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SENATE, No. 3844

STATE OF NEW JERSEY

219th LEGISLATURE

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Sponsored by:
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)
Senator JOSEPH A. LAGANA
District 38 (Bergen and Passaic)

SYNOPSIS

Concerns sign fabrication and prevailing wage requirements.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on June 10, 2021, with amendments.

(Sponsorship Updated As Of: 6/10/2021)

AN ACT concerning the fabrication of certain signs and amending P.L.1963, c.150 **[1]**[and P.L.2002, c.44]**[1]**.

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

1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended as follows:

2. As used in this act:

(1) "Department" means the Department of Labor and Workforce Development of the State of New Jersey.

(2) "Locality" means any political subdivision of the State, combination of the same or parts thereof, or any geographical area or areas classified, designated and fixed by the commissioner from time to time, provided that in determining the "locality," the commissioner shall be guided by the boundary lines of political subdivisions or parts thereof, or by a consideration of the areas with respect to which it has been the practice of employers of particular crafts or trades to engage in collective bargaining with the representatives of workers in such craft or trade.

(3) "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. "Maintenance work" also means any work on a maintenance-related project that exceeds the scope of work and capabilities of in-house maintenance personnel, requires the solicitation of bids, and has an aggregate value exceeding $50,000.

(4) "Public body" means the State of New Jersey, any of its political subdivisions, any authority created by the Legislature of the State of New Jersey and any instrumentality or agency of the State of New Jersey or of any of its political subdivisions.

(5) "Public work" means construction, reconstruction, demolition, alteration, custom fabrication or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. "Public work" shall also mean construction, reconstruction, demolition, alteration, custom fabrication or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract the property or premises is owned by the public body or:

(a) Not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and

(b) The portion of the property or premises that is leased or

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 <u>thus</u> is new matter
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SLA committee amendments adopted June 10, 2021.

subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

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

(7) "Workman" or "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, 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. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.), contractors or subcontractors engaged in custom fabrication shall not be regarded as material suppliers.

(8) "Work performed under a rehabilitation program" means work arranged by and at a State institution primarily for teaching and upgrading the skills and employment opportunities of the inmates of such institutions.

(9) "Prevailing wage" means the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workers of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done.

(10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) and the rules and regulations issued hereunder.

(11) "Prevailing wage contract threshold amount" means:

(a) In the case of any public work paid for in whole or in part out of the funds of a municipality in the State of New Jersey or done on property or premises owned by a public body or leased or to be leased by the municipality, the dollar amount established for the then current calendar year by the commissioner through rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which amount shall be equal to $9,850 on July 1, 1994 and which amount shall be adjusted on July 1 every five calendar years thereafter in direct proportion to the rise or fall in the average of the Consumer Price Indices for Urban Wage Earners and Clerical Workers for the New York metropolitan and the Philadelphia metropolitan regions as reported by the United States Department of Labor during the last full calendar year preceding the date upon which the adjustment is made; and

(b) In the case of any public work other than a public work described in paragraph (a) of this subsection, an amount equal to $2,000.

(12) "Custom fabrication" means:

(a) the fabrication of <u>any of the following:</u> plumbing, heating, cooling, ventilation or exhaust duct systems, **[**and**]** mechanical insulation<u>, or one or more signs in a project which cost a total of more than $30,000 and are part of a project upon completion</u>; or

(b) any other fabrication which is either of components or structures pre-fabricated to specifications for a particular project of public work or of other materials finished into components without further modification for use in a project of public work or for use in a type or classification of a project of public work.

(cf: P.L.2019, c.44, s.1)

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

2. For the purposes of this act:

"Apprenticeship program" means a registered apprenticeship program providing to each trainee combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade, and registered by the Office of Apprenticeship of the U.S. Department of Labor and meeting the standards established by the office, or registered by a State apprenticeship agency recognized by the office.

"Custom fabrication" means custom fabrication as defined by section 2 of P.L.1963, c.150 (C.34:11-56.26), including the fabrication of signs meeting the requirements of the definition in that section.

“Disadvantaged community” means a census block group, as determined in accordance with the most recent United States Census, in which:

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

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

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

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

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

“Political subdivision” means any county, municipality, school district or other political subdivision of the State of New Jersey or any instrumentality or agency of the political subdivision.

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

"Proprietary interest" means an economic and non-regulatory interest of a public entity in the economic or financial success of a covered public works project, including, but not limited to, the interest of the public entity as a financier, investor, lessee, lessor, operator, or owner of the project or property on which the project is located, or as the provider or facilitator of financial assistance to or for the project, whether by direct loan or grant, or by a guarantee, subsidy, deposit, credit enhancement or similar method.

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

"Public works project" means any public work project in which a public entity has a proprietary interest for construction, reconstruction, demolition, **[**or**]** renovation, or custom fabrication for which:

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

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

(cf: P.L.2021, c.69, s.1)**]**[1]

[1]**[**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 the shares of employment and apprenticeship positions in the public works project for minority group members and women which is 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;

h. Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a number of women and minority members sufficient to enable compliance with the plan agreed upon pursuant to subsection g. of this section and provide that the use of those resources be administered jointly by the participating labor organizations and the public entity or community-based organizations selected by the public entity; **[**and**]**

i. Require the public body to monitor, or arrange to have a State agency monitor, the amount and share of work done on the project by minority group members and women and the progression of minority group members and women into apprentice and journey worker positions and require the public body to make public, or have the State agency make public, all records of monitoring conducted pursuant to this subsection; and

j. Require all contractors and subcontractors, and their employees, to comply with all applicable provisions of law regarding apprenticeship and other skill training programs, including any applicable provision of the "Sign Fabrication Safety Quality Assurance Act", P.L.2019, c.84 (C.34:15B-41 et al.), the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.), and "The Public Works Contractor Registration Act", P.L.1999, c.238 (C.34:11-56.48 et seq.).

(cf: P.L.2002,c.44,s.5)**]**[1]

[1][4.**]** 2.[1] This act shall take effect immediately.