ASSEMBLY, No. 4232

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED NOVEMBER 30, 2009

Sponsored by:
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District 37 (Bergen)
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District 35 (Bergen and Passaic)

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Senator Beach

SYNOPSIS

Establishes Apparel Procurement Board; sets standards for procurement of apparel by the State.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 1/12/2010)

AN ACT concerning the procurement of apparel by the State and supplementing Title 34 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. A significant portion of the apparel industry has a history of poor conditions for its workers;

b. The largest part of the apparel purchases of the State of New Jersey are for State employee uniforms, which should project a positive image for the State and help to instill pride on the part of State employees;

c. The State of New Jersey has, as a market participant, a compelling interest in guaranteeing that these uniforms and all of the other apparel it acquires are produced in the United States of America in conditions which are conducive to the reliable provision of high quality apparel and of which the State, its citizens, and its employees may be proud; and

d. It is, therefore, an appropriate policy to establish an Apparel Procurement Board to ensure that the State's interests as a market participant are protected with respect to apparel contracts entered into by the State and its instrumentalities.

2. For the purpose of this act:

"Apparel" means any clothing, headwear, linens or fabric.

"Apparel contracts" shall include all purchases, rentals or other acquisitions of apparel products by the State of New Jersey, including authorizations by the State of New Jersey for vendors to sell apparel products through cash allowances or vouchers issued by the State of New Jersey, and license agreements with a public body.

"Apparel production" shall include the cutting and manufacturing of apparel products performed by the vendor or by any sub-contractors, not including the production of supplies or sundries such as buttons, zippers, and thread.

"Bidder" means any person making a bid with a public body to serve as a vendor to a public body.

"Board" means the Apparel Procurement Board established by this act.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Poverty line" means the official poverty line based on family size, established and adjusted under section 673 (2) of Subtitle B of the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s.9902 (2)).

"Public body" means the State of New Jersey, any agency of the State or any authority created by the Legislature.

"Vendor" means any person or business selling or otherwise providing apparel to or for a public body or entering into a license agreement with a public body to produce or provide items of apparel bearing names, trademarks or images of, or related to, the public body.

3. When purchasing or otherwise obtaining apparel from a vendor, including approving a vendor for participation in allowance or voucher programs, a public body shall require that all apparel production is in compliance with each of the following requirements, except in the case of a requirement that is adjudicated to be unenforceable because of preemption by federal law:

a. All apparel production under the contract shall be performed in the United States, except in cases in which the commissioner determines that it is not possible for the public body to obtain apparel produced in the United States which meets the necessary requirements of the public body;

b. Apparel production workers employed to produce the apparel shall be provided a work environment that is safe, healthy, and free of discrimination on the basis of race, national origin, religion, sex and sexual preference;

c. Apparel production workers employed to produce the apparel shall be provided non-poverty compensation at an hourly rate determined by the commissioner to be not less than the poverty line for a family of three, based on 40 hours of work a week for 50 weeks a year;

d. Apparel production workers employed to produce the apparel shall not be terminated except for just-cause and vendors and their contractors and sub-contractors shall provide a mechanism to resolve all disputes with apparel production workers;

e. Vendors and their contractors and sub-contractors shall adapt a neutrality position with respect to attempts to organize by their employees, and agree to voluntarily recognize a union when a majority of workers have signed cards authorizing union representation;

f. The facilities where the apparel production occurs shall be open to inspection by the commissioner, the board, or any political subdivision of this State, any other state or other governmental or intergovernmental unit with which the commissioner or the board cooperates or by any appropriate consortia in which the board or the commissioner participates pursuant to section 5 of this act; and

g. No contractor or sub-contractor involved in the providing or production of apparel has a pattern or practice of violation of legal employment protections, including laws and regulations governing wages and hours, discrimination, occupational safety and health, child labor, industrial homework, workers' compensation, and occupational safety and health.

Every apparel contract and bid application shall contain a provision or provisions detailing the requirements of this act, and compliance with this act shall be made a binding part of all apparel contracts.

4. Every bidder for an apparel contract with a public body shall inform the public body in writing of the following information, which shall be made available by the public body to the public as soon as possible, but in no case less than 30 days before a decision is made to award an apparel contract to a bidder:

a. Every location where apparel production is to take place, including any sub-contractor locations;

b. The name, business address, and names of principal officers of each sub-contractor to be used for apparel production in fulfillment of an apparel contract; and

c. An affidavit that each apparel production location meets the requirements of this act.

Any changes to the reported information during the term of an apparel contract must be reported by the vendor to the public body. The public body shall report all information required under this section to the Apparel Procurement Board, which shall make the information available upon request to the public.

5. a. The Apparel Procurement Board is established and shall be composed of seven individuals as follows: three individuals selected by the New Jersey State AFL-CIO who represent unions of uniformed personnel of the State; three individuals selected by the Governor who represent agencies that employ uniformed personnel of the State; and one individual selected by the commissioner to represent the commissioner. After the effective date of this act, members shall appointed to serve for terms of three years. Each member appointed pursuant to this act shall hold office for the term of appointment and until he is reappointed or a successor is appointed and qualified. Each member serving upon the effective date who was selected prior to the effective date of this act shall hold office until a successor is appointed and qualified or the member is appointed pursuant to this act, after which he will hold office for the term of appointment. A member appointed to fill a vacancy occurring in the membership of the board for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. Each vacancy shall be filled in the same manner as the original appointment. Any appointed member may be removed from office by the Governor, for cause, after a hearing and may be suspended by the Governor pending the completion of the hearing. Members of the board shall serve without compensation.

b. The Apparel Procurement Board shall be administered by the commissioner and shall have the power to receive complaints

that any bidder or contractor is not in compliance with this act, and recommend an investigation into the merits of such complaints. If the commissioner determines, upon a hearing after notice, that a vendor, sub-contractor or bidder has not complied with any requirement of this act, including any finding of failure to provide truthful information as required by this act, the commissioner may terminate an existing apparel contract at the earliest feasible date, and may bar the vendor or bidder from receiving pending or subsequent apparel contracts for a period determined by the commissioner, but there shall be a period of debarment of not less than three years if the contractor or subcontractor demonstrates a pattern of repeated serious noncompliance with the provisions of this act.

c. The commissioner and the board shall give priority to coordinating enforcement, monitoring and information collection activities with any political subdivision of this State, with any other state or its political subdivisions and with any other governmental and intergovernmental units and shall give priority to participating in any appropriate consortia which assist in enforcement, monitoring and information collection activities and are independent of the monitored industries.

6. This act shall take effect immediately.

STATEMENT

This bill requires the State, when purchasing, renting or otherwise acquiring apparel, do so only under the following circumstances:

1. All of the apparel production be performed in the United States, except in cases in which the commissioner determines that it is not possible to obtain apparel produced in the United States which meets the necessary requirements of the State;

2. The apparel production workers are provided a work environment which is safe, healthy and free of discrimination;

3. The apparel production workers are paid non-poverty compensation at an hourly rate not less than the poverty level for a family of three, based on 40 hours of work a week for 50 weeks a year;

4. The apparel production workers are not terminated except for just cause and vendors and their employers provide a mechanism to resolve all disputes with apparel production workers;

5. The vendors and their contractors and subcontractors adapt a neutrality position with respect to attempts to organize by their employees, and agree to recognize a union whenever a majority of workers have signed cards authorizing union representation;

6. The apparel production facilities are open to inspection by

the commissioner, the board, or any appropriate agency of any other state, political subdivision, other governmental unit with which the commissioner is cooperating or by any appropriate consortia in which the board or the commissioner are participating; and

7. The contractors and subcontractors do not have a pattern or practice of violation of legal employment protections, including laws regarding wages and hours, child labor, industrial homework, workers' compensation, discrimination, and occupational safety and health.

The bill requires every bidder for an apparel contract to disclose all locations where apparel production is to take place, the name, business address and names of principal officers of every apparel production subcontractor, and an affidavit that each apparel production location meets the standards of the bill.

The bill establishes an Apparel Procurement Board composed of the seven members as follows: three representatives of uniformed State employee unions, selected by the New Jersey State AFL-CIO; three representatives of public bodies that employ uniformed personnel, selected by the Governor; and an individual chosen by the Commissioner of Labor and Workforce Development. That board would have the power to receive complaints regarding compliance with the bill.

In cases of noncompliance with the bill, the commissioner may, upon a hearing after notice, terminate an existing apparel contract at the earliest feasible date, and bar the vendor or bidder from receiving pending or subsequent apparel contracts for a period determined by the commissioner, but not less than three years if there is a pattern of repeated serious noncompliance.

The commissioner and the board are directed to give priority to coordinating enforcement, monitoring and information collection activities with any political subdivision of this State, with any other state or its political subdivisions and with any other governmental and intergovernmental units and shall give priority to participating in any appropriate consortia which assist in enforcement, monitoring and information collection activities and are independent of the monitored industries.