

ASSEMBLY, No. 3133

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

SYNOPSIS

Concerns debarment for prevailing wage violations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning debarment for prevailing wage violations and
2 amending P.L.1963, c.150.

3

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

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7 1. Section 13 of P.L.1963, c.150 (C.34:11-56.37) is amended to
8 read as follows:

9 13. a. In the event that the commissioner shall determine, after
10 investigation, that any contractor or subcontractor has failed to pay
11 the prevailing wage, or that any contractor directed a subcontractor
12 to disregard prevailing wage requirements or knew of any failure of
13 the subcontractor to pay the prevailing wage but failed to notify the
14 commissioner of that failure, he shall thereupon list and keep on
15 record the name of such contractor or subcontractor and forthwith
16 give notice by mail of such list to any public body who shall request
17 the commissioner so to do. Where the person responsible denies
18 that a failure to pay the prevailing wage has occurred, or where a
19 contractor denies that he has directed a subcontractor to disregard
20 prevailing wage requirements or denies that he knew of a failure of
21 the subcontractor to pay the prevailing wage, he shall have the right
22 to apply to the commissioner for a hearing which must be afforded
23 and a decision rendered within 48 hours of the request for a hearing.
24 If the commissioner rules against the petitioning party he shall have
25 the right to apply for injunctive relief in the Superior Court against
26 the listing by the commissioner.

27 b. The commissioner shall create, maintain, and distribute an
28 informational list for contractors and subcontractors who bid on and
29 perform public work, which includes but need not be limited to
30 wage payment, recordkeeping, and registration requirements, and
31 applicable penalties, pursuant to the "New Jersey Prevailing Wage
32 Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) and "The Public
33 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
34 56.48 et seq.). The commissioner shall prominently display the
35 informational list on a website maintained by the Department of
36 Labor and Workforce Development and shall distribute to any
37 contractor, subcontractor, or public body, upon request, the
38 informational list, as well as the list of the names of contractors and
39 subcontractors who have failed to pay prevailing wages as
40 determined pursuant to subsection a. of this section, or who have
41 failed to pay any State employer payroll tax.

42 c. The commissioner shall create, maintain, and distribute an
43 informational list of labor organizations that represent workers who
44 engage in public work, which shall contain information about
45 required hourly rates, required fringe benefit rates, and regions in

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 which the labor organizations represent workers. The
2 commissioner shall prominently display the informational list on a
3 website maintained by the Department of Labor and Workforce
4 Development and shall distribute to any contractor, subcontractor,
5 labor organization, or public body, upon request, the informational
6 list for use on public work, including projects for which the cost is
7 below the prevailing wage contract threshold amount.
8 (cf: P.L.2019, c.61)

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10 2. Section 14 of P.L.1963, c.150 (C.34:11-56.38) is amended to
11 read as follows:

12 14. The public body awarding any contract for public work, or
13 otherwise undertaking any public work, or entering into a lease or
14 agreement to lease pursuant to which public work is to be done,
15 shall first ascertain from the commissioner the list of names of
16 contractors or subcontractors who have failed to pay prevailing
17 wages, or contractors who have directed subcontractors to disregard
18 prevailing wage requirements or have failed to notify the
19 commissioner of any instances of which the contractors knew of
20 subcontractors failing to pay the prevailing wage, as determined in
21 section 13 of this act, and no contract shall be awarded to such
22 contractor or subcontractor, or to any firm, corporation or
23 partnership in which such contractor or subcontractor has an
24 interest until three years have elapsed from the date of listing as
25 determined in section 13 of this act.

26 For purposes of this section, "interest" shall mean an interest in
27 the firm, corporation or partnership bidding on, or performing
28 public work, whether having the interest as an owner, partner,
29 officer, manager, employee, agent, consultant or representative.
30 The term may also include, but not be limited to, all instances in
31 which the contractor or subcontractor listed by the commissioner
32 under section 13 of this act has received payments, whether those
33 payments are in the form of cash or any other form of compensation
34 from the firm, corporation or partnership, or when the contractor or
35 subcontractor listed by the commissioner under section 13 of this
36 act has entered into any contract or agreement with the firm,
37 corporation or partnership for services performed or to be
38 performed, for services that have been or will be assigned or
39 subletted, or for the sale, rental or lease of vehicles, tools,
40 equipment or supplies during the period from the initiation of the
41 proceedings under section 13 of this act against the contractor or
42 subcontractor until three years have elapsed from the date that the
43 contractor or subcontractor has been listed by the commissioner
44 under section 13 of this act. The term "interest" shall not include
45 shares held in a publicly traded corporation if the shares were not
46 received as compensation after the initiation of proceedings under
47 section 13 of this act from a firm, corporation or partnership
48 bidding or performing public work.

1 A rebuttable presumption that a contractor or subcontractor listed
2 by the commissioner under section 13 of this act has an interest in
3 another firm, corporation or partnership may arise if the two share
4 any of the following capacities or characteristics: (1) perform
5 similar work within the same geographical area and within the same
6 monetary range, (2) occupy the same premises, (3) have the same
7 telephone number or fax number, (4) have the same email address
8 or internet website, (5) employ substantially the same
9 administrative employees, (6) utilize the same tools and equipment,
10 (7) employ or engage the services of any listed person or persons
11 involved in the direction or control of the other, or (8) list
12 substantially the same work experience in order to obtain the
13 requisite pre-qualification rating from the Department of the
14 Treasury, or any other entity, to participate in any public work.

15 If a rebuttable presumption has arisen that a contractor or
16 subcontractor listed by the commissioner under section 13 of this
17 act has an interest in another firm, corporation or partnership, the
18 adversely affected contractor or subcontractor, including the firm,
19 corporation or partnership, which would by virtue of a finding of
20 "interest" be prevented under this section from being awarded
21 public work, may request a hearing, which shall be conducted in
22 accordance with the "Administrative Procedure Act," P.L.1968,
23 c.410 (C.52:14B-1 et seq.).
24 (cf: P.L.2007, c.67, s.1)

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26 3. This act shall take effect immediately.

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STATEMENT

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31 This bill directs the Commissioner of Labor and Workforce
32 Development to place on the list of contractors and subcontractors
33 barred from public work any contractor that the commissioner
34 determines, after investigation, to have directed a subcontractor of
35 the contractor to disregard prevailing wage requirements or to have
36 known of a failure of a subcontractor of the contractor to pay the
37 prevailing wage but not notify the commissioner of that failure.