

Bill S4226

Session 2018 - 2019



CHAPTER 366

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

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

C.34:1A-1.16 Definitions, publishing of violators of State wage, benefit, and tax laws.

1. a. As used in this section:

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

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

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

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

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

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

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

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

c. In the event that either the person satisfies the entirety of the outstanding liability ordered by the court or the commissioner; or a settlement has been reached and all payments have been made pursuant to the settlement, prior to the anticipated date for posting of the name on the department's website, the posting shall not occur. The department shall update the website on a monthly basis, no later than the fifth day of each month. The department shall remove the name of a person from the website within 15 days after the department determines that the person has satisfied the entirety of the outstanding liability ordered by the court, the commissioner or other agency head, or made all payments pursuant to the settlement for a violation of any State wage, benefit and tax laws.

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

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

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

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

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

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

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

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

(1) The record of previous violations;

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

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

(4) The significance or scale of the violations;

(5) The existence of failure to pay;

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

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

(8) Failure to provide goods or services; and

(9) Failure to comply with contract specifications.

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

Approved January 20, 2020.

