

## CHAPTER 423

**AN ACT** concerning apprenticeship programs of public works contractors, amending and supplementing P.L.1999, c.238, and repealing section 2 of P.L.2019, c.518.

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

1. Section 5 of P.L.1999, c.238 (C.34:11-56.52) is amended to read as follows:

C.34:11-56.52 Contractor to register in writing; form; requisites.

5. a. A contractor shall register in writing with the department on a form provided by the commissioner. The form shall require the following information:

- (1) The name, principal business address and telephone number of the contractor;
  - (2) Whether the contractor is a corporation, partnership, sole proprietorship, or other form of business entity;
  - (3) If the contractor's principal business address is not within the State, the name and address of the contractor's custodian of records and agent for service of process in this State;
  - (4) The name and address of each person with a financial interest in the contractor and the percentage interest, except that if the contractor is a publicly traded corporation, the contractor shall supply the names and addresses of the corporation's officers;
  - (5) The contractor's tax identification number and unemployment insurance registration number;
  - (6) A certification form provided by the commissioner, with documentation satisfactory to the commissioner, that the contractor has all valid and effective licenses, registrations or certificates required by State law, including registrations or certifications required to do business in the State of New Jersey, and the contractor, if directly employing craftworkers, participates in a registered apprenticeship program as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50) for each craft they employ;
  - (7) A certification form provided by the commissioner, with supporting documentation, establishing to the satisfaction of the commissioner that the registered apprenticeship program, as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50), meets all of the requirements of section 6 of P.L.2021, c.423 (C.34:11-56.55a), and 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7;
- (a) If it is determined by the commissioner that a registered apprenticeship program in which the contractor participates does not meet all of the requirements of 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7, that determination of the commissioner shall, subject to the requirements of subsection b. of section 9 of P.L.1999, c.238 (C.34:11-56.56), including the contractor's right to request a hearing, result in initial registration application denial, registration renewal denial, revocation, or suspension of the certificate of registration to perform public work in New Jersey;
- (b) The determination of the commissioner under this paragraph shall only impact the contractor's ability to obtain or maintain its public works contractor registration certificate under P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall not affect the status of the registered apprenticeship program for the purpose of its continued operation in New Jersey;
- (c) A determination by the commissioner under subparagraph (a) of this paragraph (7) that a registered apprenticeship program in which the contractor participates does not meet all of the requirements of 29 C.F.R. ss. 29.3, 29.4, 29.5, 29.6 and 29.7 shall result not only in initial registration application denial, registration renewal denial, revocation or suspension of that contractor's certificate of registration to perform public work in New Jersey, but also shall

result in the initial registration application denial, registration renewal denial, revocation or suspension of every contractor who is meeting the apprenticeship program participation requirement through participation in the non-compliant registered apprenticeship program; provided that any initial registration application denial, registration renewal denial, revocation or suspension shall be subject to the requirements of subsection b. of section 9 of P.L.1999, c.238 (C.34:11-56.56), including the contractor's right to request a hearing; and

(8) Any other relevant and appropriate information as determined by the commissioner.

b. At the time of registration, and subsequently upon request, the contractor shall submit to the commissioner documentation demonstrating that the contractor has worker's compensation insurance coverage for all workers as required by law.

2. Section 6 of P.L.1999, c.238 (C.34:11-56.53) is amended to read as follows:

C.34:11-56.53 Nonrefundable registration fees.

6. a. The contractor shall pay an initial annual non-refundable registration fee of \$500 to the commissioner. The non-refundable registration fee for the second annual registration shall be \$500. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a non-refundable registration fee of \$750.

b. A contractor who is performing public work on the effective date of this act shall submit the registration application form and fee to the commissioner within 30 days of the effective date of this act.

c. Registration fees collected pursuant to this act shall be applied toward the enforcement and administration costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the department.

3. Section 7 of P.L.1999, c.238 (C.34:11-56.54) is amended to read as follows:

C.34:11-56.54 Issuance of certificate of registration.

7. Upon receipt of the fee, form and documentation required by section 5 of this act, and upon a finding that the applicant for the certificate of registration has met all of the requirements set forth at section 5 of P.L.1999, c.238 (C.34:11-56.52), the commissioner shall issue a certificate of registration to the contractor. A registration certificate shall be valid for one calendar year from the date of registration. Registrations shall be renewed not less than 30 days before the expiration date of the immediately preceding registration.

C.34:11-56.54a Contractor, sponsor obligations, registration certificate renewal cycles; compliance.

4. a. Each contractor or sponsor as defined herein, who is registered under P.L.1999, c.238 (C.34:11-56.48 et seq.) to bid on and perform public work shall be under a continuing obligation between registration certificate renewal cycles to ensure compliance with the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52).

b. When between registration certificate renewal cycles it is determined by the department that a contractor has failed to comply with the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52), provided it is also determined by the department that the failure to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52) existed at the time of the contractor's most recent certificate of registration application, whether that application was for contractor registration renewal or initial approval, the department shall consider the resulting failure of the contractor to accurately complete its registration application to have been the making or

causing to be made of a false, deceptive or fraudulent statement on the public works contractor registration form, which pursuant to paragraph (7) of subsection a. of section 9 of P.L.1999, c.238 (C.34:11-56.56), constitutes grounds for revocation of the contractor's certificate of registration.

c. When between registration certificate renewal cycles it is determined by the department that a contractor has failed to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52), but where it is also determined by the department that the failure to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52) did not exist at the time of the contractor's most recent certificate of registration application, whether that application was for contractor registration renewal or initial approval, the department shall suspend the contractor's certificate of registration pursuant to this section either until the contractor establishes compliance with section 5 of P.L.1999, c.238 (C.34:11-56.52) or until the beginning of the next registration certificate renewal cycle, whichever occurs first.

d. When a contractor has had its registration certificate either revoked or suspended under subsections b. or c. of this section, for failure between registration certificate renewal cycles to comply with section 5 of P.L.1999, c.238 (C.34:11-56.52), that registration certificate revocation or suspension shall be taken into consideration by the department as a prior offense when determining whether to grant any subsequent certificate of registration application.

5. Section 9 of P.L.1999, c.238 (C.34:11-56.56) is amended to read as follows:

C.34:11-56.56 Violation; disorderly persons offense; other penalties; suspension; hearing.

9. a. A contractor who: (1) willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act; (2) fails to make, keep, and preserve any records as required under the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (3) falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand; (4) refuses to furnish a sworn statement of such records or any other information required for the enforcement of this act to the commissioner upon demand; (5) pays or agrees to pay wages at a rate less than the rate prescribed by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (6) willfully makes, or causes to be made, a false, deceptive or fraudulent statement on the public works contractor registration form; or (7) otherwise violates any provision of this act, shall be guilty of a disorderly persons offense and shall, upon conviction, be subject to punishment by a fine of not less than \$2,500 nor more than \$25,000 and disqualification from bidding on or engaging in public work for a period of up to three years. Where the contractor has made or has caused to be made a false, deceptive or fraudulent statement on the public works contractor registration form in connection with the requirement of section 5 of P.L.1999, c.238 (C.34:11-56.52) that the contractor participate in a registered apprenticeship program for each craft that the contractor employs, and where the false, deceptive or fraudulent statement was made by an officer or employee charged with the duty of completion of the registration form for a contractor, that officer or employee, upon conviction, shall be subject to punishment by the fine indicated in this subsection or by imprisonment not exceeding six months, or both.

b. As an alternative to or in addition to sanctions provided by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may, after providing the contractor with notice of any alleged violation of this act, and with an opportunity to request a hearing before the commissioner or his designee:

(1) Deny renewal, revoke or suspend the registration of a contractor for a period of not more than five years; or

(2) Require a contractor, as a condition of initial or continued registration, to provide a surety bond payable to the State. The surety bond shall be for the benefit of workers damaged by any failure of a contractor to pay wages or benefits pursuant to or otherwise comply with the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or this act. The surety bond shall be in the amount and form that the commissioner deems necessary for the protection of the contractor's workers, but shall not exceed \$10,000 per worker. The surety bond shall be issued by a surety that meets the requirements of N.J.S.2A:44-143.

c. The director may order the immediate suspension of a contractor's registration, prior to a formal hearing on the revocation of the contractor's registration pursuant to subsection b. of this section, if the director determines that ordering an immediate suspension is in the public interest and provided that the contractor is afforded an opportunity to contest the immediate suspension in the following manner:

(1) The director shall notify the contractor in writing of the immediate revocation and the contractor's rights under the subsection.

(2) The contractor may notify the director of its request for an opportunity to be heard and contest the immediate suspension in writing within 72 hours of its receipt of immediate suspension notification.

(3) Within seven business days of receipt of the notification from the contractor pursuant to paragraph (2) of this subsection, the director shall grant the contractor a hearing to contest the immediate suspension. The director shall permit the contractor to present evidence at the hearing.

(4) The director shall issue a written decision within five business days of the hearing either upholding or reversing the contractor's immediate suspension. The decision shall include the grounds for upholding or reversing the contractor's immediate suspension.

(5) If the contractor disagrees with the written decision, the contractor may appeal the decision to the commissioner, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. If the director intends to impose an immediate suspension as set forth in subsection c. of this section, based upon a rebuttable presumption as set forth in section 14 of P.L.1963, c.150 (C.34:11-56.38), the director shall provide the contractor with a notice of intent to suspend and the contractor may request a hearing before the Director of the Division of Wage and Hour Compliance within 72 hours of the receipt of the notice of intent to suspend in order to present evidence expeditiously in support of the position that the suspension should not be imposed. The suspension shall not take effect prior to the expiration of the 72-hour opportunity to request a hearing. If such a request is not made, the suspension shall take effect at the end of the 72-hour period. If such a request is made, the suspension shall take effect only after the director conducts the hearing.

e. If the director orders the immediate suspension of a contractor's registration pursuant to subsection b. of this section, the violation shall have no effect on the registration of any contractor or subcontractor, regardless of tier, in the contractual chain with the suspended contractor, unless the registration form for the contractual chain of contractors and subcontractors was filed by a sponsor, in which case all of the contractors of whatever tier who participated in the sponsor's apprenticeship program shall be suspended and their registrations shall be revoked by the commissioner.

C.34:11-56.55a Registered apprenticeship program requisites.

6. A registered apprenticeship program shall require the completion of the on-the-job training hours which conform to the industry standards for learning the skills of a specific craft or trade, as well as on-the-job organized, related instruction in technical subjects related to the specific apprenticeable occupation in conformance with industry standards. The industry standards for program completion shall be based upon the training requirements as registered and certified by the United States Department of Labor each individual occupation and craft title published by the United States Department of Labor Employment and Training Administration.

The length of a program shall depend upon the complexity of the occupation. Program duration shall be not less than one year and not more than six years. During the program, the apprentice shall receive both structured on-the-job training and related classroom instruction. For each year of the program, the apprentice shall receive at least 2,000 hours of on-the-job training and at least 144 hours of related classroom instruction.

The program shall include all other recommended minimum requirements as outlined under 29 C.F.R. s.29.5 including, but not limited to, a successful demonstration of competency, the registration of program standards, the submission and publication of program completion rates which meet the program performance standards of enrollment and completion rates as outlined under 29 C.F.R. s.29.6, and meet the training recommendations, the terms and conditions of the employment and training agreement between the employer and the apprentice, and the publication of the graduated wages scales to be paid to the apprentice as outlined under 29 C.F.R. s.29.7.

C.34:11-56.51a Subcontractor duties.

7. Subcontractors of a contractor registered pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) are not required to register under that act if they do not perform work at any construction site subject to that act.

Repealer.

8. Section 2 of P.L.2019, c.518 (C.34:11-56.71) is repealed.

9. This act shall take effect immediately.

Approved January 18, 2022.