

SENATE, No. 3388

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 28, 2021

Sponsored by:
Senator STEPHEN M. SWEENEY
District 3 (Cumberland, Gloucester and Salem)

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.



1 AN ACT expanding opportunity in project labor agreements and
2 amending P.L.2002, c.44 and P.L.2008, c.313.

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

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 any 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.

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

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

7 "Public works project" means any public works project for [the]
8 construction, reconstruction, demolition or renovation [of buildings
9 at the public expense, other than pumping stations or water or sewage
10 treatment plants,] for which:

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

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

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

19

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

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

1 Commissioner of Labor shall review the finalized project labor
2 agreement and provide to the public entity, not more than 30 calendar
3 days after the agreement is submitted to the commissioner by the
4 public entity, a written advisory statement regarding whether the
5 project labor agreement conforms with the provisions of this act.

6 (cf: P.L.2002,c.44, s.3)
7

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

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

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

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

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

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

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

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

30 g. Include a publicly available plan regarding:

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

42 (2) all measures and programs to be undertaken to attain the goals
43 of paragraph (1) of this subsection regarding minority group
44 members, members of disadvantaged communities, and women,
45 including measures giving them priority in referral and placement
46 from the hiring halls of signatory unions, and including programs
47 supported by amounts of funds transferred or retained pursuant to,
48 and in compliance with the provisions of, section 1 of P.L.2009,

1 c.313 (C.52:38-7) to provide on-the-job or off-the-job outreach and
2 training programs for minority group members, members of
3 disadvantaged communities, and women, including programs using
4 those funds to provide incentives, or otherwise facilitate, their hiring
5 and employment.

6 h. Require the contract for the public works project to provide
7 whatever resources may be needed to prepare for apprenticeship a
8 number of women, members of disadvantaged communities, and
9 minority group members sufficient to enable compliance with the
10 plan agreed upon pursuant to subsection g. of this section and provide
11 that the use of those resources be administered jointly by the
12 participating labor organizations and the public entity or community-
13 based organizations selected by the public entity; and

14 i. Require the public body to monitor, or arrange to have a State
15 agency monitor, the amount and share of work done on the project
16 by minority group members, members of disadvantaged
17 communities, and women and the progression of minority group
18 members, members of disadvantaged communities, and women into
19 apprentice and journey worker positions, and require the public body
20 to make public, or have the State agency make public, all records of
21 monitoring conducted pursuant to this subsection.

22 Any public body which includes a project labor agreement in a
23 public works contract for a public works project shall include, as part
24 of the project labor agreement, provisions requiring the transfer or
25 retention of an amount of funds equal to one half of one percent of
26 the portion of the contract funded by the public body to be used for
27 programs established pursuant to, and in compliance with the
28 provisions of, section 1 of P.L.2009, c.313 (C.52:38-7) to provide on-
29 the-job or off-the-job outreach and training programs for minority
30 group members, members of disadvantaged communities, and
31 women, which include using those funds for programs to provide
32 incentives, or otherwise facilitate, the hiring, and employment of
33 minority group members, members of disadvantaged communities,
34 and women. If the public body is a political subdivision, the
35 agreement shall also include use of those funds for a program to
36 provide incentives for, or otherwise facilitate, the hiring, training,
37 and employment of residents of the political subdivision who are
38 minority group members, members of disadvantaged communities,
39 or women.

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

41
42 4. Section 1 of P.L.2009, c.313 (C.52:38-7) is amended to read
43 as follows:

44 1. a. Notwithstanding the provisions of any law or regulation to
45 the contrary, upon entering into any public works contract in excess
46 of \$1,000,000 which is funded, in whole or in part, by funds of a
47 public body, or any public works contract of any size which is
48 funded, in whole or in part, by funds provided to the public body

1 pursuant to the "American Recovery and Reinvestment Act of 2009,"
2 Pub.L.111-5, the public body entering into the contract shall transfer
3 an amount equal to one half of one percent of the portion of the
4 contract amount funded by funds of the public body, or provided to
5 the public body pursuant to the "American Recovery and
6 Reinvestment Act of 2009," Pub.L.111-5, to the Department of Labor
7 and Workforce Development, except that any Statewide authority
8 which enters into the contract and administers a program which meets
9 the requirements of this section may retain all or a portion of the one
10 half of one percent share of the funds under the contract as is
11 necessary for the operation of the program, but shall transfer to the
12 department any portion of the funds not necessary for the program,
13 and except that funds shall not be transferred or retained pursuant to
14 this section if the transfer or retaining of the funds is contrary to any
15 federal requirement and may result in the loss of federal funds. For
16 a project in which federal and State funds are combined, the entire
17 amount may be transferred or retained from the State portion of the
18 funds if doing so is necessary to prevent any loss of federal funds. A
19 political subdivision may elect, but is not required, to transfer to the
20 department or retain, for any one or more of the purposes indicated
21 in subsection b. of this section or for the purpose of providing
22 incentives for, or otherwise facilitating, a local hiring and
23 employment program, an amount equal to one half of one percent of
24 the portion of any public work contract of the political subdivision.

25 b. The department, political subdivision, or authority shall use
26 the transferred or retained funds to provide on-the-job or off-the-job
27 outreach and training programs for minority group members,
28 members of disadvantaged communities, and women in construction
29 trade occupations or other occupations, including engineering and
30 management occupations, utilized in the performance of public
31 works contracts, including programs to provide incentives for, or
32 otherwise facilitate, the hiring, training, and employing of minority
33 group members, members of disadvantaged communities, and
34 women, and, in the case of a public works contract of a political
35 subdivision, the hiring, training and employment of residents of the
36 political subdivision who are minority group members, members of
37 disadvantaged communities, or women. The programs funded
38 pursuant to this subsection, shall include, but not be limited to,
39 programs preparing minority group members, members of
40 disadvantaged communities, and women for admission into
41 registered apprenticeships with opportunities for long-term
42 employment in construction trades providing economic self-
43 sufficiency for the minority group members, members of
44 disadvantaged communities, and women, with priority given, with
45 respect to the funds from a contract used for apprenticeship programs
46 or apprenticeship-related programs, to trades utilized in that contract,
47 and shall include programs providing supportive services to help
48 facilitate successful completion of any apprenticeship or other

1 training assisted pursuant to this section. The department, political
2 subdivision, or authority shall use funds transferred or retained
3 pursuant to this section to provide grants to implement such programs
4 to consortia which include those community-based organizations,
5 faith-based organizations, labor organizations, employers,
6 contractors and trade organizations, institutions of higher education,
7 and schools and other local public agencies which the department,
8 political subdivision, or authority determines are best able to
9 facilitate entry and success of minority group members, members of
10 disadvantaged communities, and women into training and long-term
11 trade and professional employment in the construction industry, and
12 may use a portion of the funds for initiatives to prepare minority
13 group members, members of disadvantaged communities, and
14 women for registered apprenticeship programs and related post-
15 secondary education, such as grants to consortia provided pursuant
16 to the "Youth Transitions to Work Partnership Act," P.L.1993, c. 268
17 (C.34:15E-1 et seq.), and for initiatives, such as those of the NJ
18 PLACE program established pursuant to P.L.2009, c.200 (C.34:15D-
19 24 et al.), to facilitate the coordination and articulation of registered
20 apprenticeship programs with degree programs in institutions of
21 higher education, including initiatives to articulate programs in a
22 manner which may assist in providing transitions from trade
23 occupations to professional occupations utilized in the construction
24 industry. The department, political subdivision, or authority shall
25 seek agreements and commitments from grant participants to provide
26 long-term employment to successful applicants and trainees where
27 possible. The department, political subdivision, or authority shall be
28 reimbursed from the transferred or retained funds for any reasonable
29 and necessary costs incurred by the department, political subdivision,
30 or authority in administering those programs.

31 c. The Department of the Treasury, and the Division of Contract
32 Compliance and Equal Employment Opportunities in Public
33 Contracts in that department, shall provide, and make available to the
34 public on the Internet, an annual report, not later than December 31
35 of 2010 and each year after that year, which shall list all public works
36 contracts subject to this act and report, for each public works
37 contract, the percentage and amount of funds withheld and provided
38 to programs funded pursuant to this section and the numbers and
39 percentages of apprentices and other workers under each contract
40 who are of minority group members, members of disadvantaged
41 communities, and women. The Department of Labor and Workforce
42 Development shall, not later than December 31 of 2010 and each year
43 after that year, provide an annual report, which shall also be made
44 available to the public on the Internet, on all of the programs funded
45 pursuant to this section, which shall include, for each program, data
46 regarding the performance results of minority group members,
47 members of disadvantaged communities, and women participating
48 in the programs, including outcome measures detailing employment

1 placement, increased earnings and employment retention, [as those
2 terms are used in the federal Workforce Investment Act of 1998,
3 Pub.L.105-220 (29 U.S.C. s.2801 et seq.),] and shall include data
4 regarding enrollment into registered apprentice programs and results
5 regarding their retention in long-term employment. Public bodies
6 and political subdivisions entering into public works contracts
7 subject to the provisions of this section, including Statewide
8 authorities, and the Department of the Treasury, shall provide such
9 information to the Department of Labor and Workforce Development
10 and the Department of the Treasury as the departments deem
11 necessary for the purposes of this section.

12 d. For the purposes of this section: "political subdivision" means
13 any county, municipality, school district or other political
14 subdivision of the State of New Jersey or any instrumentality or
15 agency of the political subdivision; "public body" means the State of
16 New Jersey, any authority created by the Legislature of the State of
17 New Jersey and any instrumentality or agency, but not any political
18 subdivision, of the State of New Jersey; "public works contract"
19 means public works contract as defined in section 1 of P.L.1975,
20 c.127 (C.10:5-31); "registered apprenticeship" means apprenticeship
21 in a program providing to each trainee combined classroom and on-
22 the-job training under the direct and close supervision of a highly
23 skilled worker in an occupation recognized as an apprenticeable
24 trade, and registered by the Office of Apprenticeship of the United
25 States Department of Labor and meeting the standards established by
26 that office; and "Statewide authority" means any authority created by
27 the Legislature which is authorized by law to enter into contracts for
28 construction at locations throughout the State.

29 (cf: P.L.2019, c.76, s.1)

30

31 5. This act shall take effect immediately.

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33

34

STATEMENT

35

36 This bill promotes workforce diversity in public works projects by
37 requiring any public entity which includes a project labor agreement
38 (PLA) in a public works contract for a public works project to
39 include, as part of the PLA, provisions requiring the transfer or
40 retention of an amount equal to one half of one percent of the portion
41 of the contract funded by the public entity to be used for programs
42 established pursuant to section 1 of P.L.2009, c.313 (C.52:38-7) to
43 provide on-the-job or off-the-job outreach and training programs for
44 minority group members, members of disadvantaged communities,
45 and women, which may include programs to provide incentives, or
46 otherwise facilitate, the hiring, training, and employment of minority
47 group members, members of disadvantaged communities, and
48 women. If the public entity is a political subdivision, the PLA is

1 required to include a program to provide incentives for, or otherwise
2 facilitate, the hiring, training, and employment of minority group
3 members, members of disadvantaged communities, and women who
4 are residents of the political subdivision.

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

WITHDRAWN