ASSEMBLY, No. 3130

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

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.

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

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

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

2. The Legislature finds and declares that:

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

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

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

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

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

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

3. As used in this act:

"Class A Apprenticeship Program" means an apprenticeship program which is registered with and approved by the United States Department of Labor or a state apprenticeship agency and which, from the effective date of this act until December 31, 2015, meets not less than one, and, after December 31, 2015, meets not less than two of the following requirements: (1) has active, employed, registered apprentices; or (2) has graduated apprentices to journeyperson status during a majority of the years that the program

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.

has been in operation; or (3) has graduated apprentices to journeyperson status during three of the immediately preceding five years.

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

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

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

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

"Worker" includes laborer, mechanic, skilled or semi-skilled laborer and apprentices or helpers employed by any contractor or subcontractor and engaged in the performance of services directly upon a public work, who have completed or are actively participating in a registered apprenticeship program, regardless of whether their work becomes a component part thereof, but does not include material suppliers or their employees who do not perform services at the job site.

"Registered apprenticeship program" means an apprenticeship program which is registered with and approved by the United States Department of Labor and which provides each trainee with combined classroom and on-the-job training in an occupation recognized as an apprenticeable trade and meets the program standards of enrollment and graduation under 29 C.F.R. s.29.6.

(cf: P.L.2019, c.21, s.1)

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

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

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

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

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, and the contractor shall not be registered unless all of the required information is provided:

(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; and

(7) 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.

(cf: P.L.2019, c.21, s.2)

5. (New section) The Legislature finds that there is a need to ensure that all public work which is subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or any other State law requiring the payment of prevailing wage rates set pursuant to that act, is performed by responsible, qualified contractors that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable and cost-effective manner. Nothing in this act, or any other law of this State, shall be construed as preventing any political subdivision of the State from setting standards, criteria or requirements for the qualifications of contractors bidding for public work with the political subdivision which equal or exceed the standards, criteria or requirements of this act or any other State law, including, but not limited to, standards

regarding concerning technical qualifications, competency, experience, adequacy of resources, including equipment, facilities, finances and personnel and the qualifications and provisions for training of the personnel, and having a satisfactory record regarding past project performance, safety, and business integrity and compliance with laws applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, and environmental laws.

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

STATEMENT

This bill requires any contractor or subcontractor who registers to contract for public work pursuant to the "Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.) to submit, as part of the registration, a certification, with documentation, that the contactor participates in a Class A Apprenticeship Program for each separate trade or classification in which it employs craft employees. The bill defines a "Class A Apprenticeship Program" as a registered apprenticeship program which, from the effective date of the bill until December 31, 2015, meets not less than one, and, after December 31, 2015, meets not less than two of the following requirements: (1) has active, employed, registered apprentices; (2) has graduated apprentices to journeyperson status during a majority of the years that the program has been in operation; or (3) has graduated apprentices to journeyperson status during three of the immediately preceding five years.

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

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