

ASSEMBLY, No. 5680

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 24, 2019

Sponsored by:

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

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District 34 (Essex and Passaic)

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Assemblywoman Tucker, Assemblymen Tully and Caputo

SYNOPSIS

Concerns labor harmony agreements for hospitality projects.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** regarding labor harmony agreements in connection with
2 hospitality projects, and supplementing Title 52 of the Revised
3 Statutes.

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

7
8 1. The Legislature hereby finds and declares that:

9 a. the State, through its investment in development projects has
10 a significant and ongoing economic interest in the financial viability
11 and competitiveness of those projects;

12 b. development projects that include hospitality establishments
13 provide essential services and jobs for local residents, stimulate
14 local economies, are a vital economic engine that provides revenue
15 for our communities and promotes vibrant downtowns and financial
16 stability, and have a direct impact on the reputation of New Jersey
17 as a viable tourism market;

18 c. there are labor organizations in New Jersey that currently
19 represent thousands of hospitality workers, and actively engage in
20 organizing activities to unionize additional hospitality
21 establishments in the State which may include strikes, pickets,
22 boycotts, and other economic activity during labor disputes;

23 d. New Jersey and other public bodies in the State have a
24 compelling interest in preventing disruptive labor disputes in
25 connection with projects in which the public bodies have
26 proprietary interests as investors, owners or financiers; and

27 e. labor harmony agreements make possible legally enforceable
28 guarantees that projects will be carried out in an orderly and timely
29 manner, without strikes, lock-outs, or slowdowns, thus protecting
30 the State's interest in these projects by promoting harmonious and
31 productive work environments.

32

33 2. As used in this act:

34 "Contractor" means a business entering into a contract or
35 agreement to undertake a covered hospitality project, or to serve as
36 the owner or operator of any facility, including but not limited to a
37 hospitality establishment that is part of a covered hospitality
38 project, or to provide services integral to the operations of the
39 covered hospitality project or the facilities.

40 "Commissioner" means the Commissioner of Labor and
41 Workforce Development.

42 "Covered hospitality project" or "covered project" means a
43 project undertaken pursuant to an agreement entered into after the
44 effective date of this act between a public body and a contractor in
45 which:

46 (1) one or more hospitality establishments are part of the
47 project;

1 (2) the public body has a proprietary interest in the project or in
2 a hospitality establishment in the project; and

3 (3) the project includes not less than one hospitality
4 establishment which will have more than 10 employees.

5 "Labor harmony agreement" means an agreement between a
6 contractor and one or more labor organizations which represent
7 hospitality employees, which requires, for the duration of the
8 agreement: that any participating labor organization which
9 represents hospitality employees and its members agree to refrain
10 from picketing, work stoppages, boycotts, or other economic
11 interference against the contractor.

12 "Labor organization which represents hospitality employees"
13 means a labor organization that is the collective bargaining agent
14 for employees at any hospitality establishment within a 50-mile
15 radius of the covered hospitality project and is the collective
16 bargaining agent for not less than 1,000 employees at hospitality
17 establishments in the State of New Jersey, or if no such
18 organization exists, any labor organization that is the collective
19 bargaining agent for not less than 1,000 employees at hospitality
20 establishments in the State of New Jersey.

21 "Proprietary interest" means an economic and non-regulatory
22 interest of a public body in the economic or financial success of a
23 covered hospitality project, or the success of any facility in the
24 project, including a hospitality establishment, that could be
25 adversely affected by labor-management conflict, including, but not
26 limited to, the proprietary interest of the public body as a financier,
27 investor, lessee, lessor, operator, or owner of the project, facility, or
28 property on which the project or facility is located, or as the
29 provider or facilitator of financial assistance to or for the project,
30 facility, or property, whether by direct loan or grant, or by a
31 guarantee, subsidy, deposit, credit enhancement or similar method,
32 and any interest of a public body derived from the ongoing receipt
33 by the public body of revenues from the project or facilities of the
34 project.

35 "Public body" means the State of New Jersey, any of its political
36 subdivisions, and any authority, instrumentality, or agency of the
37 State of New Jersey or of any of its political subdivisions, or any
38 other entity authorized to conduct economic development activity
39 on behalf of a public body.
40

41 3. a. Except as provided in subsection c. of this section, no
42 public body shall enter into any contract or agreement under which
43 the public body has a proprietary interest in a covered project unless
44 the contract or agreement includes a precondition that the contractor
45 and all subcontractors of the contractor enter into a labor harmony
46 agreement with a labor organization which represents hospitality
47 employees. The public body shall, prior to entering into the
48 contract or agreement, provide written disclosure to the contractor

1 and any subcontractors of all requirements of this act relevant to the
2 contract or agreement. If it is required that contractors submit bids
3 or other proposals to be considered for the agreement or contract,
4 the public body shall provide the written disclosure to each
5 prospective bidder or other contractor as part of the specifications
6 for bidding or otherwise seeking the contract or agreement for the
7 project. The contractor or subcontractor shall incorporate the terms
8 of the labor harmony agreement in any contract, subcontract, lease,
9 sublease, operating agreement, concessionaire agreement, franchise
10 agreement or other agreement or instrument giving a right to any
11 person or entity to own or operate a hospitality establishment in the
12 covered project.

13 b. The duration of the labor harmony agreement shall be a
14 period of not less than five years from the date on which the
15 covered project becomes fully operational. The requirement to
16 include a labor harmony agreement shall apply to any successor
17 contractor, or any of its subcontractors, who takes the place of an
18 initial contractor or subcontractor if the replacement occurs during
19 the time in which a public body continues to have a proprietary
20 interest in the project, and duration of the labor harmony agreement
21 with the replacement contractor or subcontractor shall be a period
22 of not less than five years commencing with the date of replacement
23 or the date on which the covered project becomes fully operational,
24 whichever is later.

25 c. A public body may enter into a contract or agreement with a
26 contractor without entering into a labor harmony agreement only if
27 the public body determines that the covered project would not be
28 able to go forward if a labor harmony agreement is required. Such
29 determination shall only be made after soliciting input from any
30 labor organizations with which a labor peace agreement would be
31 required hereunder. The determination shall be supported by a
32 written finding by the public body which provides documentation of
33 the specific basis for the determination. The written determination
34 shall be submitted to the commissioner, who shall review the
35 determination and make public a finding on the determination
36 within not more than 15 business days after the submission. If the
37 commissioner approves the determination, the determination shall
38 be, together with the commissioner's statement of approval,
39 included in any public materials provided to any board or agency
40 official in connection with the covered project and maintained and
41 made available to the public by the public body. If the
42 commissioner does not approve the determination, the contract or
43 agreement shall be subject to the requirement of subsection a. of
44 this section to include a precondition that the contractor and all
45 subcontractors of the contractor enter into a labor harmony
46 agreement.

47 d. The requirements of this act regarding the inclusion of a
48 labor harmony agreement in any agreement or contract for a

1 contractor to undertake a covered project shall not be deemed to
2 unduly restrict competition, and any bidder refusing to comply with
3 the requirements of this act regarding labor harmony agreements
4 shall not be regarded as a responsible bidder. No agreement or
5 contract to undertake a covered hospitality project entered into after
6 the effective date of this act between a public body and a contractor
7 shall be valid or enforceable if it does not comply with the
8 requirements of this act regarding the inclusion of labor harmony
9 agreements.

10 e. Labor harmony agreements shall not be required by this act
11 with respect to any construction work undertaken in connection
12 with a covered project.

13
14 4. Each public body which enters into a contract which is
15 subject to the provisions of this act regarding labor harmony
16 agreements shall submit to the commissioner evidence of an
17 executed labor harmony agreement, and, if the public body
18 determines that a labor harmony agreement will prevent a project
19 from going forward, a copy of the determination and documentation
20 supporting the finding. The public body shall provide, in a timely
21 manner as required by the commissioner, up to date information
22 regarding any changes in the information submitted. The
23 commissioner shall make information submitted pursuant to this
24 section available to the public, and shall provide to the Legislature,
25 and make public, an annual report of all covered hospitality
26 projects, and all instances of public bodies determining not to
27 require labor harmony agreements.

28
29 5. The commissioner shall adopt rules and regulations pursuant
30 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
31 1 et seq.) to effectuate the purposes of this act. These rules and
32 regulations shall provide a model labor harmony agreement, and
33 shall provide remedies and procedures for public bodies to enforce
34 compliance with the provisions of this act and any labor harmony
35 agreement entered into pursuant to this act, including provisions for
36 reimbursement of any costs or damages incurred by the public body
37 in connection with any noncompliance with the provisions of this
38 act or the agreements.

39
40 6. This act shall take effect on the 90th day after enactment.

41 42 43 STATEMENT 44

45 This bill requires the State, or any other public body, to include a
46 labor harmony agreement as part of any contract it enters with a
47 contractor in connection with a hospitality project in which a public
48 body has a proprietary interest as a financier, investor, lessee,

1 lessor, operator, or owner of the project or its property or facilities
2 of the project, as a provider of financial assistance for the project or
3 facilities, or as a receipt of revenues from the project or facilities of
4 the project.

5 The bill defines a contractor as a business that enters into a
6 contract to undertake a covered hospitality project, serve as the
7 operator of any facility that is part of a covered project, or provide
8 services integral to project operations.

9 A labor harmony agreement is defined as an agreement between
10 a contractor and a labor organization, which requires, for the
11 duration of the agreement, that the labor organization and its
12 members agree to refrain from picketing, work stoppages, boycotts,
13 or other economic actions against the contractor.

14 A labor harmony agreement would apply for not less than five
15 years after the contract is entered into and, apply, also for a period
16 of not less than five years, to successor contractors who take the
17 place of initial contractors during the time in which public bodies
18 continue to have a proprietary interest in the project.

19 A public body would be allowed to enter into a contract without
20 a labor harmony agreement only if it issues a written public
21 statement documenting the basis of its determination that the labor
22 harmony agreement would prevent the project from going forward,
23 subject to the review and approval of the Commissioner of Labor
24 and Workforce Development. The bill also directs public bodies to
25 submit to the commissioner up to date information regarding
26 covered projects, labor harmony agreements, and any collective
27 bargaining agreement entered into in connection with the labor
28 harmony agreements, and directs the commissioner to provide
29 annual reports of that information.

30 The commissioner is directed to adopt regulations which include
31 the provision of remedies and procedures for public bodies to
32 enforce compliance with the provisions of the bill and labor
33 harmony agreements entered into under the bill.