

52:32.42

**LEGISLATIVE HISTORY CHECKLIST**  
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(State contracts--bonding)

**NJSA:** 52:32-42

**LAWS OF:** 1995 **CHAPTER:** 22

**BILL NO:** A1375

**SPONSOR(S):** T. Smith

**DATE INTRODUCED:** February 28, 1994

**COMMITTEE:** **ASSEMBLY:** State Government; Appropriations  
**SENATE:** Budget

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
Second reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** October 20, 1994  
**SENATE:** December 15, 1994

**DATE OF APPROVAL:** January 25, 1995

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes 5-12-94 & 10-6-94  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

**REPORTS:** Yes

**HEARINGS:** No

Report, mentioned in statements:  
974.90 New Jersey. Governor's Study Commission in Discrimination in  
E19 Public Works. Procurement and Construction Contracts.  
1993b Final report. february 22, 1993, Trenton, 1993.

KBG:pp

[SECOND REPRINT]

ASSEMBLY, No. 1375

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 28, 1994

By Assemblymen T. SMITH, CATANIA, Haytaian, Corodemus,  
Jones and Assemblywoman Turner

1 AN ACT concerning State bonding requirements and  
2 supplementing Title 52 of the Revised Statutes.

3

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

6 1. a. <sup>1</sup>[The Public Contract Oversight Office, established  
7 pursuant to P.L. , c. (C. ) (now pending before the  
8 Legislature as Assembly Bill No. ),] A contracting agency<sup>1</sup> shall  
9 promulgate regulations, pursuant to the provisions of the  
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
11 seq.), establishing uniform <sup>1</sup>[criteria for various types of State  
12 contracts to be used by all contracting agencies] guidelines<sup>1</sup> in  
13 establishing the amount of any bond required in connection with  
14 the performance of <sup>1</sup>[a State] each type of<sup>1</sup> contract <sup>1</sup>commonly  
15 awarded by the contracting agency<sup>1</sup>. The regulations shall  
16 include, for each type of contract, a method for determining the  
17 appropriate amount of a bond based upon an assessment of the  
18 risk to the <sup>1</sup>[State] contracting agency<sup>1</sup> presented by the  
19 contract <sup>1</sup>[, the past performance of a party to the contract]<sup>1</sup>  
20 and other factors relevant to the performance of a particular  
21 type of contract. <sup>1</sup>The bond percentage required shall be  
22 identified in the State contract bid documents prior to the  
23 contract bidding date.<sup>1</sup> A contracting agency which seeks to  
24 deviate from the requirements of the regulations in a particular  
25 case shall obtain the prior approval of the Public Contract  
26 Oversight Office <sup>1</sup>established pursuant to P.L. , c. (C. )  
27 (now pending before the Legislature as Assembly Bill No. 1623) by  
28 establishing a demonstrable need for departure from the  
29 contracting agency guidelines<sup>1</sup>.

30 b. As used in this section:

31 "contracting agency" means the State or any board,  
32 commission, committee, authority or agency of the State <sup>1</sup>which  
33 possesses the legal authority to award and make contracts<sup>1</sup>; and

34 "State contract" means any purchase, contract or agreement  
35 the cost or contract price of which is to be paid, in whole or in  
36 part, with or out of <sup>1</sup>[State] <sup>2</sup>State or<sup>2</sup> contracting agency<sup>1</sup> funds.

37 2. This act shall take effect upon the enactment in the law of  
38 P.L. , c. (C. ) (now pending before the Legislature as  
39 Assembly Bill No. <sup>1</sup>1623<sup>1</sup>) which creates the Public Contract  
40 Oversight Office.

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 AAP committee amendments adopted October 6, 1994.

<sup>2</sup> Senate SBA committee amendments adopted November 21, 1994.

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3 Requires establishment of uniform criteria for determining the  
4 amount of a bond required under a State contract.

ASSEMBLY, No. 1375  
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 28, 1994

By Assemblymen T. SMITH, CATANIA and Haytaian

1 AN ACT concerning State bonding requirements and  
2 supplementing Title 52 of the Revised Statutes.

3

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

6 1. a. The Public Contract Oversight Office, established  
7 pursuant to P.L. , c. (C. ) (now pending before the  
8 Legislature as Assembly Bill No. ), shall promulgate regulations,  
9 pursuant to the provisions of the "Administrative Procedure  
10 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establishing uniform  
11 criteria for various types of State contracts to be used by all  
12 contracting agencies in establishing the amount of any bond  
13 required in connection with the performance of a State contract.  
14 The regulations shall include, for each type of contract, a method  
15 for determining the appropriate amount of a bond based upon an  
16 assessment of the risk to the State presented by the contract, the  
17 past performance of a party to the contract and other factors  
18 relevant to the performance of a particular type of contract. A  
19 contracting agency which seeks to deviate from the requirements  
20 of the regulations in a particular case shall obtain the prior  
21 approval of the Public Contract Oversight Office.

22 b. As used in this section:

23 "contracting agency" means the State or any board,  
24 commission, committee, authority or agency of the State; and

25 "State contract" means any purchase, contract or agreement  
26 the cost or contract price of which is to be paid, in whole or in  
27 part, with or out of State funds.

28 2. This act shall take effect upon the enactment in the law of  
29 P.L. , c. (C. ) (now pending before the Legislature as  
30 Assembly Bill No. ) which creates the Public Contract  
31 Oversight Office.

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STATEMENT

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36 This bill would implement one of the recommendations made by  
37 the Governor's Study Commission on Discrimination in Public  
38 Works Procurement and Construction Contracts in its report of  
39 February 22, 1993. It would require the State Treasurer to  
40 promulgate regulations establishing uniform criteria to be used by  
41 contracting agencies in establishing the amount of a bond  
42 required in connection with the performance of a State contract.

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48 Requires establishment of uniform criteria for determining the  
amount of a bond required under a State contract.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1375

STATE OF NEW JERSEY

DATED: MAY 12, 1994

The Assembly State Government Committee reports favorably Assembly Bill No. 1375.

This bill directs the Public Contract Oversight Office, proposed to be created under pending legislation, to promulgate regulations establishing, for various types of State-funded contracts, uniform criteria to be used by all State contracting agencies in establishing the amount of any bond required in connection with the performance of those contracts. The bill provides that the regulations are to include, for each type of contract, a method for determining the appropriate amount of a bond based upon an assessment of the risk to the State presented by the contract, the past performance of a party to the contract and other factors relevant to the performance of a particular type of contract. A contracting agency which seeks to deviate from the requirements of the regulations in a particular case is required to obtain the prior approval of the Public Contract Oversight Office.

The bill is to take effect upon enactment of the legislation creating the Oversight Office.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1375**

with committee amendments

**STATE OF NEW JERSEY**

DATED: OCTOBER 6, 1994

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1375, with committee amendments.

Assembly Bill No. 1375, as amended, directs the State and each board, commission, committee, authority or agency of the State with the authority to make contracts to promulgate regulations establishing the guidelines it will use in establishing the amount of any bond required in connection with the performance of each of the various types of State-funded contracts the contracting agency commonly makes. The bill provides that the regulations are to include, for each type of contract, a method for determining the appropriate amount of a bond based upon an assessment of the risk to the contracting agency presented by the contract and other factors relevant to the performance of a particular type of contract. A contracting agency which seeks to deviate from its guidelines in a particular case will be required to obtain the prior approval of the Public Contract Oversight Office by demonstrating the need to depart from its guidelines.

The bill will take effect upon enactment of legislation creating the Public Contract Oversight Office, now pending before the Legislature as Assembly Bill No. 1623 of 1994.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note; however, implementation of the rulemaking requirements of the bill will require the resources of each contracting agency.

COMMITTEE AMENDMENTS:

The committee amendments give each contracting agency the responsibility of issuing the guidelines for establishing the amount of any bond required in connection with the performance of each of the various types of State-funded contracts the contracting agency commonly makes and clarify that any bonding requirement must be identified in the State contract bid documents before the contract bidding date.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1375

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 1994

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 1375 (1R), with committee amendments.

Assembly Bill No. 1375 (1R), as amended, requires a State contracting agency to issue guidelines for determining the amount of a performance bond which will be required for various State-funded contracts. The bill also requires the bonding requirements to be identified in State contract bid documents issued before the contract bidding date. A contracting agency which seeks to deviate from its guidelines in a particular case will be required to obtain the prior approval of the Public Contract Oversight Office. The bill will take effect upon enactment of legislation creating the Public Contract Oversight Office, now pending before the Legislature as Assembly Bill No. 1623 (1R) of 1994.

The purpose of this bill is to implement a recommendation in the February 22, 1993, report of Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts.

As reported, this bill is identical to Senate Bill No. 196 (1R) of 1994 as amended and reported by this committee on November 21, 1994.

COMMITTEE AMENDMENT

The committee amended the bill to change the definition of "State contract" at the request of the Department of Law and Public Safety to include contracts and agreements to be paid with or out of State funds as well as contracting agency funds.

FISCAL IMPACT

This bill was not certified as requiring a fiscal note.



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

**CN-001**  
**Contact:**

CARL GOLDEN  
609-777-2205

**TRENTON, N.J. 08625**

**Release:** IMMEDIATE  
JAN. 25, 1995

Gov. Christie Whitman today signed legislation to require state contracting agencies to develop regulations establishing uniform guidelines for the amount of a bond required in connection with the awarding of state contracts.

The legislation is in response to difficulties encountered by minority-owned or women-owned businesses seeking state contracts because the bonding requirements differed from agency to agency.

By requiring uniformity in the bonding requirements, such businesses will be more able to compete in the bidding process.

The legislation, A-1375, was sponsored by Assemblyman Thomas Smith, R-Monmouth.

Other bills signed by the Governor today are:

S-163, sponsored by Sens. Joseph Palaia, R-Monmouth, and Richard Codey, D-Essex, to require that monetary penalties collected by the State Racing Commission for violations of racing statutes are to be deposited in the Backstretch Benevolency Programs Fund.

S-843, sponsored by Sens. Joseph Kyrillos, R-Monmouth, and James McGreevey, D-Middlesex, to remove the prohibition against spills into waterways occurring as a result of a recovery or clean-up process being carried out in compliance with Department of Environmental Protection orders.

S-874, sponsored by Sen. Joseph Kyrillos, R-Middlesex, to appropriate \$1.6 million from the Public Purpose Building and Community-Based Facilities Construction Fund to provide aid to Middlesex County for the construction of 26 additional bed spaces for state-sentenced inmates.

S-807, sponsored by Sens. Robert Martin, R-Morris, and Edward O'Connor, D-Hudson, to provide specific criminal penalties



for criminal offenses committed in research facilities.

A-492, sponsored by Assemblyman John Gibson, R-Atlantic, to require the Department of Environmental Protection to provide information to shore municipalities on the eligibility requirements to receive disaster aid.

A-1305, sponsored by Assemblymen Leonard Lance, R-Hunterdon, and Joseph Suliga, D-Union, to place county college officers and employees under the jurisdiction of the Local Finance Board for compliance with the Local Government Ethics Law.

A-1634, sponsored by Assemblymen Anthony Impreveduto, D-Hudson, and Nicholas Felice, R-Passaic, to implement recommendations of the Biotechnology Development Task Force.

A-1680, sponsored by Assemblymen Walter Kavanaugh and Christopher Bateman, both R-Somerset, to amend the approval requirement for persons who acquire a controlling interest in stock in capital-stock savings banks.

A-2358, sponsored by Assemblyman David Wolfe, R-Ocean, to permit boards of fire commissioners to bond for necessary training facilities and equipment.