

# ASSEMBLY, No. 1576

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Co-Sponsored by:**

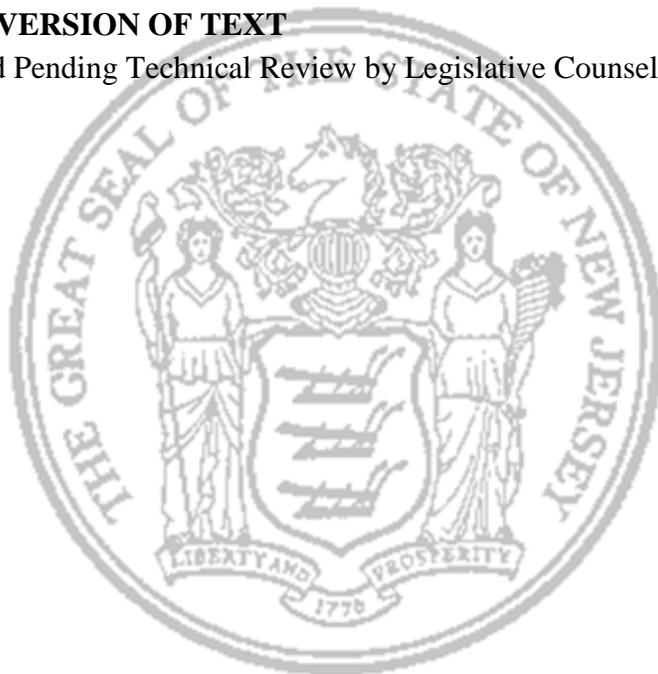
**Assemblywoman Murphy and Assemblyman Conaway**

**SYNOPSIS**

Expands circumstances under which prevailing wage must be paid.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/8/2021)**

A1576 HOUGHTALING, DEANGELO

2

1 AN ACT concerning prevailing wage and amending P.L.1963, c.150  
2 and P.L.1979, c.303.

3

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

6

7 1. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to  
8 read as follows:

9 1. The New Jersey Economic Development Authority shall  
10 adopt rules and regulations requiring that not less than the  
11 prevailing wage rate be paid to workers employed in the  
12 performance of any construction contract, including contracts for  
13 millwork fabrication, undertaken in connection with authority  
14 financial assistance or any of its projects, those projects which it  
15 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or  
16 undertaken to fulfill any condition of receiving authority financial  
17 assistance, including the performance of any contract to construct,  
18 renovate or otherwise prepare a facility for operations which are  
19 necessary for the receipt of authority financial assistance, **[unless**  
20 **the]** including work performed **[under the contract is performed]**  
21 on a facility owned by a landlord of the entity receiving the  
22 assistance **[and less than 55% of the facility]** that is leased by the  
23 entity at the time of the contract and under any agreement to  
24 subsequently lease the facility. The prevailing wage rate shall be  
25 the rate determined by the Commissioner of Labor and Workforce  
26 Development pursuant to the provisions of P.L.1963, c.150  
27 (C.34:11-56.25 et seq.). For the purposes of this section, "authority  
28 financial assistance" means any loan, loan guarantee, grant,  
29 incentive, tax exemption or other financial assistance that is  
30 approved, funded, authorized, administered or provided by the  
31 authority to any entity and is provided before, during or after  
32 completion of a project, including but not limited to, all authority  
33 financial assistance received by the entity pursuant to the "Business  
34 Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124  
35 et al.) that enables the entity to engage in a construction contract,  
36 but this section shall not be construed as requiring the payment of  
37 the prevailing wage for construction commencing more than two  
38 years after an entity has executed with the authority a commitment  
39 letter regarding authority financial assistance and the first payment  
40 or other provision of the assistance is received.  
41 (cf: P.L.2007, c.245, s.1)

42

43 2. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to  
44 read as follows:

45 2. As used in this act:

**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 (1) "Department" means the Department of Labor and  
2 Workforce Development of the State of New Jersey.
- 3 (2) "Locality" means any political subdivision of the State,  
4 combination of the same or parts thereof, or any geographical area  
5 or areas classified, designated and fixed by the commissioner from  
6 time to time, provided that in determining the "locality," the  
7 commissioner shall be guided by the boundary lines of political  
8 subdivisions or parts thereof, or by a consideration of the areas with  
9 respect to which it has been the practice of employers of particular  
10 crafts or trades to engage in collective bargaining with the  
11 representatives of workers in such craft or trade.
- 12 (3) "Maintenance work" means the repair of existing facilities  
13 when the size, type or extent of such facilities is not thereby  
14 changed or increased. "Maintenance work" also means any work on  
15 a maintenance-related project that exceeds the scope of work and  
16 capabilities of in-house maintenance personnel, requires the  
17 solicitation of bids, and has an aggregate value exceeding \$50,000.
- 18 (4) "Public body" means the State of New Jersey, any of its  
19 political subdivisions, any authority created by the Legislature of  
20 the State of New Jersey and any instrumentality or agency of the  
21 State of New Jersey or of any of its political subdivisions.
- 22 (5) "Public work" means construction, reconstruction,  
23 demolition, alteration, custom fabrication, or repair work, or  
24 maintenance work, including painting and decorating, done under  
25 contract and paid for in whole or in part out of the funds of a public  
26 body, except work performed under a rehabilitation program.  
27 "Public work" shall also mean construction, reconstruction,  
28 demolition, alteration, custom fabrication, or repair work, done on  
29 any property or premises, whether or not the work is paid for from  
30 public funds, if, at the time of the entering into of the contract the  
31 property or premises is owned by the public body or:
- 32 (a) **Not less than 55% of the** The property or premises is  
33 leased by a public body, or is subject to an agreement to be  
34 subsequently leased by the public body; and
- 35 (b) The portion of the property or premises that is leased or  
36 subject to an agreement to be subsequently leased by the public  
37 body measures more than **20,000** 10,000 square feet.
- 38 (6) "Commissioner" means the Commissioner of Labor and  
39 Workforce Development or his duly authorized representatives.
- 40 (7) "Workman" or "worker" includes laborer, mechanic, skilled  
41 or semi-skilled, laborer and apprentices or helpers employed by any  
42 contractor or subcontractor and engaged in the performance of  
43 services directly upon a public work, regardless of whether their  
44 work becomes a component part thereof, but does not include  
45 material suppliers or their employees who do not perform services  
46 at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25  
47 et seq.), contractors or subcontractors engaged in custom fabrication  
48 shall not be regarded as material suppliers.

1 (8) "Work performed under a rehabilitation program" means  
2 work arranged by and at a State institution primarily for teaching  
3 and upgrading the skills and employment opportunities of the  
4 inmates of such institutions.

5 (9) "Prevailing wage" means the wage rate paid by virtue of  
6 collective bargaining agreements by employers employing a  
7 majority of workers of that craft or trade subject to said collective  
8 bargaining agreements, in the locality in which the public work is  
9 done.

10 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-  
11 56.25 et seq.) and the rules and regulations issued hereunder.

12 (11) "Prevailing wage contract threshold amount" means:

13 (a) In the case of any public work paid for in whole or in part  
14 out of the funds of a municipality in the State of New Jersey or  
15 done on property or premises owned by a public body or leased or  
16 to be leased by the municipality, the dollar amount established for  
17 the then current calendar year by the commissioner through rules  
18 and regulations promulgated pursuant to the "Administrative  
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which  
20 amount shall be equal to \$9,850 on July 1, 1994 and which amount  
21 shall be adjusted on July 1 every five calendar years thereafter in  
22 direct proportion to the rise or fall in the average of the Consumer  
23 Price Indices for Urban Wage Earners and Clerical Workers for the  
24 New York metropolitan and the Philadelphia metropolitan regions  
25 as reported by the United States Department of Labor during the  
26 last full calendar year preceding the date upon which the adjustment  
27 is made; and

28 (b) In the case of any public work other than a public work  
29 described in paragraph (a) of this subsection, an amount equal to  
30 \$2,000.

31 (12) "Custom fabrication" means the fabrication of plumbing,  
32 heating, cooling, ventilation or exhaust duct systems, and  
33 mechanical insulation.

34 (cf: P.L.2009, c.249, s.1)

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36 3. This act shall take effect on the 30th day next following  
37 enactment.

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#### STATEMENT

41

42 This bill expands the circumstances under which the prevailing  
43 wage must be paid with regard to a property that is or will be leased  
44 by a public body.

45 Pursuant to current law, the prevailing wage must be paid on  
46 most construction that is considered public work. Public work is  
47 construction done on any property, whether or not the work is paid

1 for from public funds, if, at the time of the entering into of the  
2 contract the property is owned by a public body or:

3 (1) not less than 55 percent of the property is or will be leased  
4 by a public body; and

5 (2) the portion of the property that is or will be leased measures  
6 more than 20,000 square feet.

7 This bill lowers the threshold for leased property being subject to  
8 the prevailing wage. Under the bill, prevailing wage applies to  
9 work if the property is or will be leased by a public body and the  
10 portion of the property that is or will be leased measures more than  
11 10,000 square feet.

12 The bill also lowers the threshold for being subject to the  
13 prevailing wage so that all properties leased by public bodies that  
14 receive funds from the Economic Development Authority are  
15 subject to the prevailing wage.