

10:5-36

LEGISLATIVE HISTORY CHECKLIST

(State contracts - Allow expanded opportunities for socially and economically disadvantaged contractors and vendors)

WJSA 10:5-36

LAWS OF 1979

CHAPTER 266

Bill No. S685

Sponsor(s) Lipman

Date Introduced Jan. 26, 1978

Committee: Assembly State Govt., Federal & Interstate Relations & Veterans Affairs

Senate State Govt., Federal & Interstate Relations & Veterans Affairs

Amended during passage according to Governor's recommendations Yes
Date of Passage: Assembly July 16, 1979

~~xx~~ Amendments denoted by asterisks

Re-enacted Dec. 17, 1979

Senate June 18, 1979

Re-enacted Dec. 10, 1979

Date of approval Jan. 3, 1980

Following statements are attached if available:

Sponsor statement	Yes	xx (Below)
Committee Statement: Assembly	Yes	xx
Senate	Yes	xx
Fiscal Note	xx	No
Veto message	Yes	xx
Message on signing	Yes	xx

Following were printed:

Reports	xx	No
Hearings	xx	No

Sponsor's statement:

This legislation would extend the authority of the State Treasurer in terms of his ability to implement affirmative action programs by permitting him to issue rules and regulations which will expand business opportunities for socially and economically deprived contractors seeking to provide materials and services for State construction.

8/1/78

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SENATE, No. 685

STATE OF NEW JERSEY

INTRODUCED JANUARY 26, 1978

By Senator LIPMAN

Referred to Committee on State Government, Federal and
Interstate Relations and Veterans Affairs

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 6 of P. L. 1975, c. 127 (C. 10:5-36) is amended to
2 read as follows:

3 6. In carrying out his responsibilities under this act, the State
4 Treasurer, in addition to and without limitation of other powers
5 which he may have by law, shall have the following powers:

6 a. To investigate and determine the percentage of population of
7 minority groups in the State or areas thereof from which the work
8 force for public works contracts is or may be drawn;

9 b. To establish and promulgate such percentages as guidelines
10 in determining the adequacy of affirmative action programs sub-
11 mitted for approval pursuant to section 2 of this act;

12 c. To require all State and local agencies awarding public works
13 contracts to submit for approval their affirmative action programs;

14 d. To prescribe those affirmative action program provisions to
15 be included in all public works contracts;

16 e. To provide guidelines to assist governmental agencies in the
17 formulation of and the administration and enforcement of affirma-
18 tive action programs;

19 f. To require State and local agencies awarding public works
20 contracts to designate appropriate officers or employees to main-
21 tain liaison with and assist the State Treasurer in the implementa-
22 tion of this act and affirmative action programs adopted pursuant
23 thereto;

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

24 g. To prescribe appropriate administrative procedures relating
25 to prequalification of bidders, bidding practices and contract
26 awards to assure equal employment opportunities;

27 h. To provide staff and technical assistance to public bodies,
28 contractors and subcontractors in furtherance of the objectives
29 of this act;

30 i. To levy on contractors and subcontractors fees and charges
31 found by him to be reasonable and necessary to accomplish the
32 objectives of this act;

33 j. To refer to the Attorney General or his designee circumstances
34 which may constitute violations of the "Law Against Discrimina-
35 tion";

36 k. To issue, amend and rescind rules and regulations in accord-
37 ance with the "Administrative Procedure Act" (C. 52:14B-1 et
38 seq.);

39 l. To enforce in a court of law the provisions of this act or to
40 join in or assist any enforcement proceeding initiated by any
41 aggrieved person;

42 m. To make and execute contracts and all other instruments
43 with other public agencies and private firms or individuals neces-
44 sary or convenient for the exercise of their powers and functions
45 hereunder, including contracts with consultants for rendering pro-
46 fessional or technical assistance and advice;

47 n. To contract for or accept any gifts or grants or loans of funds
48 or property or financial or other aid in any form from the Federal
49 government or any agency or instrumentality thereof, or from
50 the State or any agency or instrumentality thereof, or from any
51 other source and to comply, subject to the provisions of this act,
52 with the terms and conditions thereof.

53 o. *To issue rules and regulations that will expand business oppor-*
54 *tunities for socially and economically ***[deprived]*** *disadvan-*
55 *taged* contractors *and vendors* seeking to provide materials*
56 *and services for State ***[construction]*** *contracts* *****[**]**; pro-*
57 *vided, however, that every such rule and regulation shall be sub-*
58 *mitted to the Senate and General Assembly prior to its adoption,*
59 *amendment or repeal on a day on which both Houses shall be meet-*
60 *ing in the course of a regular or special session, and the President*
61 *of the Senate and the Speaker of the General Assembly shall imme-*
62 *diately refer the proposed rule or regulation to the appropriate*
63 *standing reference committee in each House, which committee may*
64 *in turn report its approval or disapproval to the full membership*
65 *of its House within 30 days thereafter; and provided further that*

66 *such rule or regulation shall be deemed approved unless the Senate*
67 *and General Assembly adopt a concurrent resolution disapproving*
68 *such rule or regulation within 60 days of the submission there-*
69 *of**】***.*

1 2. This act shall take effect immediately.

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

STATEMENT TO
SENATE, No. 685
with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 24, 1979

This bill amends the "Law Against Discrimination" to add to the list of legislatively-mandated powers of the State Treasurer the power to issue rules and regulations to expand business opportunities for contractors and vendors who are socially and economically disadvantaged and who are seeking to provide materials and services to the State.

The committee amended the bill at the suggestion of the sponsor to make the language concerning the scope and application of the rules and regulations more specific.

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

STATEMENT TO
SENATE, No. 685

[OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1979

SUMMARY OF THE BILL AS AMENDED

This bill as amended extends the authority of the State Treasurer in terms of his ability to implement affirmative action programs by permitting him to issue rules and regulations which will expand business opportunities for socially and economically disadvantaged contractors and vendors seeking to provide materials and services for State contracts. Such rules and regulations, however, must first be submitted to the Legislature. If a concurrent resolution of disapproval is not adopted within 60 days of their submission, the rules and regulations shall be considered approved.

COMMITTEE AMENDMENTS

The committee added the language requiring the submission of proposed rules and regulations to the Legislature, their referral to committee, and action by both Houses of the Legislature within 60 days in order to prevent proposed rules and regulations from becoming effective.

December 3, 1979

SENATE BILL NO. 685 (2nd OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 685 with my objections for reconsideration.

This bill would authorize the Treasurer to issue rules and regulations to expand business opportunities for socially and economically disadvantaged contractors and vendors seeking to provide materials and services for State contracts.

The object of the bill is laudable: It would allow the State to provide the necessary technical assistance, information, and knowledge to enable minority contractors and vendors to compete in the market place. It would not necessarily establish a "quota" of contract awards.

Regrettably, the bill was amended in the Assembly to provide for a legislative veto of the Treasurer's regulations - a process that could create controversy on a sensitive issue where none is necessary.

The balance of power between the Legislature and executive branches of government is a delicate one. The Legislature, by structure and tradition is that branch which gives direction to public policy through analysis, debate and compromise. The Executive must administer that policy in an efficient and even-handed manner. The regulatory process has developed a means by which these two branches can perform their appropriate roles in harmony with respect to complex programs. The Legislature sets up the framework of the program through legislation and the Executive completes the structure by regulation.

Regulations are easily amendable and therefore adaptable to meet particular problems facing a program but they must necessarily comport to the legislative guidelines. Legislative veto of regulations breaks down the balance between the branches and ties the administrator's hands. The broad questions of policy must be debated anew with each specific regulatory proposal.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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Accordingly, I return Senate Bill No. 685 for reconsideration and recommend that it be amended as follows:

On page 2, section 1, line 56 - Delete "; provided" and insert "."

On page 2, section 1, lines 37-67 - Delete in their entirety.

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE
JANUARY 3, 1980

FOR FURTHER INFORMATION
KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills:

S-685, sponsored by Senator Wynona Lipman (D-Essex), which authorizes the State Treasurer to issue rules and regulations to expand business opportunities for socially and economically disadvantaged contractors and vendors seeking to provide materials and services for state contracts.

The bill allows the State to provide the necessary technical assistance, information and knowledge to enable minority contractors and vendors to compete for contracts, but it would not necessarily establish a "quota" on contract awards.

Governor Byrne had conditionally vetoed the bill on December 3, 1979, recommending that the provision giving the Legislature veto power over the Treasurer's regulations be deleted.

The Legislature concurred with the Governor's recommendations.

S-3146, sponsored by Senator Brian Kennedy (R-Monmouth) which provides that all municipal referendums to request approval from the voters to increase the municipal budget above the five percent budget cap be held on the last Tuesday in February.

The municipality is required to introduce and approve the budget at least 20 days prior to the date of the referendum and to publish the budget at least 12 days prior to that date.

Under prior law, there was no specific required date on which these referendum votes had to be held. Consequently, the county boards of election were required to provide voting machines for different municipalities on a variety of days. By the establishment of a uniform date, the costs to county boards of elections will be reduced.

S-3445, also sponsored by Senator Lipman, which extends the life of the Commission to Study Sex Discrimination in the Statutes to January 12, 1982.

The Commission, created in July of 1978, was scheduled to expire on January 8, 1980, under the original legislation. The Commission issued its first report, concerning sex discrimination in the employment statutes, in October of 1979. In the next two years, the Commission intends to review other areas of the law.