projects not
8 involving State contracts, the bill authorizes the State Treasurer to
9 procure the services of an integrity monitor to service the project to
10 alleviate potential or ongoing inefficiency or in caution due to the
11 size or nature of the project. The bill makes the use of an integrity
12 monitor during the initial stages of a project's implementation the
13 default scenario, unless waived by the State Treasurer upon a
14 determination of sufficient compliance controls.

15 **Database of Qualified Integrity Monitors**

16 To facilitate the use of integrity monitors, the bill charges the
17 State Treasurer with establishing a qualified integrity monitor
18 database that is accessible to the public. The bill requires the State
19 Treasurer to administer a transparent process for qualifying
20 integrity monitors for inclusion in the database. The bill directs the
21 State Treasurer to base integrity monitor qualification on
22 meritorious factors established by the State Treasurer, which
23 emphasize the capacity of integrity monitors to prevent, detect, and
24 remediate inefficiency and malfeasance in Hurricane Sandy
25 recovery and rebuilding projects. The bill denotes that the State
26 Treasurer's decisions and reasoning as to integrity monitor
27 qualifications are to be made available through the database.

28 **Reporting Protocol**

29 The bill subjects all integrity monitors to malfeasance and
30 inefficiency reporting protocol imposed by the State Treasurer. The
31 bill specifies that the State Treasurer's reporting protocol must
32 require an integrity monitor to expediently report a finding of a
33 likely criminal violation to the Attorney General.

34 The bill also includes a two month reporting requirement for
35 integrity monitors for transmission to the Legislature and the
36 Governor, through the State Treasurer. The bill specifies that the
37 integrity monitor's report must detail the integrity monitor's
38 provision of services for the second most recently closed two month
39 period. The bill requires that the report must include a privilege log
40 that details the denial of any sensitive information to the Legislature
41 and Governor. The bill denotes that the integrity monitor's report
42 cannot include any information that may compromise a criminal
43 investigation or proprietary information. The bill authorizes the
44 State Treasurer to contour the reporting detail relative to the
45 specific services provided by an integrity monitor.

46 **Key Definitional Terms and Administrative Matters**

47 Generally, the bill defines a Hurricane Sandy recovery and
48 rebuilding project as a project relying on: (i) federal funding

S2536 SWEENEY

1 provided through Hurricane Sandy, or other major storm, disaster
2 assistance legislation enacted by the current Congress; or (ii)
3 funding supplied through the State treasury to address the damage
4 associated with Hurricane Sandy.

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6 that strives to ensure legal compliance, detect misconduct, and
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8 types of services provided by an integrity monitor include legal,
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13 purposes of accessing State government records, except that access
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19 The bill allows the State Treasurer's procurement of integrity
20 monitors to bypass public procurement laws to expedite
21 implementation. However, the bill's exemption from public
22 procurement law is contingent on the State Treasurer's transparent
23 administration of a procurement process that satisfies three
24 conditions: (i) public posting of available integrity monitor service
25 contracts and the qualifications thereto; (ii) the selection of an
26 integrity monitor from qualified candidates that respond to a
27 posting; and (iii) application of standing conflict of interest law in
28 the field of public procurement.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO
SENATE, No. 2536

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 21, 2013

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 2536.

This bill, as amended, authorizes the deployment of integrity monitors in the implementation of Hurricane Sandy recovery and rebuilding projects. The purpose of this bill is to reinforce the State's compliance control mechanisms given the potential for the pending influx of federal assistance to strain the State's capacity for efficient oversight.

Authority to Deploy Integrity Monitors

The bill authorizes the State Treasurer to use integrity monitors in two classes of Hurricane Sandy recovery and rebuilding projects: those involving State contracts and those not involving State contracts. The bill makes the State Treasurer's authority to deploy integrity monitors for either class of Hurricane Sandy recovery and rebuilding projects subject to the availability of federal funding. Additionally, the bill exempts contracts for Hurricane Sandy recovery and rebuilding projects involving consideration of less than five million dollars, unless the State Treasurer makes a determination that the exemption should be lifted to prevent inefficiency or to monitor large-scale projects.

For Hurricane Sandy recovery and rebuilding projects involving State contracts, the bill authorizes the State Treasurer to make the use of an integrity monitor a contractual condition that may be exercised to alleviate potential or ongoing inefficiency or in caution due to the size or nature of the contract. The bill makes the use of an integrity monitor during the initial stages of a contract's implementation the default scenario, unless waived by the State Treasurer upon a determination of sufficient compliance controls.

For Hurricane Sandy recovery and rebuilding projects not involving State contracts, the bill authorizes the State Treasurer to procure the services of an integrity monitor to service the project to alleviate potential or ongoing inefficiency or in caution due to the size

or nature of the project. The bill makes the use of an integrity monitor during the initial stages of a project's implementation the default scenario, unless waived by the State Treasurer upon a determination of sufficient compliance controls.

Qualified Integrity Monitor Pool

To facilitate the use of integrity monitors, the bill charges the State Treasurer with establishing a qualified integrity monitor pool from which integrity monitors may be assigned to a Hurricane Sandy recovery and rebuilding project. The bill denotes that the qualification of integrity monitors for inclusion in the pool shall be governed by a public procurement process in accordance with standing law and regulation. The bill allows the State Treasurer to take anticipatory action to establish the qualified integrity monitor pool. The bill requires that the pool must be made available through a public website.

Reporting Protocol

The bill subjects all integrity monitors to malfeasance and inefficiency reporting protocol imposed by the State Treasurer. The bill specifies that the State Treasurer's reporting protocol must require an integrity monitor to immediately report a finding of a likely criminal violation or lesser degree of waste, fraud, or abuse, to the Attorney General and State Comptroller.

The bill also includes a two month reporting requirement for integrity monitors for transmission to the Legislature and the Governor, through the State Treasurer. The bill specifies that the integrity monitor's report must detail the integrity monitor's provision of services for the second most recently closed two month period. The bill requires that the report must include a privilege log that details the denial of any sensitive information to the Legislature and Governor. The bill denotes that the integrity monitor's report cannot include any information that may compromise existing law, a criminal investigation or proprietary information. The bill authorizes the State Treasurer to contour the reporting detail relative to the specific services provided by an integrity monitor.

Key Definitional Terms and Administrative Matters

Generally, under the bill a Hurricane Sandy recovery and rebuilding project means a project relying on: (i) federal funding provided through Hurricane Sandy, or other major storm, disaster assistance legislation enacted by the current Congress; (ii) funding supplied through the State treasury to address the damage associated with Hurricane Sandy; or (iii) funds provided pursuant to federal legislation or through the State Treasury to address the damage associated any other major storm or natural disaster.

The bill defines an integrity monitor as a private entity that provides specialized services to ensure legal compliance, detect misconduct, and promote best administrative practices. The bill denotes that the types of services provided by an integrity monitor include legal, investigative, accounting, forensic accounting,

engineering, other professional specialties, risk assessment, developing compliance system constructs, loss prevention, monitoring, contract managers, and independent private inspectors general.

The bill qualifies an integrity monitor as a State agent for purposes of accessing State government records, except that access may be limited by the chief executive officer of the possessing State entity if access may compromise sensitive information. Generally, the bill defines sensitive information as information that if disclosed may violate State or federal law, threaten public welfare, or compromise a party's economic position.

As amended, this bill is identical to Assembly Bill No. 60 (1R), as also amended by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to: a) make deployment of an integrity monitor subject to the availability of federal funding; b) revise the duty of an integrity monitor to report a likely criminal violation to denote that said duty shall be carried out "immediately", to add the State Comptroller as a report recipient, and to encompass lesser degrees of waste, fraud, or abuse for report; c) install a public procurement law governed system for the creation of a pool of qualified integrity monitors to be assigned to Hurricane Sandy recovery and rebuilding projects; d) add the Governor as a recipient of the State Treasurer's report concerning an integrity monitor assignment waiver; e) expand the definition of a Hurricane Sandy recovery and rebuilding project to include the use of funds provided pursuant to federal legislation or disbursed through the State Treasury to address the damage associated with any other major storm or natural disaster; f) add specific references to specialized services in the definition of integrity monitor to include forensic accounting, contract managers, and independent private inspectors general; g) denote that sensitive information blocked from integrity monitor access would include, but not be limited to, information deemed confidential or proprietary or related to copyright or trade secrets; and h) require that recovery projects involving contracts of \$5 million or more be subject to the bill's substantive requirements, while providing the State Treasurer discretion to apply the bill to recovery projects involving contracts of less than \$5 million based on a determination made with due regard to preventing inefficiency or monitoring large-scale projects.