

52:34-13.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 92

NJSA: 52:34-13.2 (Requires all services under State contracts or subcontracts to be performed within US)

BILL NO: S494 (Substituted for A2133)

SPONSOR(S): Turner and others

DATE INTRODUCED: January 13, 2004

COMMITTEE: **ASSEMBLY:** Labor

SENATE: State Government; Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 14, 2005

SENATE: June 17, 2004

DATE OF APPROVAL: May 5, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)

S494

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: Yes [2-24-2004 \(State Govt\)](#)
[5-20-2004 \(Bud & App\)](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A2133

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

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

“Law shields jobs from outsourcing,” 5-6-2005 Star Ledger p.49

“Off shoring’ banned by State contracts,” 5-6-2005 The Times p.C10

IS 5/29/07

P.L. 2005, CHAPTER 92, *approved May 5, 2005*
Senate, No. 494 (*Second Reprint*)

1 AN ACT concerning ¹the performance of certain¹ State contracts and
2 supplementing 34 of Title 52 of the Revised Statutes.

3

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

6

7 1. ¹[The Director of the Division of Purchase and Property and the
8 Director of the Division of Property Management and Construction in
9 the Department of the Treasury shall include, in every] a. Every¹ State
10 contract ¹primarily¹ for the performance of services¹ [.] shall include¹
11 provisions which specify that ¹[only citizens of the United States and
12 persons authorized to work in the United States pursuant to federal
13 law shall be employed in performance of] all¹ services ¹performed¹
14 under the contract or ¹performed under¹ any subcontract awarded
15 under the contract ¹shall be performed within the United States.

16 b. The provision of subsection a. of this section shall not apply
17 whenever:

18 (1) the Director of the Division of Purchase and Property or the
19 Director of the Division of Property Management and Construction,
20 as appropriate, certifies in writing a finding that a service is required
21 by the Executive Branch of the State and that the service cannot be
22 provided by a contractor or subcontractor within the United States and
23 the certification is approved by the State Treasurer;

24 (2) the contracting officer for the Legislature or for any office,
25 board, bureau or commission within or created by the Legislative
26 Branch certifies in writing a finding that a service is required by the
27 Legislature or the office, board, bureau or commission within or
28 created thereby and that the service cannot be provided by a
29 contractor or subcontractor within the United States and the
30 certification is approved by the appropriate legislative authority;
31 ²[and]²

32 (3) the contracting officer of any independent State authority,
33 commission, instrumentality or agency certifies in writing a finding that
34 the service required by the independent State authority, commission,
35 instrumentality or agency cannot be provided by a contractor or
36 subcontractor within the United States and the certification is
37 approved by the executive director or other equivalent authority of
38 that authority, commission, instrumentality or agency² [.]; or

39 (4) any of the directors or contracting officers in paragraphs (1)
40 through (3) of this subsection b., as may be applicable, certifies in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSG committee amendments adopted February 24, 2004.

² Senate SBA committee amendments adopted May 20, 2004.

1 writing a finding that inclusion in the State contract of a provision as
 2 described in subsection a. of this section with respect to the
 3 performance of a service required by their contracting entity under the
 4 State contract would violate the terms, conditions, or limitations of
 5 any grant, funding or financial assistance from the federal government
 6 or any agency thereof, and the certification is approved by the
 7 appropriate approval officer.²

8 As used in ²[subsection a. of] ²this section, ²[the term] ²"State
 9 contract" ²[includes] means² every contract entered into by (1) the
 10 Governor, the head of any of the principal departments in the
 11 Executive Branch of the State Government, and the head of any
 12 division, board, bureau, office, commission or other instrumentality
 13 within or created by such department, (2) the contracting officer of the
 14 Legislature of the State and any office, board, bureau or commission
 15 within or created by the Legislative Branch, and (3) the head or
 16 contracting officer of any independent State authority, commission,
 17 instrumentality or agency within or created by such an authority, who
 18 is authorized to enter into contracts that include the performance of
 19 services. A county, municipality or school district shall not be deemed
 20 an agency or instrumentality of the State for the purpose of this
 21 section¹.

22
 23 ¹2. The State Treasurer shall review all State contracts, as defined
 24 in section 1 of P.L. _____, c. _____ (C. _____)(now pending before the
 25 Legislature as this bill), primarily for the performance of services,
 26 which contracts have not been completed or terminated, and determine
 27 if any of the services performed by the contractor and any
 28 subcontractor are being performed outside of the United States.
 29 Within 180 days after the effective date of P.L. _____, c. _____(now
 30 pending before the Legislature as this bill), the findings of the review
 31 shall be reported in writing to the Governor, the President of the
 32 Senate, the Minority Leader of the Senate, the Speaker of the General
 33 Assembly, and the Minority Leader of the General Assembly, and shall
 34 be made available to the general public.¹

35
 36 ¹[2.] ³.¹ This act shall take effect ¹[immediately] on the 90th day
 37 following enactment¹.

38
 39
 40
 41
 42 Requires all services under State contracts or subcontracts be
 43 performed within US.

SENATE, No. 494

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator JOSEPH CONIGLIO

District 38 (Bergen)

Co-Sponsored by:

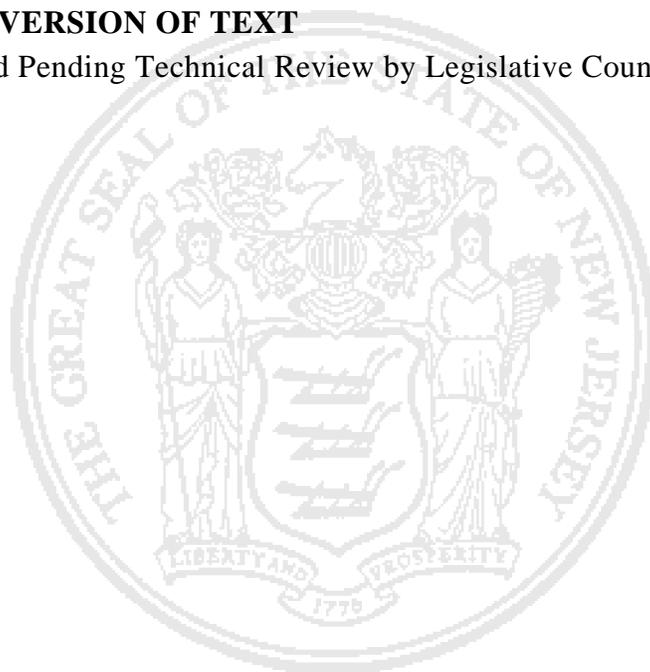
Senators Palaia, Allen and Gill

SYNOPSIS

Provides that only citizens or persons authorized to work in the US pursuant to federal law may be employed in performing certain State contracts.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/24/2004)

1 AN ACT concerning State contracts and supplementing chapter 34 of
2 Title 52 of the Revised Statutes.

3

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

6

7 1. The Director of the Division of Purchase and Property and the
8 Director of the Division of Property Management and Construction in
9 the Department of the Treasury shall include, in every State contract
10 for the performance of services, provisions which specify that only
11 citizens of the United States and persons authorized to work in the
12 United States pursuant to federal law shall be employed in
13 performance of services under the contract or any subcontract
14 awarded under the contract.

15

16 2. This act shall take effect immediately.

17

18

19

STATEMENT

20

21 Recent published reports have indicated that telephone inquiries by
22 welfare and food stamp clients under New Jersey's Families First
23 Program were being handled by operators in Bombay, India, after the
24 contractor moved its operations outside of the United States as a cost-
25 cutting measure.

26

27 This bill directs the Director of the Division of Purchase and
28 Property and the Director of the Division of Property Management and
29 Construction in the Department of the Treasury to include in every
30 State contract for the performance of services provisions which specify
31 that only citizens of the United States and persons authorized to work
32 in the United States pursuant to federal law may be employed in the
33 performance of services under the contract or any subcontract
awarded under the contract.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 494

STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Assembly Labor Committee reports favorably Senate Bill No. 494(2R).

This bill requires every State contract which is primarily for the performance of services to provide that all of the services performed under the contract or any subcontract of the contract be performed in the United States. The bill exempts a State contract in any case where it is found and certified that the service is required and cannot be provided by a contractor or subcontractor within the United States.

The bill requires the State Treasurer to review all non-completed, non-terminated, State contracts which are primarily for the performance of services to determine whether any of the services are being performed outside of the United States and report his findings to the Governor, the Legislature and the public within 180 days after the effective date of the bill.

The bill defines a State contract as any contract entered into by the Governor, any head of a principal department of the State or any instrumentality within or created by the department, the Legislature and any office, board, bureau or commission within or created by the Legislative branch, and any independent authority, commission, instrumentality or agency within or created by the authority, but not a county, municipality or school district.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 494

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 2004

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 494.

This bill, as amended, requires that every State contract primarily for the performance of services must include provisions that specify that all services performed under the contract or performed under any subcontract awarded under the contract must be performed in the United States.

As amended, the bill defines the term "State Contract" to include every contract entered into by the Governor, the head of any of the principal departments in the Executive Branch and the head of any division, board, bureau, office commission or other instrumentality within or created by such department, the Legislature and any office, board, bureau or commission within or created by the Legislative Branch, and any independent authority, commission, instrumentality or agency within or created by such an authority, but does not include a county, municipality or school district.

The bill grants exemptions to the requirement that State contracts primarily for the performance of services must be performed within the United States whenever the Director of the Division of Purchase and Property or the Director of the Division of Property Management and Construction, as appropriate, for a service required by the Executive Branch, the contracting officer for the Legislature, for a service required by the Legislative Branch, and the contracting officer for an independent authority for a service required by an authority, certifies in writing a finding that the service is required and cannot be provided by a contractor or subcontractor within the United States. As amended, the bill also requires the State Treasurer to review all State contracts primarily for the performance of services, which contracts have not been completed or terminated, and determine if any of the services performed by the contractor and any subcontractor are being performed outside of the United States and report to the Governor, the Legislature and the general public within 180 days after the effective date of the bill.

The committee amended the bill to: 1) require that every State contract primarily for the performance of services or performed under

any subcontract awarded under the contract must be performed within the United States; 2) define the term "State contract" to include every contract entered into by the Governor, the head of any of the principal departments in the Executive Branch and the head of any division, board, bureau, office commission or other instrumentality within or created by such department, the Legislature and any office, board, bureau or commission within or created by the Legislative Branch, and any independent authority, commission, instrumentality or agency within or created by such an authority, but not including a county, municipality or school district; 3) grant an exception to the requirement that State contracts primarily for the performance of services must be performed within the United States whenever the Director of the Division of Purchase and Property or the Director of the Division of Property Management and Construction, as appropriate, for a service required by the Executive Branch, the contracting officer for the Legislature, for a service required by the Legislative Branch, and the contracting officer for an independent authority for a service required by an authority, certifies in writing a finding that the service is required and cannot be provided by a contractor or subcontractor within the United States; 4) require the State Treasurer to review all State contracts primarily for the performance of services, which contracts have not been completed or terminated, and determine if any of the services performed by the contractor and any subcontractor are being performed outside of the United States and report to the Governor, the Legislature and the general public within 180 days after the effective date of the bill; and 5) change the effective date of the bill to the 90th day following enactment.

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 494

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 2004

The Senate Budget and Appropriations Committee reports without recommendation and with committee amendments Senate Bill No. 494 (1R).

This bill requires that State contracts primarily for the performance of services must include provisions specifying that all services performed under the contract, or performed under any subcontract awarded under the contract, must be performed in the United States.

The bill defines the term "State contract" to include every contract entered into by: the Governor, the head of a principal department in the Executive Branch, or the head of any division, board, bureau, office, commission or other instrumentality within or created by such department; the contracting officer of the Legislature and any office, board, bureau or commission within or created by the Legislative Branch; or the head or contracting officer of any independent authority, commission, instrumentality or agency within or created by such an authority. A county, municipality or school district would not be deemed a State agency or instrumentality for purposes of the bill.

The bill would allow an exemption from the requirement whenever the Director of the Division of Purchase and Property or the Director of the Division of Property Management and Construction, as appropriate, for a service required by the Executive Branch; the contracting officer for the Legislature, for a service required by the Legislative Branch; or the contracting officer for an independent authority for a service required by an authority, certifies in writing a finding that the service is required and cannot be provided by a contractor or subcontractor within the United States. The bill would also allow an exemption for any State contract, part of the funding for which comes from the federal government on terms that would be violated if the in-country performance requirement were included in that contract.

The bill requires the State Treasurer to review all State contracts primarily for the performance of services, which contracts have not been completed or terminated; determine if any of the services

performed by the contractor and any subcontractor are being performed outside of the United States; and report the findings of this review to the Governor, the Legislature and the general public within 180 days after the bill shall take effect as law.

COMMITTEE AMENDMENTS

Committee amendments to the bill incorporate the exemption pertaining to State contracts supported by federal funds.

FISCAL IMPACT

Until the State Treasurer completes the review of State contracts, as required pursuant to this bill, it is not possible to determine if the bill would have a fiscal impact or the magnitude of such impact.

ASSEMBLY, No. 2133

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 9, 2004

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblyman LOUIS MANZO

District 31 (Hudson)

Assemblyman ROBERT GORDON

District 38 (Bergen)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Assemblymen Diegnan, Gibson, Hackett, Burzichelli, Assemblywoman Stender, Assemblymen Roberts, McKeon, Cryan, Impreveduto, Panter, Morgan, Assemblywomen Oliver, Weinberg, Assemblymen Green, Doherty, Rooney, Barnes, Wolfe, Connors, Mayer, Assemblywoman Quigley, Assemblymen Bateman, Payne, Greenwald, Assemblywoman Cruz-Perez, Assemblymen Azzolina, Fisher, Assemblywoman Voss, Assemblymen Johnson, Scalera, Assemblywoman Greenstein, Assemblymen Chiappone, R.Smith, Egan, Wisniewski and Assemblywoman Pou

SYNOPSIS

Provides that only citizens or legal residents of the United States may be employed in performing certain State contracts.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 1/25/2005)

A2133 GUSCIORA, MANZO

2

1 AN ACT concerning State contracts and supplementing chapter 34 of
2 Title 52 of the Revised Statutes.

3

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

6

7 1. The Director of the Division of Purchase and Property and the
8 Director of the Division of Property Management and Construction in
9 the Department of the Treasury shall include, in every State contract
10 for the performance of services, provisions which specify that only
11 citizens of the United States and legal resident aliens in the United
12 States shall be employed in performance of services under the contract
13 or any subcontract awarded under the contract.

14

15 2. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill directs the Director of the Division of Purchase and
21 Property and the Director of the Division of Property Management and
22 Construction in the Department of the Treasury to include, in every
23 State contract for the performance of services, provisions which
24 specify that only citizens of the United States and legal resident aliens
25 in the United States may be employed in performance of services under
26 the contract or any subcontract awarded under the contract.

27 Recent published reports have indicated that telephone inquiries by
28 welfare and food stamp clients under New Jersey's Families First
29 Program were being handled by operators in Bombay, India after the
30 contractor moved its operations outside of the United States as a cost-
31 cutting measure. The bill is intended to ensure that State funds are
32 used to employ people residing in the United States and to prevent the
33 loss of jobs to foreign countries.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2133

STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Assembly Labor Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2133.

This substitute requires every State contract which is primarily for the performance of services to provide that all of the services performed under the contract or any subcontract of the contract be performed in the United States. The substitute exempts a State contract in any case where it is found and certified that the service is required and cannot be provided by a contractor or subcontractor within the United States.

The substitute requires the State Treasurer to review all non-completed, non-terminated, State contracts which are primarily for the performance of services to determine whether any of the services are being performed outside of the United States and report his findings to the Governor, the Legislature and the public within 180 days after the effective date of the substitute.

The substitute defines a State contract as any contract entered into by the Governor, any head of a principal department of the State or any instrumentality within or created by the department, the Legislature and any office, board, bureau or commission within or created by the Legislative branch, and any independent authority, commission, instrumentality or agency within or created by the authority, but not a county, municipality or school district.

PO BOX 004
TRENTON, NJ 08625

Contact: Kelley Heck
609-777-2600

RELEASE: May 05, 2005

Codey Signs Bill to Protect New Jersey Jobs from Offshore Outsourcing

(TRENTON) – Acting Governor Richard J. Codey today signed Senate bill 494 to protect New Jersey jobs from being outsourced to foreign countries by requiring that all services under state contract or subcontract must be performed within the United States.

“Today New Jersey is taking an important step to protect our workers and keep jobs from going overseas,” Codey said. “With this bill, we are sending a clear message that if a company wants to take jobs from our hard working families and send them overseas, then it will not do business with the state.”

“It is shameful some companies have sought to profit off of shipping jobs across the Atlantic,” said Department of Labor and Workforce Development Commissioner Thomas D. Carver. “The practice of outsourcing deteriorates the very fabric of our workforce in New Jersey. I applaud Acting Governor Codey for doing what is right – protecting New Jersey jobs from going overseas.”

Senators Shirley K. Turner and Joseph Coniglio, along with Assembly members Reed Gusciora, Louis Manzo, Robert Gordon, Jeff Van Drew and Bonnie Watson Coleman are the prime sponsors of this bill.

“Every day, hundreds of thousands of New Jersey residents are desperately seeking employment in order to support their families,” said Turner (D-Mercer). “It is foolish for the state to send taxpayer dollars abroad to hire workers in India, China or Indonesia when these same jobs can be performed by the unemployed here in the United States. Not only are we losing the benefits those jobs bring to the individual, but we also lose the tax and economic growth benefits those jobs bring to the state.”

The bill requires that only American citizens and persons authorized to work in the United States shall provide services under a state contract or subcontract. Only when it can be certified that a service cannot be performed within the United States will an exemption be made. This bill applies to the Executive Branch of state government, the Legislature, and any independent state authority, commission or agency authorized to enter into a contract on behalf of the state. It does not cover county, municipal or school district contracts.

The bill also requires the Treasurer to review all ongoing state contracts to determine whether any existing state services are being performed outside the United States and

report his findings within nine months.

As the state and the nation have grown reluctantly accustomed to the disappearance of manufacturing jobs, the new reality is that “knowledge jobs” are just as susceptible. The sectors being hit by outsourcing have been the main engine of job growth. With the growing trend of outsourcing becoming more commonplace, the largest occupational groups at risk include administrative support services, information technology, business and financial operations and healthcare.

New Jersey is the fifth state in the nation to enact legislation or executive action on outsourcing. As of March 2005, there were 112 bills introduced in 40 states to restrict outsourcing.

“New Jersey should not do business with companies that move quality jobs abroad, plain and simple,” explained Congilio (D-Bergen). “Saving a few dollars is not worth the costs to New Jersey families when they see their highly skilled job move halfway around the globe for the benefit of corporate profits. For almost a half-million families, the threat of seeing their livelihood moved to Asia or South America is very real and they need to know that the state is doing everything possible to keep their jobs on U.S. soil.”

Gusciora (D-Mercer), a primary sponsor in the Assembly, said, “Companies that receive multi-million-dollar state contracts should not have the option of outsourcing jobs at the expense of the economic viability of the hard-working people of New Jersey. The costs saved by businesses that outsource pale in comparison to the residual cost to the state in terms of job losses and economic deterioration.”

“Outsourcing displaces hard-working New Jersey residents. New Jersey should not be in the business of putting our own residents out of work. What better way to support our local workforce than to make as many jobs as possible available to them,” added Manzo (D-Hudson), a member of the Assembly Commerce and Economic Development Committee.

“New Jersey has long been a progressive leader on the labor front,” stated Gordon (D-Bergen). “This bill would send the message that if you want to do business with the State of New Jersey, you must provide decent wages and health care coverage to your workforce.”

Van Drew (D-Atlantic, Cape May, Cumberland), vice chair of the Assembly Labor Committee, said, “The state may not be able to solve the problems created by corporate outsourcing, but we can make sure that our tax dollars don’t pay for it.”

“Our hard-earned tax dollars must not be used to push Americans out of jobs,” echoed Watson Coleman (D-Mercer).