

[Second Reprint]

SENATE, No. 494

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

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SYNOPSIS

Requires all services under State contracts or subcontracts be performed within US.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on May 20, 2004, with amendments.

(Sponsorship Updated As Of: 3/15/2005)

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 agency ²[.]; 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
41 writing a finding that inclusion in the State contract of a provision as
42 described in subsection a. of this section with respect to the
43 performance of a service required by their contracting entity under the

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 State contract would violate the terms, conditions, or limitations of
2 any grant, funding or financial assistance from the federal government
3 or any agency thereof, and the certification is approved by the
4 appropriate approval officer.²

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

19
20 ¹2. The State Treasurer shall review all State contracts, as defined
21 in section 1 of P.L. _____, c. _____ (C. _____)(now pending before the
22 Legislature as this bill), primarily for the performance of services,
23 which contracts have not been completed or terminated, and determine
24 if any of the services performed by the contractor and any
25 subcontractor are being performed outside of the United States.
26 Within 180 days after the effective date of P.L. _____, c. _____ (C. _____)(now
27 pending before the Legislature as this bill), the findings of the review
28 shall be reported in writing to the Governor, the President of the
29 Senate, the Minority Leader of the Senate, the Speaker of the General
30 Assembly, and the Minority Leader of the General Assembly, and shall
31 be made available to the general public.¹

32
33 ¹[2.] 3.¹ This act shall take effect ¹[immediately] on the 90th day
34 following enactment¹.