

ASSEMBLY, No. 5841

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 14, 2019

Sponsored by:

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Co-Sponsored by:

Assemblyman DeAngelo, Assemblywomen Murphy and Downey

SYNOPSIS

Permits Department of Labor and Workforce Development to post information of person who violates State wage, benefit and tax laws.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning State wage, benefit and tax laws and
2 supplementing Title 34 of the Revised Statutes.

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

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7 1. a. As used in this section:

8 “Commissioner” means the Commissioner of the Department of
9 Labor and Workforce Development or the Commissioner’s duly
10 authorized representative.

11 “Contracting” means any arrangement giving rise to an
12 obligation to supply any product or to perform any service for a
13 public body, other than by virtue of State employment, or to supply
14 any product to or perform any service for a private person where the
15 State provides substantial financial assistance and retains the right
16 to approve or disapprove the nature or quality of the goods or
17 services or the persons who may supply or perform the same.

18 “Department” means the Department of Labor and Workforce
19 Development.

20 “Final order” means either a final administrative determination
21 of the commissioner or other appropriate agency officer issued
22 following adjudication of a matter as a contested case pursuant to
23 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
24 et seq.), or where the department or other appropriate agency has
25 made a finding regarding a violation of any State wage, benefit and
26 tax laws or regarding the levying of a penalty pursuant to any State
27 wage, benefit and tax laws, has notified the violator of the finding,
28 and the violator has expressly waived the right to a hearing by
29 virtue of having failed to request a hearing within the appropriate
30 time limit established by either law or rule.

31 “Person” means any natural person, company corporate officer or
32 principal, firm, association, corporation, contractor, subcontractor
33 or other entity engaged in contracting.

34 “Public body” means the State of New Jersey, any of its political
35 subdivisions, any authority created by the Legislature of the State of
36 New Jersey, and any instrumentality or agency for the State of New
37 Jersey or of any of its political subdivisions.

38 “State wage, benefit and tax laws” has the same meaning as that
39 term is defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

40 b. The department may post to a list on its website the name of
41 any person found to be in violation of any State wage, benefit, or
42 tax laws and against whom a final order has been issued by the
43 commissioner or other appropriate agency officer for any violation
44 of State wage, benefit and tax laws.

45 c. In the event that either the person satisfies the entirety of the
46 outstanding liability ordered by the court or the commissioner; or a
47 settlement has been reached and all payments have been made
48 pursuant to the settlement, prior to the anticipated date for posting

1 of the name on the department's website, the posting shall not
2 occur. The department shall update the website on a monthly basis,
3 no later than the fifth day of each month. The department shall
4 remove the name of a person from the website within 15 days after
5 the department determines that the person has satisfied the entirety
6 of the outstanding liability ordered by the court, the commissioner
7 or other agency head, or made all payments pursuant to the
8 settlement for a violation of any State wage, benefit and tax laws.

9 d. A person placed on the list pursuant to subsection b. of this
10 section shall be prohibited from contracting with any public body
11 until the liability for violations of State wage, benefit, and tax laws
12 have been resolved to the satisfaction of the commissioner.

13 e. The department shall provide notice to the person of its
14 intent to post the name of the person on the department's website 15
15 business days prior to the posting. That notice shall include the
16 following:

17 (1) The name, email address, and telephone number of a contact
18 person at the department and description of the procedure for
19 removal of the posting;

20 (2) The specific details concerning the violations and a copy of
21 the unsatisfied court final judgment or final order for any violation
22 of State wage, benefit and tax laws;

23 (3) Notification that the person shall be prohibited from
24 contracting with a public body if the liability is not resolved; and

25 (4) Notification that the person can request a hearing in writing
26 to the commissioner within 20 days of receipt of the notice of intent
27 to place the person on the list.

28 f. A person who receives a notice of intent pursuant to
29 subsection e. of this section shall have the right to request a hearing
30 within 20 days. All hearings requested pursuant to this section shall
31 be conducted in accordance with the provisions of the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.).

34 g. The commissioner shall consider the following factors as
35 material in each decision to place a person on the list pursuant to
36 subsection b. of this section:

37 (1) The record of previous violations;

38 (2) Previous placement on the list by the commissioner;

39 (3) The frequency of violations by the person discovered in
40 previous or still pending cases;

41 (4) The significance or scale of the violations;

42 (5) The existence of failure to pay;

43 (6) Failure to cooperate or respond to a request to produce
44 records, forms, documents, or proof of payments;

45 (7) Submission of falsified or altered records, forms, documents,
46 or proof of payment;

47 (8) Failure to provide goods or services; and

48 (9) Failure to comply with contract specifications.

1 2. This act shall take effect immediately and shall apply to final
2 orders issued on and after that effective date.

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STATEMENT

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7 This bill permits, notwithstanding any federal or State law to the
8 contrary, the Department of Labor and Workforce Development
9 (DOLWD) to post to a list on its website the name for any person
10 who is found to be violation of any State wage, benefit, or tax law,
11 and against whom a final order has been issued by the
12 Commissioner of the DOLWD or other appropriate agency head for
13 any violation of State wage, benefit and tax laws.

14 The DOLWD is required to provide notice to the person of its
15 intent to post the person's name on the DOLWD's website 15
16 business days prior to the posting. A person who receives a notice
17 of intent to be placed on the list is entitled to the right to request a
18 hearing within 20 days.

19 The bill provides that a person placed on the list is prohibited
20 from contracting with a public body until the liability for violations
21 of State wage, benefit, and tax laws have been resolved to the
22 satisfaction of the commissioner.

23 The bill enumerates several factors for the commissioner's
24 consideration in determining whether to place a person on the
25 website list.