

10:5-33

LEGISLATIVE HISTORY CHECKLIST

NJSA 10:5-33 (Public contracts--advertisements--statements on nondiscrimination)

Laws of 1976 Chapter 60

Bill No. A1451

Sponsor(s) McManimon

Date Introduced February 3, 1976

Committee: Assembly State Gov't., Federal & Interstate Relations

Senate State Gov't., Federal & Interstate Relations

Amended during passage Yes No Amendments during passage denoted by asterisks.

Date of passage: Assembly May 27, 1976

Senate June 28, 1976

Date of approval August 2, 1976

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 Yes No

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10/4/76

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ASSEMBLY, No. 1451

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1976

By Assemblyman McMANIMON

Referred to Committee on State Government

AN ACT to amend "An act relating to affirmative action in relation to discrimination in connection with certain public contracts and supplementing the 'Law Against Discrimination,' approved April 16, 1945 (P. L. 1945, c. 169)," approved June 23, 1975 (P. L. 1975, c. 127).

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

1 1. Section 3 of P. L. 1975, c. 127 (C. 10:5-33) is amended to read
2 as follows:

3 3. **[In soliciting bids or negotiating public works contracts the**
4 **State or any county or municipality or other political subdivision**
5 **of the State, or any agency of or authority created by any of the**
6 **foregoing, shall include in the advertisement and solicitation of bids**
7 **and in their contracts provisions the following language:]**

8 ***[All bidders on public works contracts shall be notified in the**
9 **specifications of such contract as follows:**

10 "Bidders are required to comply with the requirements of P. L.
11 1975, c. 127;" and in addition, the specifications shall contain the
12 following:]*

12A *The State or any county or municipality or other political sub-
12B division of the State, or any agency of or authority created by any
12C of the foregoing, shall include in the bid specifications and the con-
12D tract provisions of any public works contract the following
12E language:*

13 "During the performance of this contract, the contractor agrees
14 as follows:

15 a. The contractor or subcontractor, where applicable, will not
16 discriminate against any employee or applicant for employment
17 because of age, race, creed, color, national origin, ancestry, marital
18 status or sex. The contractor will take affirmative action to ensure
19 that such applicants are recruited and employed, and that em-

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

20 ployees are treated during employment, without regard to their
21 age, race, creed, color, national origin, ancestry, marital status or
22 sex. Such action shall include, but not be limited to the following:
23 employment, upgrading, demotion, or transfer; recruitment or
24 recruitment advertising; layoff or termination; rates of pay or
25 other forms of compensation; and selection for training, including
26 apprenticeship. The contractor agrees to post in conspicuous
27 places, available to employees and applicants for employment,
28 notices to be provided by the contracting officer setting forth the
29 provisions of this nondiscrimination clause;

30 b. The contractor or subcontractor, where applicable will, in all
31 solicitations or advertisements for employees placed by or on be-
32 half of the contractor, state that all qualified applicants will receive
33 consideration for employment without regard to age, race, creed,
34 color, national origin, ancestry, marital status or sex;

35 c. The contractor or subcontractor where applicable, will send
36 to each labor union or representative of workers with which he has
37 a collective bargaining agreement or other contract or understand-
38 ing, a notice, to be provided by the agency contracting officer,
39 advising the labor union or workers' representative of the con-
40 tractor's commitments under this act and shall post copies of the
41 notice in conspicuous places available to employees and applicants
42 for employment."

43 **In soliciting bids for any public works contract the State or any*
44 *county or municipality or other political subdivision of the State,*
45 *or any agency of or authority created by any of the foregoing, shall*
46 *include in the advertisement and solicitation of bids the following*
47 *language: "Bidders are required to comply with the requirements*
48 *of P. L. 1975, c. 127."**

1 2. This act shall take effect immediately.

ASSEMBLY, No. 1451

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1976

By Assemblyman McMANIMON

Referred to Committee on State Government

AN ACT to amend "An act relating to affirmative action in relation to discrimination in connection with certain public contracts and supplementing the 'Law Against Discrimination,' approved April 16, 1945 (P. L. 1945, c. 169)," approved June 23, 1975 (P. L. 1975, c. 127).

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

1 1. Section 3 of P. L. 1975, c. 127 (C. 10:5-33) is amended to read
2 as follows:

3 3. **[**In soliciting bids or negotiating public works contracts the
4 State or any county or municipality or other political subdivision
5 of the State, or any agency of or authority created by any of the
6 foregoing, shall include in the advertisement and solicitation of bids
7 and in their contracts provisions the following language:**]**

8 *All bidders on public works contracts shall be notified in the*
9 *specifications of such contract as follows:*

10 "*Bidders are required to comply with the requirements of P. L.*
11 *1975, c. 127; "* and in addition, the specifications shall contain the
12 following:

13 "During the performance of this contract, the contractor agrees
14 as follows:

15 a. The contractor or subcontractor, where applicable, will not
16 discriminate against any employee or applicant for employment
17 because of age, race, creed, color, national origin, ancestry, marital
18 status or sex. The contractor will take affirmative action to ensure
19 that such applicants are recruited and employed, and that em-
20 ployees are treated during employment, without regard to their
21 age, race, creed, color, national origin, ancestry, marital status or
22 sex. Such action shall include, but not be limited to the following:

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

23 employment, upgrading, demotion, or transfer; recruitment or
24 recruitment advertising; layoff or termination; rates of pay or
25 other forms of compensation; and selection for training, including
26 apprenticeship. The contractor agrees to post in conspicuous
27 places, available to employees and applicants for employment,
28 notices to be provided by the contracting officer setting forth the
29 provisions of this nondiscrimination clause;

30 b. The contractor or subcontractor, where applicable will, in all
31 solicitations or advertisements for employees placed by or on be-
32 half of the contractor, state that all qualified applicants will receive
33 consideration for employment without regard to age, race, creed,
34 color, national origin, ancestry, marital status or sex;

35 c. The contractor or subcontractor where applicable, will send
36 to each labor union or representative of workers with which he has
37 a collective bargaining agreement or other contract or understand-
38 ing, a notice, to be provided by the agency contracting officer,
39 advising the labor union or workers' representative of the con-
40 tractor's commitments under this act and shall post copies of the
41 notice in conspicuous places available to employees and applicants
42 for employment."

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to eliminate the requirement of section 3 of P. L. 1975, c. 127 that certain language be included in the advertisement and solicitation of bids and in their contract provisions because it is an unnecessary and costly expenditure of funds. The same purpose can be accomplished by having this section included in the specifications. This amendment could save a considerable sum to the State, and all political subdivisions, agencies or authorities thereof.

ASSEMBLY STATE GOVERNMENT, FEDERAL
AND INTERSTATE RELATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1451

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 1976

As the sponsor's statement indicates, this bill eliminates the present requirement that certain language regarding contractors' compliance with the affirmative action program be included in the advertising and solicitation of bids and in the contract provisions. Since the language involved is rather lengthy, the printing of it is a costly expenditure for the State, the political subdivisions of the State, and their agencies and authorities. Under this bill, this language would appear only in the bid specifications.

The elimination of this language from the contract provisions, however, is contrary to the intent of the act being amended, P. L. 1975, c. 127, and it goes beyond the main intent of this amendatory act, which is to reduce the cost of the advertisement of bids. Moreover, this bill, in removing the present language from the advertisements for bids, makes no provision for any notification to bidders in those advertisements that their compliance with the affirmative action program is necessary.

Consequently, the committee amended the bill to state clearly that (1) the present language which states in detail the requirements a contractor must comply with regarding affirmative action shall appear in both the bid specifications and the provisions of the contract, and (2) a short statement which indicates that bidders on contracts must comply with the requirements of the law regarding affirmative action shall be included in the advertisements for bids.

The State's Department of the Treasury supports this bill and the amendments thereto.

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

STATEMENT TO
ASSEMBLY, No. 1451
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STATE OF NEW JERSEY

DATED: JUNE 21, 1976

The purpose of this bill, which amends Section 3, Chapter 127 of the Laws of 1975 (C. 10:5-33), is to reduce the cost of the advertising of bids by the State, its political subdivisions, or an agency or authority created by any of the foregoing and, at the same time, to maintain compliance with the affirmative action program required by said law.

The law presently requires that advertisements for bids contain the full three-paragraph section setting forth the agreement to comply with the "affirmative action" program, which makes such advertising very costly. This bill amends the law so that all bid specifications and contracts will contain the full "affirmative action" text, and the bid advertisement itself will only be required to state, "Bidders are required to comply with the requirements of P. L. 1975, c. 127."

FROM THE OFFICE OF THE GOVERNOR

AUGUST 2, 1976

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

KATHY FORSYTH

Governor Brendan Byrne signed a bill Monday which cuts the length of required newspaper advertisements or solicitations of bids for public works contracts by state and local governments, saving the state more than \$50,000 a year.

Under the original law, advertisements or solicitations of bids for public works contracts by any state, county or local government agency were required to include a long statement of policy, making clear that the bidding contractor or subcontractor could not discriminate against any individuals in hiring practices.

The bill, A-1451, sponsored by Assemblyman Francis J. McManimon, D-Hamilton, provides that the bid advertisements need only state: "bidders are required to comply with the requirements of P.L. 1975, C. 127."

The Governor said the printing requirement for the language which has been in effect since July of last year, "has imposed a severe financial burden on all public agencies which advertise for bids."

"The Treasury Department has estimated that the enactment of this bill should realize an annual savings of at least \$50,000 a year in state funds and many times that amount in local funds," he said.

The bill will take effect immediately.

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