

[First Reprint]

ASSEMBLY, No. 5378

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

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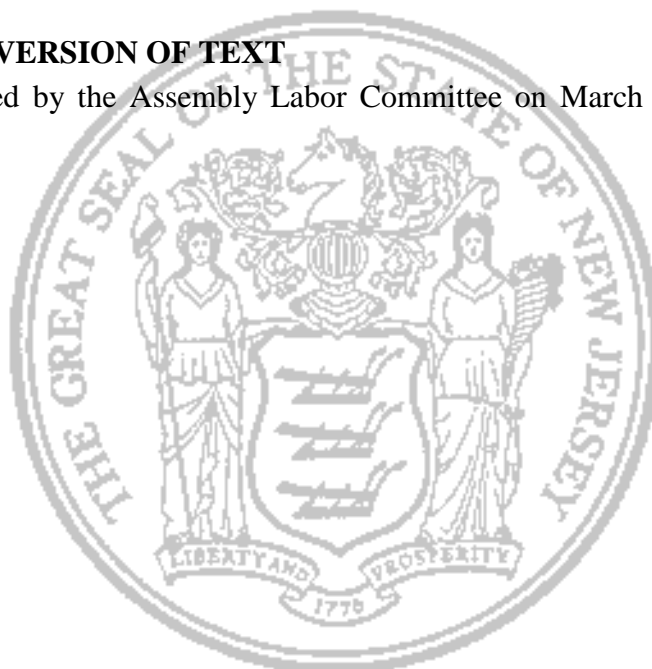
Assemblywomen McKnight, Downey and Assemblyman Houghtaling

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 reported by the Assembly Labor Committee on March 15, 2021, with amendments.



(Sponsorship Updated As Of: 3/25/2021)

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
8 as 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
13 skilled worker in an occupation recognized as an apprenticeable
14 trade, and registered by the **[Bureau]** Office of Apprenticeship
15 **[and Training]** of the U.S. Department of Labor and meeting the
16 standards established by the **[bureau]** office, or registered by a
17 State 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
20 Census, 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
28 on 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
34 employees to perform the contracted work, in a manner consistent
35 with the provisions of this act and an y plan mutually agreed upon
36 by the labor organization and the public entity pursuant to
37 subsection g. of section 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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted March 15, 2021.

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**
7 **sewage treatment plants,】** for which:

8 (1) It is required by law that workers be paid the prevailing
9 wage 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
18 as 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
21 entity determines, taking into consideration the size, complexity and
22 cost 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
27 which is a political subdivision, promotes employment of residents
28 of the political subdivision. If the public entity determines that a
29 project labor agreement will meet those requirements with respect
30 to a particular public works project, the public entity shall either:
31 directly negotiate in good faith a project labor agreement with one
32 or more labor organizations; or condition the award of a contract to
33 a 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
37 negotiation of the project labor agreement. The decision by the
38 public entity to require the inclusion of a project labor agreement
39 requirement shall not be deemed to unduly restrict competition if
40 the public entity finds that the project labor agreement is reasonably
41 related to the satisfactory performance and completion of the public
42 works project, and any bidder for the public works project refusing
43 to agree to abide by the conditions of the project labor agreement or
44 the requirement to negotiate a project labor agreement shall not be
45 regarded as a responsible bidder. Upon the request of the public
46 entity, the Commissioner of Labor shall review the finalized project
47 labor agreement and provide to the public entity, not more than 30

1 calendar days after the agreement is submitted to the commissioner
2 by the public entity, a written advisory statement regarding whether
3 the project labor agreement conforms with the provisions of this
4 act.

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

6
7 ¹3. Section 4 of P.L.2002, c.44 (C.52:38-4) is amended to read
8 as follows:

9 4. Any project labor agreement negotiated pursuant to this act
10 between the public entity or its representative or a construction
11 manager and one or more labor organizations shall be binding on all
12 contractors and subcontractors working on the public works project
13 and may include provisions that permit contractors and
14 subcontractors working on the public works project to retain a
15 percentage of their current workforce, and provisions that the
16 successful bidder and any subcontractor of the bidder need not be a
17 party to a labor agreement with the labor organizations other than
18 for the public works project covered by the project labor agreement.
19 Each project labor agreement shall stipulate that:

20 a. the provisions of the project labor agreement shall apply to
21 work done at construction sites of the public works project and shall
22 not apply to work done outside of those sites; and

23 b. if a union trust fund covered by the terms and conditions of
24 the project labor agreement has not adopted the building and
25 construction industry exemption authorized by subsection (b) of
26 section 4203 of the Employee Retirement Income Security Act of
27 1974 (29 U.S.C. 1383(b)), the signatory employers shall not be
28 obligated to hire employees covered by that fund.¹

29 (cf: P.L.2002, c.44, s.4)

30

31 ¹~~[3.]~~ ¹4. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended
32 to read as follows:

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

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

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

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

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

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

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

6 g. Include a publicly available plan regarding:

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

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

26 h. Require the contract for the public works project to provide
27 whatever resources may be needed to prepare for apprenticeship a
28 number of women, members of disadvantaged communities, and
29 minority group members sufficient to enable compliance with the
30 plan agreed upon pursuant to subsection g. of this section and
31 provide that the use of those resources be administered jointly by
32 the participating labor organizations and the public entity or
33 community-based organizations selected by the public entity; and

34 i. Require the public body to monitor, or arrange to have a
35 State agency monitor, the amount and share of work done on the
36 project by minority group members, members of disadvantaged
37 communities, and women and the progression of minority group
38 members, members of disadvantaged communities, and women into
39 apprentice and journey worker positions, and require the public
40 body to make public, or have the State agency make public, all
41 records of monitoring conducted pursuant to this subsection.

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

43
44 ¹**[4.] 5.**¹ This act shall take effect immediately.