

**SENATE . . . . . No. 2101**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act Text of the further amendment (Menard) to the Senate Bill mobilizing economic recovery in the Commonwealth (Senate, No. 2061).

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           “Eligible”, a bidder or offeror who is able to meet all requirements for bidders or offerors  
2 set forth in sections forty44A to 44H, inclusive of chapter 149 of the General Laws and who  
3 shall certify that he is able to furnish labor that can work in harmony with all other elements of  
4 labor employed or to be employed on the work.; provided, however, that eligible shall not  
5 include a bidders or offeror that, at the time of procurement, is: (1) debarred from bidding under  
6 section 44C of said chapter 149 or any other applicable law; (2) debarred by any other state or  
7 by any agency of the United States, as determined by the Commonwealth after diligent efforts; or  
8 (3) otherwise excluded from public contracting or subcontracting for the reasons set forth in  
9 subsection (c) of section 29F of chapter 29 of the General Laws; and provided further, that  
10 notwithstanding any general or special law to the contrary, the Attorney General may waive or  
11 adjust the preceding requirements if he determines in writing that special circumstances exist  
12 which justify such waiver or adjustment.

13 SECTION 45. (a) The provisions and definitions of terms in the Federal-State Extended  
14 Unemployment Compensation Act of 1970 shall apply to this section; provided, however, that to  
15 the extend such definitions are in conflict with or supplement the provisions and definitions of  
16 terms in the American Recovery and Reinvestment Act of 2009, the provisions and definitions of  
17 the American Recovery and Reinvestment Act of 2009 shall apply to this section.

18 (b) With respect to weeks of unemployment beginning on or after February 22, 2009, and  
19 continuing until the week ending prior to the last week for which 100 per cent federal sharing is  
20 authorized by subsection (a) of Section 2005 the American Recovery and Reinvestment Act of  
21 2009 for all claims except for entities described in Section 3306(c)(7) of the Internal Revenue  
22 Code, the following shall apply:

23 (1) In addition to the “state ‘on’ indicator” set forth in paragraph (d) of subsection (1)  
24 of section 30A of chapter 151A of the General Laws, there shall be a “state ‘on’ indicator” for  
25 the commonwealth for a week if the director determines, in accordance with the regulations of  
26 the United States Secretary of Labor, that:

27 (A) the rate of insured unemployment for the period consisting of such week and the  
28 immediately preceding 12 weeks equaled or exceeded 6 per cent, regardless of the rate of insured  
29 unemployment in the 2 previous years; or

30 (B) (i) the average rate of total unemployment, seasonally adjusted, for the period  
31 consisting of the most recent 3 months for which data for all states are published before the close  
32 of such week equals or exceeds 6.5 per cent; and

33 (ii) the average rate of total unemployment (seasonally adjusted) for the three-month  
34 period referred to in clause (i) equals or exceeds 110 per cent of such average rate for either or  
35 both of the corresponding 3-month periods ending in the 2 preceding calendar years.

36 (2) There shall be a state “off” indicator for the commonwealth for any week if none  
37 of the requirements specified in paragraph (1) of this section and in paragraph (d) of subsection  
38 (1) of said section 30A of said chapter 151A are satisfied.

39 (3) (A) For purposes of this subparagraph, the term “high unemployment period”  
40 shall mean any period during which an extended benefit period would be in effect if clause (i) of  
41 subparagraph (B) of paragraph (1) were applied by substituting 8 per cent for 6.5 per cent.

42 (B) Effective with respect to weeks beginning in a high unemployment period,  
43 subsection (5) of said section 30A of said chapter 151A shall be applied by substituting: (i) 80  
44 per cent for fifty per cent in paragraph (a); (ii) 20 times for thirteen times in paragraph (b); and  
45 (3) 46 times for thirty-nine times in paragraph (c).

46 (c) The indicators specified in subsection (b) shall be operative only if mandated or  
47 permitted by federal law.

48 (d) Notwithstanding any other provision of this section, the governor may, if  
49 permitted by federal law, suspend the payment of extended unemployment benefits under this  
50 section, to the extent necessary to ensure that otherwise eligible individuals are not denied, in  
51 whole or in part, the receipt of emergency unemployment compensation benefits authorized by  
52 the federal Supplemental Appropriations Act of 2008, the Unemployment Compensation  
53 Extension Act of 2008 and the American Recovery and Reinvestment Act of 2009 and that the

54 state receives maximum reimbursement from the federal government for the payment of those  
55 emergency benefits.

56 (e) This section shall not be implemented unless the director of workforce development  
57 determines that these provisions have been approved by the United States Department of Labor.  
58 The director shall immediately provide a copy of this section to the United States Department of  
59 Labor for review.

60 SECTION 46. Sections 4 to 11, inclusive, sections 14 to 28, inclusive and section 33  
61 shall apply only to contracts advertised after the effective date of this act.