

# 27:23-6.3

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 180  
**NJSA:** 27:23-6.3            (New Jersey Turnpike Authority -- roadway work payments to contractors)  
**BILL NO:** A3649            (Substituted for S2576)  
**SPONSOR(S)** Wisniewski

**DATE INTRODUCED:** November 9, 2006

**COMMITTEE:**            **ASSEMBLY:** Transportation and Public Works

**SENATE:**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** March 15, 2007

**SENATE:** June 18, 2007

**DATE OF APPROVAL:** September 27, 2007

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (First reprint enacted)

**A3649**

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

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

**SENATE:** No

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S2576**

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**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:** No

IS 5/15/08

§§1,2 -  
C.27:23-6.3 &  
27:23-6.4  
§3 - Note to §§1,2

P.L. 2007, CHAPTER 180, *approved September 27, 2007*  
Assembly, No. 3649 (*First Reprint*)

1 AN ACT concerning certain payments to roadway contractors and  
2 supplementing P.L.1948, c.454 (C.27:23-1 et seq.).  
3

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

7 1. Contracts entered into by the New Jersey Turnpike Authority  
8 for roadway construction and maintenance shall provide for partial  
9 payments at least once each month or from time to time as the work  
10 progresses on work of construction or maintenance. Two per  
11 centum of the amount due on partial payments of the total contract  
12 price shall be withheld from the contractor pending completion of  
13 the contract, but upon substantial completion of the contract, as  
14 defined by rules or regulations of the authority, 1% shall be  
15 withheld. At any time during the performance of the work, if work  
16 is not progressing, as defined by the "New Jersey Turnpike  
17 Authority Standard Specifications," the authority may, in its  
18 discretion, increase the withholding to 4% of the payment due. No  
19 retainage shall be withheld on service contracts including, but not  
20 limited to, mowing, sweeping, tree trimming and similar contracts.  
21 Any partial payments made after substantial completion of the  
22 contract shall be made only upon certification by the general  
23 contractor to the authority that all subcontractors have been paid in  
24 the same proportion that he has been paid; however, should the  
25 amount owed by a general contractor to a subcontractor be in  
26 dispute the authority shall be empowered to advance to the general  
27 contractor the amount in dispute after a determination by the  
28 authority.

29 Contracts may also provide for partial payments at least once in  
30 each month or from time to time as the work progresses on all  
31 materials placed along or upon the site, or stored at locations  
32 approved by the authority, which are suitable for the use and  
33 execution of the contract, provided the contractor furnishes releases  
34 of liens for all materials furnished at the time each estimate of work  
35 is submitted for payment, but such partial payments shall not  
36 exceed the cost of material.

37 When the contract provides that a portion of the work may be  
38 deferred with the approval of the authority, the sum withheld from  
39 the contractor may not be less than 25% of the value of the work.

**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:

<sup>1</sup>Assembly ATR committee amendments adopted February 26, 2007.

1 Any money heretofore or hereafter withheld from contract  
2 payments as provided for herein shall be paid by the authority to  
3 any contractor entitled thereto who shall deposit under terms of an  
4 escrow agreement, in a banking institution located in this State and  
5 approved by the authority, negotiable bonds, acceptable to the  
6 authority, issued by the State or any political subdivision thereof,  
7 the bonds having value equal to the amount of money to be paid to  
8 any such contractor. For purposes of this section, value shall mean  
9 par value or market value, whichever is lower.  
10

11 <sup>1</sup>2. The provisions of this act shall not modify, limit, or restrict

12 in any manner the obligations and powers of the New Jersey

13 Turnpike Authority to comply with, carry out, and perform each and

14 every covenant, agreement, or contract heretofore made or entered

15 into by the authority with respect to the authority's bonds or for the

16 benefit, protection, or security of the bondholders.<sup>1</sup>

17

18 <sup>1</sup>~~[2.]~~ 3.<sup>1</sup> This act shall take effect <sup>1</sup>~~[immediately]~~ on January 1,

19 2008<sup>1</sup>.

20

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22

23

24 Establishes partial payment schedules and amounts to be retained

25 by New Jersey Turnpike Authority from roadway work payments to

26 contractors.

# ASSEMBLY, No. 3649

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED NOVEMBER 9, 2006

**Sponsored by:**

**Assemblyman JOHN S. WISNIEWSKI**

**District 19 (Middlesex)**

**SYNOPSIS**

Establishes partial payment schedules and amounts to be retained by New Jersey Turnpike Authority from roadway work payments to contractors.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain payments to roadway contractors and  
2 supplementing P.L.1948, c.454 (C.27:23-1 et seq.).

3

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

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7 1. Contracts entered into by the New Jersey Turnpike Authority  
8 for roadway construction and maintenance shall provide for partial  
9 payments at least once each month or from time to time as the work  
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11 centum of the amount due on partial payments of the total contract  
12 price shall be withheld from the contractor pending completion of  
13 the contract, but upon substantial completion of the contract, as  
14 defined by rules or regulations of the authority, 1% shall be  
15 withheld. At any time during the performance of the work, if work  
16 is not progressing, as defined by the "New Jersey Turnpike  
17 Authority Standard Specifications," the authority may, in its  
18 discretion, increase the withholding to 4% of the payment due. No  
19 retainage shall be withheld on service contracts including, but not  
20 limited to, mowing, sweeping, tree trimming and similar contracts.  
21 Any partial payments made after substantial completion of the  
22 contract shall be made only upon certification by the general  
23 contractor to the authority that all subcontractors have been paid in  
24 the same proportion that he has been paid; however, should the  
25 amount owed by a general contractor to a subcontractor be in  
26 dispute the authority shall be empowered to advance to the general  
27 contractor the amount in dispute after a determination by the  
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33 execution of the contract, provided the contractor furnishes releases  
34 of liens for all materials furnished at the time each estimate of work  
35 is submitted for payment, but such partial payments shall not  
36 exceed the cost of material.

37 When the contract provides that a portion of the work may be  
38 deferred with the approval of the authority, the sum withheld from  
39 the contractor may not be less than 25% of the value of the work.

40 Any money heretofore or hereafter withheld from contract  
41 payments as provided for herein shall be paid by the authority to  
42 any contractor entitled thereto who shall deposit under terms of an  
43 escrow agreement, in a banking institution located in this State and  
44 approved by the authority, negotiable bonds, acceptable to the  
45 authority, issued by the State or any political subdivision thereof,  
46 the bonds having value equal to the amount of money to be paid to  
47 any such contractor. For purposes of this section, value shall mean  
48 par value or market value, whichever is lower.

1       2. This act shall take effect immediately.

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STATEMENT

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6       This bill provides for partial payment schedules for roadway  
7 work performed by contractors for the New Jersey Turnpike  
8 Authority and establishes the amounts that may be withheld from  
9 payments to contractors by the authority for such work. The bill  
10 establishes that two percent of the amount due on the total contract  
11 price is to be withheld pending completion of the contract, except  
12 that upon substantial completion of the work one percent would be  
13 withheld.

14       At any time during the performance of the work, if work is not  
15 progressing, as defined by the "New Jersey Turnpike Authority  
16 Standard Specifications," the authority may, in its discretion,  
17 increase the withholding to four percent of the payment due.

18       This bill applies the same retainage standards as apply to  
19 Department of Transportation highway contractors under R.S.27:7-  
20 34 to New Jersey Turnpike Authority roadway contractors.

ASSEMBLY TRANSPORTATION AND PUBLIC WORKS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3649**

with committee amendments

**STATE OF NEW JERSEY**

DATED: FEBRUARY 26, 2007

The Assembly Transportation and Public Works Committee reports favorably and with amendments Assembly Bill No. 3649.

As reported, this amended bill provides for partial payment schedules for roadway work performed by contractors for the New Jersey Turnpike Authority and establishes the amounts that may be withheld from payments to contractors by the authority for such work. The bill establishes that two percent of the amount due on the total contract price is to be withheld pending completion of the contract, except that upon substantial completion of the work one percent would be withheld.

At any time during the performance of the work, if work is not progressing, as defined by the "New Jersey Turnpike Authority Standard Specifications," the authority may, in its discretion, increase the withholding to four percent of the payment due.

This bill provides that certain bonds may be posted in lieu of partial payments.

Finally, no provision in the bill is to modify, limit or restrict in any manner the obligations and powers of the New Jersey Turnpike Authority to comply with, carry out, and perform each and every covenant, agreement, or contract heretofore made or entered into by the authority with respect to the authority's bonds or for the benefit, protection, or security of the bondholders.

This bill applies the same retainage standards as apply to Department of Transportation highway contractors under R.S.27:7-34 to New Jersey Turnpike Authority roadway contractors.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that the bill shall not modify or restrict in any manner the obligations and powers of the New Jersey Turnpike Authority to comply with, carry out, and perform every covenant, agreement, or contract heretofore entered into with



respect to the authority's bonds or for the benefit, protection, or security of the bondholders.

# SENATE, No. 2576

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 5, 2007

**Sponsored by:**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**Senator ELLEN KARCHER**

**District 12 (Mercer and Monmouth)**

**SYNOPSIS**

Establishes partial payment schedules and amounts to be retained by New Jersey Turnpike Authority from roadway work payments to contractors.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning certain payments to roadway contractors and  
2 supplementing P.L.1948, c.454 (C.27:23-1 et seq.).

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40 Any money heretofore or hereafter withheld from contract  
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42 any contractor entitled thereto who shall deposit under terms of an  
43 escrow agreement, in a banking institution located in this State and  
44 approved by the authority, negotiable bonds, acceptable to the  
45 authority, issued by the State or any political subdivision thereof,  
46 the bonds having value equal to the amount of money to be paid to  
47 any such contractor. For purposes of this section, value shall mean  
48 par value or market value, whichever is lower.



# SENATE TRANSPORTATION COMMITTEE

## STATEMENT TO

### SENATE, No. 2576

# STATE OF NEW JERSEY

DATED: MAY 14, 2007

The Senate Transportation Committee reports favorably Senate Bill No. 2576.

This bill provides for partial payment schedules for roadway work performed by contractors for the New Jersey Turnpike Authority and establishes the amounts that may be withheld from payments to contractors by the authority for such work. The bill establishes that two percent of the amount due on the total contract price is to be withheld pending completion of the contract, except that upon substantial completion of the work one percent would be withheld.

At any time during the performance of the work, if work is not progressing, as defined by the "New Jersey Turnpike Authority Standard Specifications," the authority may, in its discretion, increase the withholding to four percent of the payment due.

This bill provides that certain bonds may be posted in lieu of partial payments.

Finally, no provision in the bill is to modify, limit, or restrict in any manner the obligations and powers of the New Jersey Turnpike Authority to comply with, carry out, and perform each and every covenant, agreement, or contract heretofore made or entered into by the authority with respect to the authority's bonds or for the benefit, protection, or security of the bondholders.

This bill applies the same retainage standards as apply to Department of Transportation highway contractors under R.S.27:7-34 to New Jersey Turnpike Authority roadway contractors.