

**SENATE, No. 4207**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED DECEMBER 2, 2021

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Concerns apprenticeship programs of public works contractors.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning apprenticeship programs of public works  
2 contractors, amending and supplementing P.L.1999, c.238, and  
3 repealing section 2 of P.L.2019, c.518.

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

7  
8 1. Section 5 of P.L.1999, c.238 (C.34:11-56.52) is amended to  
9 read as follows:

10 5. a. A contractor shall register in writing with the department  
11 on a form provided by the commissioner. The form shall require the  
12 following information:

13 (1) The name, principal business address and telephone number  
14 of the contractor;

15 (2) Whether the contractor is a corporation, partnership, sole  
16 proprietorship, or other form of business entity;

17 (3) If the contractor's principal business address is not within the  
18 State, the name and address of the contractor's custodian of records  
19 and agent for service of process in this State;

20 (4) The name and address of each person with a financial  
21 interest in the contractor and the percentage interest, except that if  
22 the contractor is a publicly-traded corporation, the contractor shall  
23 supply the names and addresses of the corporation's officers;

24 (5) The contractor's tax identification number and  
25 unemployment insurance registration number;

26 (6) A certification form provided by the commissioner, with  
27 documentation satisfactory to the commissioner, that the contractor  
28 has all valid and effective licenses, registrations or certificates  
29 required by State law, including registrations or certifications  
30 required to do business in the State of New Jersey, and the  
31 contractor, if directly employing craftworkers, participates in a  
32 registered apprenticeship program as defined in section 3 of  
33 P.L.1999, c.238 (C.34:11-56.50) for each craft they employ;

34 (7) A certification form provided by the commissioner, with  
35 supporting documentation, establishing to the satisfaction of the  
36 commissioner that the registered apprenticeship program, as defined  
37 in section 3 of P.L.1999, c.238 (C.34:11-56.50), in which the  
38 contractor meets all of the requirements of section 1 of P.L.2005,  
39 c.379 (C.34:11-56.58), and 29 C.F.R. ss.29.5, 29.6 and 29.7;

40 (a) If it is determined by the commissioner that a registered  
41 apprenticeship program in which the contractor participates does  
42 not meet all of the requirements of 29 C.F.R. ss.29.5, 29.6 and 29.7,  
43 that determination of the commissioner shall, subject to the  
44 requirements of subsection b. of section 9 of P.L.1999, c.238  
45 (C.34:11-56.56), including the contractor's right to request a

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 hearing, result in initial registration application denial, registration  
2 renewal denial, revocation, or suspension of the certificate of  
3 registration to perform public work in New Jersey;

4 (b) The determination of the commissioner under this paragraph  
5 shall only impact the contractor's ability to obtain or maintain its  
6 public works contractor registration certificate under P.L.1999,  
7 c.238 (C.34:11-56.48 et seq.), and shall not affect the status of the  
8 registered apprenticeship program for the purpose of its continued  
9 operation in New Jersey; unless the registration application is filed  
10 by a sponsor that does not meet the requirements of 29 C.F.R.  
11 ss.29.3, 29.4, 29.5, 29.6 and 29.7, in which case that determination  
12 of the commissioner shall, subject to the requirements of subsection  
13 b. of section 4 of P.L. , c. (C. ) (pending before the  
14 Legislature as this bill), including the contractor's right to request a  
15 hearing, result in initial registration application denial, registration  
16 renewal denial, revocation, or suspension of the certificate of  
17 registration of all contractors affiliated with the sponsor to perform  
18 public work in New Jersey; and

19 (8) Any other relevant and appropriate information as  
20 determined by the commissioner.

21 b. At the time of registration, and subsequently upon request,  
22 the contractor shall submit to the commissioner documentation  
23 demonstrating that the contractor has worker's compensation  
24 insurance coverage for all workers as required by law.

25 (cf: P.L.2019, c.21, s.2)

26  
27 2. Section 6 of P.L.1999, c.238 (C.34:11-56.53) is amended to  
28 read as follows:

29 6. a. The contractor shall pay an initial annual non-refundable  
30 registration fee of **[\$300]** \$500 to the commissioner. The non-  
31 refundable registration fee for the second annual registration shall  
32 be **[\$300]** \$500. Upon successful completion of two consecutive  
33 years of registration, a contractor may elect to register for a two-  
34 year period and pay a non-refundable registration fee of **[\$500]**  
35 \$750.

36 b. A contractor who is performing public work on the effective  
37 date of this act shall submit the registration application form and fee  
38 to the commissioner within 30 days of the effective date of this act.

39 c. Registration fees collected pursuant to this act shall be  
40 applied toward the enforcement and administration costs of the  
41 Division of Workplace Standards, Office of Wage and Hour  
42 Compliance, Public Contracts section and Registration section  
43 within the department.

44 (cf: P.L.2003, c.91, s.3)

45  
46 3. Section 7 of P.L.1999, c.238 (C.34:11-56.54) is amended to  
47 read as follows:

1       7. Upon receipt of the fee, form and documentation required by  
2 section 5 of this act, and upon a finding that the applicant for the  
3 certificate of registration has met all of the requirements set forth at  
4 section 5 of P.L.1999, C.238 (C.34:11-56.52), the commissioner  
5 shall issue a certificate of registration to the contractor. A  
6 registration certificate shall be valid for one calendar year from the  
7 date of registration. Registrations shall be renewed not less than 30  
8 days before the expiration date of the immediately preceding  
9 registration.

10 (cf: P.L.1999, c.238, s.7)

11  
12       4. (New section) a. Each contractor or sponsor as defined  
13 herein, who is registered under P.L.1999, c.238 (C.34:11-56.48 et  
14 seq.) to bid on and perform public work shall be under a continuing  
15 obligation between registration certificate renewal cycles to ensure  
16 compliance with the requirements of section 5 of P.L.1999, C.238  
17 (C.34:11-56.52).

18       b. When between registration certificate renewal cycles it is  
19 determined by the department that a contractor has failed to comply  
20 with the requirements of section 5 of P.L.1999, C.238 (C.34:11-  
21 56.52), provided it is also determined by the department that the  
22 failure to comply with section 5 of P.L.1999, C.238 (C.34:11-56.52)  
23 existed at the time of the contractor's most recent certificate of  
24 registration application, whether that application was for contractor  
25 registration renewal or initial approval, the department shall  
26 consider the resulting failure of the contractor to accurately  
27 complete its registration application to have been the making or  
28 causing to be made of a false, deceptive or fraudulent statement on  
29 the public works contractor registration form, which pursuant to  
30 paragraph (7) of subsection a. of section 9 of P.L.1999, C.238  
31 (C.34:11-56.56), constitutes grounds for revocation of the  
32 contractor's certificate of registration.

33       c. When between registration certificate renewal cycles it is  
34 determined by the department that a contractor has failed to comply  
35 with section 5 of P.L.1999, C.238 (C.34:11-56.52), but where it is  
36 also determined by the department that the failure to comply with  
37 section 5 of P.L.1999, C.238 (C.34:11-56.52) did not exist at the  
38 time of the contractor's most recent certificate of registration  
39 application, whether that application was for contractor registration  
40 renewal or initial approval, the department shall suspend the  
41 contractor's certificate of registration pursuant to this section either  
42 until the contractor establishes compliance with section 5 of  
43 P.L.1999, C.238 (C.34:11-56.52) or until the beginning of the next  
44 registration certificate renewal cycle, whichever occurs first.

45       d. When a contractor has had its registration certificate either  
46 revoked or suspended under subsections b. or c. of this section, for  
47 failure between registration certificate renewal cycles to comply

1 with section 5 of P.L.1999, C.238 (C.34:11-56.52), that registration  
2 certificate revocation or suspension shall be taken into  
3 consideration by the department as a prior offense when  
4 determining whether to grant any subsequent certificate of  
5 registration application.

6  
7 5. Section 9 of P.L.1999, c.238 (C.34:11-56.56) is amended to  
8 read as follows:

9 9. a. A contractor who: (1) willfully hinders or delays the  
10 commissioner in the performance of his duties in the enforcement of  
11 this act; (2) fails to make, keep, and preserve any records as  
12 required under the provisions of the "New Jersey Prevailing Wage  
13 Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (3) falsifies any such  
14 record, or refuses to make any such record accessible to the  
15 commissioner upon demand; (4) refuses to furnish a sworn  
16 statement of such records or any other information required for the  
17 enforcement of this act to the commissioner upon demand; (5) pays  
18 or agrees to pay wages at a rate less than the rate prescribed by the  
19 "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25  
20 et seq.); (6) makes or causes to be made, a false, deceptive or  
21 fraudulent statement on the public works contractor registration  
22 form; or **[(6)]** (7) otherwise violates any provision of this act, shall  
23 be guilty of a disorderly persons offense crime and shall, upon  
24 conviction, be subject to punishment by a fine of not less than  
25 \$2,500 nor more than \$25,000 and disqualification from bidding on  
26 all public work contracts for a period of up to three years; and shall  
27 be subject to 29 C.F.R. s.29.8, the deregistration of a registered  
28 program for the failure to operate and administer the apprenticeship  
29 program in accordance with the program's registered provisions  
30 including, but not limited to, the failure to provide on the job  
31 training or related classroom instruction or the failure to register at  
32 least one apprentice pursuant to 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6  
33 and 29.7 or, in the case of an individual who is an officer or  
34 employee charged with the duty of completion of the registration  
35 form for a sponsor, by the fine indicated in this subsection or by  
36 imprisonment not exceeding six months, or both.

37 b. As an alternative to or in addition to sanctions provided by  
38 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-  
39 56.25 et seq.), the commissioner may, after providing the contractor  
40 with notice of any alleged violation of this act, and with an  
41 opportunity to request a hearing before the commissioner or his  
42 designee:

43 (1) Deny renewal, revoke or suspend the registration of a  
44 contractor for a period of not more than five years; or

45 (2) Require a contractor, as a condition of initial or continued  
46 registration, to provide a surety bond payable to the State. The  
47 surety bond shall be for the benefit of workers damaged by any

1 failure of a contractor to pay wages or benefits pursuant to or  
2 otherwise comply with the provisions of the "New Jersey Prevailing  
3 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or this act. The  
4 surety bond shall be in the amount and form that the commissioner  
5 deems necessary for the protection of the contractor's workers, but  
6 shall not exceed \$10,000 per worker. The surety bond shall be  
7 issued by a surety that meets the requirements of N.J.S.2A:44-143.

8 c. The director may order the immediate suspension of a  
9 contractor's registration, prior to a formal hearing on the revocation  
10 of the contractor's registration pursuant to subsection b. of this  
11 section, if the director determines that ordering an immediate  
12 suspension is in the public interest and provided that the contractor  
13 is afforded an opportunity to contest the immediate suspension in  
14 the following manner:

15 (1) The director shall notify the contractor in writing of the  
16 immediate revocation and the contractor's rights under the  
17 subsection.

18 (2) The contractor may notify the director of its request for an  
19 opportunity to be heard and contest the immediate suspension in  
20 writing within 72 hours of its receipt of immediate suspension  
21 notification.

22 (3) Within seven business days of receipt of the notification  
23 from the contractor pursuant to paragraph (2) of this subsection, the  
24 director shall grant the contractor a hearing to contest the immediate  
25 suspension. The director shall permit the contractor to present  
26 evidence at the hearing.

27 (4) The director shall issue a written decision within five  
28 business days of the hearing either upholding or reversing the  
29 contractor's immediate suspension. The decision shall include the  
30 grounds for upholding or reversing the contractor's immediate  
31 suspension.

32 (5) If the contractor disagrees with the written decision, the  
33 contractor may appeal the decision to the commissioner, in  
34 accordance with the "Administrative Procedure Act," P.L.1968,  
35 c.410 (C.52:14B-1 et seq.).

36 d. If the director intends to impose an immediate suspension as  
37 set forth in subsection c. of this section, based upon a rebuttable  
38 presumption as set forth in section 14 of P.L.1963, c.150 (C.34:11-  
39 56.38), the director shall provide the contractor with a notice of  
40 intent to suspend and the contractor may request a hearing before  
41 the Director of the Division of Wage and Hour Compliance within  
42 72 hours of the receipt of the notice of intent to suspend in order to  
43 present evidence expeditiously in support of the position that the  
44 suspension should not be imposed. The suspension shall not take  
45 effect prior to the expiration of the 72-hour opportunity to request a  
46 hearing. If such a request is not made, the suspension shall take  
47 effect at the end of the 72-hour period. If such a request is made,

1 the suspension shall take effect only after the director conducts the  
2 hearing.

3 e. If the director orders the immediate suspension of a  
4 contractor's registration pursuant to subsection b. of this section, the  
5 violation shall have no effect on the registration of any contractor or  
6 subcontractor, regardless of tier, in the contractual chain with the  
7 suspended contractor, unless the registration form for the  
8 contractual chain of contractors and subcontractors was filed by a  
9 sponsor, in which case all of the contractors of whatever tier who  
10 participated in the sponsor's apprenticeship program shall be  
11 suspended and their registrations shall be revoked by the  
12 commissioner.

13 (cf: P.L.2007, c.67, s.3)

14

15 6. (New section) A registered apprenticeship program shall  
16 require the completion of the on the job training hours which  
17 conform to the industry standards for learning the skills of a  
18 specific craft or trade, as well as on the job organized, related  
19 instruction in technical subjects related to the specific  
20 apprenticeable occupation in conformance with industry standards.  
21 The industry standards for program completion shall be based upon  
22 the training requirements as registered and certified by the United  
23 States Department of Labor each individual occupation and craft  
24 title published by the United States Department of Labor  
25 Employment and Training Administration.

26 The length of a program shall depend upon the complexity of the  
27 occupation. Program duration shall be not less than one year and  
28 not more than six years. During the program, the apprentice shall  
29 receive both structured on the job training and related classroom  
30 instruction. For each year of the program, the apprentice shall  
31 receive at least 2,000 hours of on the job training and at least 144  
32 hours of related classroom instruction.

33 The program shall include all other recommended minimum  
34 requirements as outlined under 29 C.F.R. s.29.5 including, but not  
35 limited to, a successful demonstration of competency, the  
36 registration of program standards, the submission and publication of  
37 program completion rates which meet the program performance  
38 standards of enrollment and completion rates as outlined under 29  
39 C.F.R. s.29.6, and meet the training recommendations, the terms  
40 and conditions of the employment and training agreement between  
41 the employer and the apprentice, and the publication of the  
42 graduated wages scales to be paid to the apprentice as outlined  
43 under 29 C.F.R. s.29.7.

44

45 7. (New section) Subcontractors of a contractor registered  
46 pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) are not required

1 to register under that act if they do not perform work at any  
2 construction site subject to that act.

3

4 8. Section 2 of P.L.2019, c.518 (C.34:11-56.71) is repealed.

5

6 9. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill increases the registration fees assessed under “The  
12 Public Works Contractor Registration Act,” P.L.1999, c.238,  
13 strengthens provisions of that law regarding the enforcement of the  
14 apprenticeship program requirements, and requires certification of  
15 compliance with federal requirements for apprenticeship programs.