

ASSEMBLY, No. 4305

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 30, 2009

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns apprenticeship programs and other standards for public works contractors.

CURRENT VERSION OF TEXT

As introduced.



A4305 DEANGELO

2

1 AN ACT concerning registration of public works contractors,
2 apprenticeship programs and other standards for public works
3 contractors and amending and supplementing P.L.1999, c.238.

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

7
8 1. Section 2 of P.L.1999, c.238 (C.34:11-56.49) is amended to
9 read as follows:

10 2. The Legislature finds and declares that:

11 a. There is growing concern over the increasing number of
12 construction industry workers on public works projects laboring
13 under conditions which violate State labor laws and regulations
14 concerning wages, unemployment and temporary disability
15 insurance, workers' compensation insurance, and the payment of
16 payroll taxes;

17 b. Contractors and subcontractors receiving the benefit of
18 public tax dollars for their work should not be allowed to exploit
19 their workers by denying them benefits and pay mandated by law;

20 c. Because of the critical impact of skilled construction labor
21 on public works projects and the limited availability and, in some
22 cases, imminent shortages of such skilled labor, it is necessary to
23 require contractors and subcontractors, as a condition of bidding on
24 public works projects, to participate in established, formal
25 apprenticeship programs and thereby promote successful project
26 delivery and ensure future workforce development; and

27 d. It is therefore necessary and proper for the Legislature to
28 establish a registration system for contractors and subcontractors
29 engaged in public works projects in order to better enforce existing
30 labor laws and regulations in the public works industry, and ensure
31 that contractors meet appropriate minimum standards regarding
32 participation in apprenticeship programs.

33 (cf: P.L.1999, c.238, s.2)

34
35 2. Section 3 of P.L.1999, c.238 (C.34:11-56.50) is amended to
36 read as follows:

37 3. As used in this act:

38 “Class A Apprenticeship Program” means an apprenticeship
39 program which is registered with and approved by the United States
40 Department of Labor or a state apprenticeship agency and which
41 meets not less than two of the following requirements: (1) has
42 active, employed, registered apprentices; or (2) has graduated
43 apprentices to journey person status during a majority of the years
44 that the program has been in operation; or (3) has graduated

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 apprentices to journeyman status during three of the immediately
2 preceding five years.

3 "Commissioner" means the Commissioner of Labor and
4 Workforce Development or his duly authorized representatives.

5 "Contractor" means a person, partnership, association, joint stock
6 company, trust, corporation, or other legal business entity or
7 successor thereof who enters into a contract which is subject to the
8 provisions of the "New Jersey Prevailing Wage Act," P.L.1963,
9 c.150 (C.34:11-56.25 et seq.), or into a contract under which
10 workers are required by any other State law to be paid prevailing
11 wage rates set pursuant to that act, and includes any subcontractor
12 or lower tier subcontractor of a contractor as defined herein.

13 "Department" means the Department of Labor and Workforce
14 Development.

15 "Director" means the Director of the Division of Wage and Hour
16 Compliance in the Department of Labor and Workforce
17 Development.

18 "Worker" includes laborer, mechanic, skilled or semi-skilled
19 laborer and apprentices or helpers employed by any contractor or
20 subcontractor and engaged in the performance of services directly
21 upon a public work, regardless of whether their work becomes a
22 component part thereof, but does not include material suppliers or
23 their employees who do not perform services at the job site.

24 (cf: P.L.2007, c.67, s.2)

25

26 3. Section 4 of P.L.1999, c.238 (C.34:11-56.51) is amended to
27 read as follows:

28 4. No contractor shall bid on any contract for public work as
29 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26), or any
30 other work in which workers are required by any other State law to
31 be paid prevailing wage rates set pursuant to P.L.1963, c.150
32 (C.34:11-56.25 et seq.), unless the contractor is registered pursuant
33 to this act. No contractor shall list a subcontractor in a bid proposal
34 for the contract unless the subcontractor is registered pursuant to
35 P.L.1999, c.238 (C.34:11-56.48 et seq.) at the time the bid is made.
36 No contractor or subcontractor, including a subcontractor not listed
37 in the bid proposal, shall engage in the performance of any public
38 work subject to the contract, unless the contractor or subcontractor
39 is registered pursuant to that act.

40 (cf: P.L.2003, c.91, s.2)

41

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

44 5. a. A contractor shall register in writing with the department
45 on a form provided by the commissioner. The form shall require
46 the following information, and the contractor shall not be registered
47 unless all of the required information is provided:

1 (1) The name, principal business address and telephone number
2 of the contractor;

3 (2) Whether the contractor is a corporation, partnership, sole
4 proprietorship, or other form of business entity;

5 (3) If the contractor's principal business address is not within the
6 State, the name and address of the contractor's custodian of records
7 and agent for service of process in this State;

8 (4) The name and address of each person with a financial
9 interest in the contractor and the percentage interest, except that if
10 the contractor is a publicly-traded corporation, the contractor shall
11 supply the names and addresses of the corporation's officers;

12 (5) The contractor's tax identification number and
13 unemployment insurance registration number; **[and]**

14 (6) A certification, with documentation, that the contractor, with
15 respect to any work for which registration is required pursuant to
16 P.L.1999, c.238 (C.34:11-56.48 et seq.), participates in a Class A
17 Apprenticeship Program for each separate trade or classification in
18 which it employs craft employees, which documentation shall
19 include a list of each Class A Apprenticeship Program in which the
20 contractor and craft employees participate; and

21 (7) Any other relevant and appropriate information as
22 determined by the commissioner.

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

27 (cf: P.L.1999, c.238, s.5)

28

29 5. (New section) The Legislature finds that there is a need to
30 ensure that all public work which is subject to the provisions of the
31 "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25
32 et seq.) or any other State law requiring the payment of prevailing
33 wage rates set pursuant to that act, is performed by responsible,
34 qualified contractors that maintain the capacity, expertise, personnel
35 and other qualifications and resources necessary to successfully
36 perform public contracts in a timely, reliable and cost-effective
37 manner. Nothing in this act, or any other law of this State, shall be
38 construed as preventing any political subdivision of the State from
39 setting standards, criteria or requirements for the qualifications of
40 contractors bidding for public work with the political subdivision
41 which equal or exceed the standards, criteria or requirements of this
42 act or any other State law, including, but not limited to, standards
43 regarding concerning technical qualifications, competency,
44 experience, adequacy of resources, including equipment, facilities,
45 finances and personnel and the qualifications and provisions for
46 training of the personnel, and having a satisfactory record regarding
47 past project performance, safety, and business integrity and
48 compliance with laws applicable to its contracting business,

1 including, but not limited to, licensing laws, tax laws, prompt
2 payment laws, wage and hour laws, prevailing wage laws, and
3 environmental laws.

4

5 6. This act shall take effect immediately and its provisions
6 shall apply to each new registration or renewal of a registration
7 made pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) on or
8 after 90th day after the effective date of this act.

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STATEMENT

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13 This bill requires any contractor or subcontractor who registers
14 to contract for public work pursuant to the “Public Works
15 Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et
16 seq.) to submit, as part of the registration, a certification, with
17 documentation, that the contractor participates in a Class A
18 Apprenticeship Program for each separate trade or classification in
19 which it employs craft employees. The bill defines a “Class A
20 Apprenticeship Program” as a registered apprenticeship program
21 which has active, employed, registered apprentices, or has
22 graduated apprentices to journey person status during a majority of
23 the years that the program has been in operation or during three of
24 the last five years.

25 The bill also provides that nothing in the bill, or any other law of
26 this State, shall be construed as preventing any political subdivision
27 of the State from setting standards, criteria or requirements for the
28 qualifications of contractors bidding for public work with the
29 political subdivision which equal or exceed the standards, criteria or
30 requirements of the bill or any other State law, including, but not
31 limited to, standards concerning technical qualifications,
32 competency, experience, adequacy of resources, including
33 equipment, facilities, finances and personnel and the qualifications
34 and provisions for training of the personnel, and having a
35 satisfactory record regarding past project performance, safety, and
36 business integrity and compliance with laws applicable to its
37 contracting business, including, but not limited to, licensing laws,
38 tax laws, prompt payment laws, wage and hour laws, prevailing
39 wage laws, and environmental laws.

40 Finally, the bill clarifies that contractor registration requirements
41 of the “Public Works Contractor Registration Act” apply to any
42 contractor bidding for any work in which workers are required to be
43 paid prevailing wage rates set pursuant to the State’s prevailing
44 wage law, P.L.1963, c.150 (C.34:11-56.25 et seq.), whether they are
45 required to pay those rates by the prevailing wage law or by any
46 other law.