

ASSEMBLY, No. 5378

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

SYNOPSIS

Promotes workforce diversity in public works projects; revises “public works projects” definition to permit project labor agreements for more projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2021)

1 AN ACT expanding opportunity in project labor agreements and
2 amending P.L.2002, c.44.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.2002, c.44 (C.52:38-2) is amended to read as
8 follows:

9 2. For the purposes of this act:

10 "Apprenticeship program" means a registered apprenticeship
11 program providing to each trainee combined classroom and on-the-
12 job training under the direct and close supervision of a highly skilled
13 worker in an occupation recognized as an apprenticeable trade, and
14 registered by the **【Bureau】** Office of Apprenticeship **【and Training】**
15 of the U.S. Department of Labor and meeting the standards
16 established by the **【bureau】** office, or registered by a State
17 apprenticeship agency recognized by the **【bureau】** office.

18 "Disadvantaged community" means a census block group, as
19 determined in accordance with the most recent United States Census,
20 in which:

21 (1) at least 35 percent of the households are low-income
22 households;

23 (2) at least 40 percent of the residents are minority group
24 members or members of a State-recognized tribal community; or

25 (3) at least 40 percent of the households have limited English
26 proficiency.

27 "Labor organization" means, with respect to a contracted work on
28 a public works project, an organization which represents, for
29 purposes of collective bargaining, employees involved in the
30 performance of public works contracts and eligible to be paid
31 prevailing wages under the "New Jersey Prevailing Wage Act",
32 P.L.1963, c.150 (C.34:11-56.25 et seq.)and has the present ability to
33 refer, provide or represent sufficient numbers of qualified employees
34 to perform the contracted work, in a manner consistent with the
35 provisions of this act and an y plan mutually agreed upon by the labor
36 organization and the public entity pursuant to subsection g. of section
37 5 of this act.

38 "Low-income household" means a household that is at or below
39 twice the poverty threshold as that threshold is determined annually
40 by the United States Census Bureau.

41 "Political subdivision" means any county, municipality, school
42 district or other political subdivision of the State of New Jersey or
43 any instrumentality or agency of the political subdivision.

44 "Project labor agreement" means a form of pre-hire collective
45 bargaining agreement covering terms and conditions of a specific
46 project.

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 "Public entity" means the State, any of its political subdivisions,
2 any authority created by the Legislature and any instrumentality or
3 agency of the State or of any of its political subdivisions.

4 "Public works project" means any public works project for **the**
5 construction, reconstruction, demolition or renovation **of buildings**
6 at the public expense, other than pumping stations or water or sewage
7 treatment plants, **for which:**

8 (1) It is required by law that workers be paid the prevailing wage
9 determined by the Commissioner of Labor and Workforce
10 Development pursuant to the provisions of the "New Jersey
11 Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

12 (2) The public entity estimates that the total cost of the project,
13 exclusive of any land acquisition costs, will equal or exceed \$5
14 million.

15 (cf: P.L.2002, c.44, s.2)

16
17 2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read as
18 follows:

19 3. A public entity may include a project labor agreement in a
20 public works project on a project-by-project basis, if the public entity
21 determines, taking into consideration the size, complexity and cost
22 of the public works project, that, with respect to that project the
23 project labor agreement will meet the requirements of section 5 of
24 this act, including promoting labor stability and advancing the
25 interests of the public entity in cost, efficiency, skilled labor force,
26 quality, safety and timeliness, and, in the case of a public entity which
27 is a political subdivision, promotes employment of residents of the
28 political subdivision. If the public entity determines that a project
29 labor agreement will meet those requirements with respect to a
30 particular public works project, the public entity shall either: directly
31 negotiate in good faith a project labor agreement with one or more
32 labor organizations; or condition the award of a contract to a
33 construction manager upon a requirement that the construction
34 manager negotiate in good faith a project labor agreement with one
35 or more labor organizations. Upon the request of the public entity,
36 the Commissioner of Labor shall assist in facilitating the negotiation
37 of the project labor agreement. The decision by the public entity to
38 require the inclusion of a project labor agreement requirement shall
39 not be deemed to unduly restrict competition if the public entity finds
40 that the project labor agreement is reasonably related to the
41 satisfactory performance and completion of the public works project,
42 and any bidder for the public works project refusing to agree to abide
43 by the conditions of the project labor agreement or the requirement
44 to negotiate a project labor agreement shall not be regarded as a
45 responsible bidder. Upon the request of the public entity, the
46 Commissioner of Labor shall review the finalized project labor
47 agreement and provide to the public entity, not more than 30 calendar
48 days after the agreement is submitted to the commissioner by the

public entity, a written advisory statement regarding whether the project labor agreement conforms with the provisions of this act.

(cf: P.L.2002,c.44, s.3)

3. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to read as follows:

5. Each project labor agreement executed pursuant to the provisions of this act shall:

a. Advance the interests of the public entity, including the interests in cost, efficiency, quality, timeliness, skilled labor force, and safety;

b. Contain guarantees against strikes, lock-outs, or other similar actions;

c. Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work;

d. Be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents;

e. Require that each contractor and subcontractor working on the public works project have an apprenticeship program;

f. Fully conform to all statutes, regulations, executive orders and applicable local ordinances regarding the implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which shall be expressly provided in the project labor agreement;

g. Include a publicly available plan regarding:

(1) the shares of employment and apprenticeship positions in the public works project for minority group members, members of disadvantaged communities, and women which **[is]** are in full conformance with the requirements of all applicable statutes, regulations, executive orders and local ordinances and is mutually agreed upon by the participating labor organizations and the public entity which will own the facilities which are built, altered or repaired under the public works project, provided that any shares mutually agreed upon pursuant to this subsection shall equal or exceed the requirements of other statutes, regulations, executive orders or local ordinances; and

(2) all measures and programs to be undertaken to attain the goals of paragraph (1) of this subsection regarding minority group members, members of disadvantaged communities, and women, which may include measures giving them priority in referral and placement from the hiring halls of signatory unions, programs to provide on-the-job or off-the-job outreach and training, and programs to provide incentives for, or otherwise facilitate, their hiring and employment;

h. Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a

1 number of women, members of disadvantaged communities, and
2 minority group members sufficient to enable compliance with the
3 plan agreed upon pursuant to subsection g. of this section and provide
4 that the use of those resources be administered jointly by the
5 participating labor organizations and the public entity or community-
6 based organizations selected by the public entity; and

7 i. Require the public body to monitor, or arrange to have a State
8 agency monitor, the amount and share of work done on the project
9 by minority group members, members of disadvantaged
10 communities, and women and the progression of minority group
11 members, members of disadvantaged communities, and women into
12 apprentice and journey worker positions, and require the public body
13 to make public, or have the State agency make public, all records of
14 monitoring conducted pursuant to this subsection.

15 (cf: P.L.2002, c.44, s.5)

16
17 4. This act shall take effect immediately.

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20 STATEMENT

21
22 This bill promotes workforce diversity in public works projects by
23 permitting any public entity which includes a project labor agreement
24 (PLA) in a contract for a public works project to include, as part of
25 the PLA, provisions to provide on-the-job or off-the-job outreach and
26 training programs for minority group members, members of
27 disadvantaged communities, and women, which may include
28 programs to provide incentives for, or otherwise facilitate, the hiring,
29 training, and employment of minority group members, members of
30 disadvantaged communities, and women, including employment of
31 local residents.

32 This bill also expands the permissible use of PLAs beyond
33 contracts for building-based public works projects, thus allowing
34 PLAs to be used for highway, bridge, pumping station, water, and
35 sewage treatment plant projects.