

LEGISLATIVE HISTORY CHECKLIST

(Public works--Waiver of construction bonds--certain cases)

NJSA 2A:44-143

LAWS OF 1979

CHAPTER 408

Bill No. S3191

Sponsor(s) Hamilton and others

Date Introduced April 26, 1979

Committee: Assembly County Government

Senate County and Municipal Government

Amended during passage ~~Yes~~  No

Date of Passage: Assembly Jan. 3, 1980

Senate June 25, 1979

Date of approval Feb. 8, 1980

Following statements are attached if available:

Sponsor statement Yes  No

Committee Statement: Assembly Yes  No

Senate ~~Yes~~  No

Fiscal Note ~~Yes~~  No

Veto message ~~Yes~~  No

Message on signing ~~Yes~~  No

Following were printed:

Reports Yes  No

Hearings *Should be no* ~~Yes~~  No

Report mentioned in sponsor's and Assembly committee statements:

- 974.90 New Jersey. Division of Budget and Accounting.
- F491 Capital Planning Unit.
- 1979a Maintenance improvement study: protecting New Jersey's investments--recommendations on improving New Jersey's maintenance program, April 19, 1979. Trenton, 1979.

9/1/78

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 NEW JERSEY LEGISLATIVE HISTORY  
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SENATE, No. 3191

STATE OF NEW JERSEY  
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INTRODUCED APRIL 26, 1979

By Senators HAMILTON, DUMONT, DWYER and WEISS

Referred to Committee on County and Municipal Government

AN ACT concerning bonds of contractors on public works and improvements, and amending N. J. S. 2A:44-143.

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

1 1. N. J. S. 2A:44-143 is amended to read as follows:

2 2A:44-143. When public buildings or other public works or  
3 improvements are about to be constructed, erected, altered or  
4 repaired under contract, at the expense of the State or any county,  
5 municipality or school district thereof, the board, officer or agent  
6 contracting on behalf of the State, county, municipality or school  
7 district, shall require the usual bond, as provided for by law, with  
8 good and sufficient sureties, with an additional obligation for the  
9 payment by the contractor, and by all subcontractors, for all labor  
10 performed or materials, provisions, provender or other supplies,  
11 teams, fuels, oils, implements or machinery used or consumed in,  
12 upon, for or about the construction, erection, alteration or repair  
13 of such buildings, works or improvements.

14 *When such contract is to be performed at the expense of the*  
15 *State and is entered into by the Director of the Division of Build-*  
16 *ing and Construction or State departments designated by the*  
17 *Director of the Division of Building and Construction, and such*  
18 *contract is for a sum not exceeding \$20,000.00, the director or the*  
19 *State departments may at their discretion waive the bond require-*  
20 *ment of this section.*

1 2. This act shall take effect immediately.

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STATEMENT

This bill was recommended by the Commission on Capital Budgeting and Planning as part of their report entitled "Protecting New Jersey's Investments—Recommendations on Improving New Jersey's Maintenance Program."

N. J. S. 2A:44-143 requires contractors to post performance bonds. Such bonds are necessary to protect the interests of the State as they insure that projects are completed in a satisfactory manner. However, the requirement may be too rigid, as it applies to all projects irrespective of cost. The problem is that many contractors, particularly small contractors who would take small projects, are unable to secure bonding for jobs under \$10,000.00 because the bonding companies are unwilling to underwrite small amounts. In many instances bonding is unnecessary as contractors are paid only after their work has been completed, inspected and approved.

If the law is amended to permit waiver of bonding up to a specified limit, certain savings would also be realized as contractors would no longer pass on the cost of the bond to the State.

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ASSEMBLY COUNTY GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 3191**

**STATE OF NEW JERSEY**

DATED: DECEMBER 10, 1979

The purpose of this bill is to allow the Director of the Division of Building and Construction or State Departments designated by the director to waive the bond requirement for the construction, erection, alteration or repair of a public work or improvement if the contract for such work is \$20,000.00 or less. N. J. S. 2A :44-143 presently requires that bonds be posted in all cases.

The ability to waive bonds for small contracts is a recommendation of the Commission on Capital Budgeting and Planning in "Protecting New Jersey's Investments-Recommendations on Improving New Jersey's Maintenance Program". The commission contended that contractors encounter difficulty securing performance bonds because bond companies find it unprofitable to underwrite small amounts, that bonding is often unnecessary because contractors are paid only after work has been completed and approved by the State and that requiring bonds adds to the cost of such projects.

SENATE, No. 3191

STATE OF NEW JERSEY

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FEBRUARY 8, 1980

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The bill also provides that the Director of the Division of Local Government Services establish rules and regulations for municipalities regarding notification of taxpayers, supervision by the tax collector and requirements concerning the holding, use, accounting, reporting and payment to the municipality of public money received by the designated banks or trust companies.

S-3101, sponsored by Senator Wynona M. Lipman (D-Essex), which makes a number of changes in the "Law Against Discrimination" and is designed to reduce the backlog of cases and the costs in the Division of Civil Rights.

It brings New Jersey statutes into compliance with the federal law which currently permits charging parties to request the issuance of a right to sue letter after 180 days have expired and pursue their legal remedies before a court. Also, transcripts of hearings could be prepared only upon the request of a party and the prevailing party may be awarded reasonable attorney's fees.

S-3154, sponsored by Senator Walter E. Foran (R-Hunterdon), which directs the Department of Education to provide by September 30, 1982 sufficient in-service training to the field-study teams so they may properly evaluate and program handicapped children with severe hearing losses. Governor Byrne line-item vetoed a \$50,000 appropriation for the bill. A copy of the veto message is attached.

S-3183, sponsored by Senator William V. Musto (D-Hudson), which amends the definition of widow and widower for the purposes of the Police and Firemen's Retirement System.

Under prior law, in order to qualify for widows or widower's benefits, the person must have been married to the member for at least five years prior to the member's death. This bill reduces that requirement to two years.

S-3191, sponsored by Senator William J. Hamilton, Jr. (D-Middlesex), which amends the public bidding laws by providing that when a public contract is to be performed by the State of New Jersey through the Division of Building and Construction for a contract sum less than \$20,000 the Director of the Division or the Department of State may waive the bid requirement of the act.