

SENATE, No. 1443

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 10, 2022

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Requires construction service and maintenance contractors to register with DOLWD.

CURRENT VERSION OF TEXT

As introduced.



S1443 SINGLETON

2

1 AN ACT concerning registration of construction contractors and
2 supplementing Title 34 of the Revised Statutes.

3

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

6

7 1. As used in this act:

8 “Contractor” means a person, partnership, association, joint
9 stock company, trust, corporation, limited liability company, or
10 other legal business entity or successor or subsidiary thereof that
11 engages in construction services or maintenance under an express or
12 implied contract on behalf of another entity or individual for profit
13 within the State, and includes any subcontractor or lower tier
14 subcontractor who contracts with another subcontractor or lower
15 tier contractor.

16 “Construction services” means all building or work on a
17 building, structure, or improvement of any type, including bridges,
18 dams, plants, highways, parkways, streets, tunnels, sewers, mains,
19 power lines, pumping stations, heaving generators, railways,
20 airports, terminals, docks, piers, wharves, buoys, jetties,
21 breakwaters, levees, canals, dredging, shoring, rehabilitation and
22 reactivation of plants, scaffolding, drilling, blasting, excavating,
23 clearing and landscaping, including tree cutting.

24 “Custom fabrication” means the fabrication of plumbing,
25 heating, cooling, ventilation, or exhaust duct systems and
26 mechanical insulation.

27 “Department” means the Department of Labor and Workforce
28 Development.

29 “Knowing” means having actual knowledge of or acting with
30 deliberate ignorance or reckless disregard for the prohibition
31 involved.

32 “Maintenance” means the repair of existing facilities when the
33 size, type, or extent of those facilities is not changed or increased.

34 “Public works contract” means public work as defined in section
35 2 of P.L.1963, c.150 (C.34:11-56.26) and which is subject to the
36 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). Public work
37 shall not include the provision of goods or products.

38 “Subcontractor” means a lower tier contractor of a contractor,
39 including owner operators or independent contractors.

40 “Violation” means a project or contract where work is done by a
41 contractor who is not registered under this act.

42 “Worker” means a laborer, mechanic, skilled, or semi-skilled
43 laborer and apprentices or helpers employed by any contractor or
44 subcontractor and engaged in the performance of construction
45 services or maintenance in the State, regardless of whether the work
46 becomes a component part of the construction or maintenance.

47 “Worker” shall not include a material supplier or employees of a

S1443 SINGLETON

1 material supplier. A contractor or subcontractor engaged in custom
2 fabrication is not a material supplier for purposes of this act.

3

4 2. a. (1) A contractor shall register with the department
5 pursuant to this act before performing construction services or
6 maintenance.

7 (2) A contractor shall submit all forms, information, and fees
8 required pursuant to this section to the department.

9 b. A contractor shall apply for a registration certificate by
10 submitting a complete application on the form provided by the
11 department, which shall include all of the following information
12 regarding the contractor, if applicable:

13 (1) name, principal business address, telephone number, fax
14 number, and e-mail address;

15 (2) type of business entity, including corporation, partnership, or
16 sole proprietorship;

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

20 (4) the name of the person, the date and nature of any violation,
21 conviction, or judgment, and all additional information requested by
22 the department if the contractor or a person holding a financial
23 interest in the contractor's business has ever done any of the
24 following:

25 (a) held a financial interest in a licensed entity that was cited by
26 the department for a violation of a labor law;

27 (b) been found to be in violation of the "New Jersey Prevailing
28 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or "The Public
29 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
30 56.48 et seq.);

31 (c) been found to be in violation of the "Contractors'
32 Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.); or

33 (d) been found to have engaged in an unlawful practice under
34 P.L.1960, c.39 (C.56:8-1 et seq.);

35 (5) the federal employer identification number, the State
36 taxpayer identification number, individual tax identification
37 number, or other tax identification number;

38 (6) proof of worker's compensation insurance; and

39 (7) a safety plan that is compliant with the requirements
40 established by the federal Occupational Safety and Health
41 Administration.

42 c. (1) (a) A contractor who is registered under the "The Public
43 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
44 56.48 et seq.) or the "Contractors' Registration Act," P.L.2004, c.16
45 (C.56:8-136 et seq.) shall pay an initial annual nonrefundable
46 registration fee of \$100 to the department with the application
47 provided for under this section.

S1443 SINGLETON

1 (b) The nonrefundable registration fee for the second annual
2 registration is \$100.

3 (c) Upon successful completion of two consecutive years of
4 registration, a contractor may register for a two-year period and pay
5 a nonrefundable registration fee of \$100. The department may only
6 grant a two-year registration if the contractor has not violated this
7 act or any other labor laws during the registration period that is
8 expiring.

9 (d) A contractor who is performing public work on July 1, 2022,
10 shall submit the registration application form and fee to the
11 department no later than August 1, 2021.

12 (2) (a) A contractor who is not registered under the "The Public
13 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
14 56.48 et seq.) or the "Contractors' Registration Act," P.L.2004, c.16
15 (C.56:8-136 et seq.) shall pay an initial annual nonrefundable
16 registration fee of \$200 to the department with the application under
17 this section.

18 (b) The nonrefundable registration fee for the second annual
19 registration is \$200.

20 (c) Upon successful completion of two consecutive years of
21 registration, a contractor may register for a two-year period and pay
22 a nonrefundable registration fee of \$300. The department may only
23 grant a two-year registration if the contractor has not violated this
24 act or any other labor laws during the registration period that is
25 expiring.

26 d. The department may enter into cooperative agreements with
27 other state agencies, including the Division of Consumer Affairs in
28 the Department of Law and Public Safety, to share information
29 required under this act and to streamline the process of contractor
30 registration.

31

32 3. a. Except as provided under section 4 of this act, upon
33 receipt of a completed, accurate, application and fee under section 2
34 of this act, the department shall issue a certificate of registration to
35 the contractor. A certificate of registration is valid as follows:

36 (1) for one year from the date of registration.

37 (2) for a period that ends two years from the date of registration,
38 if the contractor successfully completes two years of registration.

39 (3) A certificate of registration shall be renewed no less than 30
40 days before the expiration date of a certificate of registration. The
41 department may deny the certificate of registration if the contractor
42 has violated this act or any law under paragraph (2) of subsection b.
43 of section 2 of this act during the registration period that is
44 expiring.

45 b. A certificate of registration shall not be transferable.

46 c. A contractor registered under this act who allows the
47 contractor's certificate of registration to expire before applying to
48 renew the certificate shall subsequently apply for a registration

S1443 SINGLETON

1 certificate as if for the first time. To delineate from the contractors
2 registered via Public Works and contractors registration act.

3

4 4. a. The department may deny, suspend, or revoke a
5 certificate of registration if the contractor or an officer, partner,
6 director, stockholder, or agent of the contractor:

7 (1) fails to comply with any requirement of this act;

8 (2) willfully makes a misstatement or omits a material fact in an
9 application for or renewal of a certificate of registration;

10 (3) fails to provide all information, including records, forms, or
11 documents, requested by the department under this act;

12 (4) performs work without full compliance with this act;

13 (5) contracts with or uses a subcontractor who is not registered
14 under this act in the completion of a public works contract;

15 (6) fails to cooperate or interferes with an investigation by the
16 department; or

17 (7) violates a law or regulation related to the ability of the
18 contractor to comply with the labor laws of this State.

19 b. (1) The department shall reject an application that is
20 incomplete or contains inaccurate information.

21 (2) If a contractor knowingly supplies incomplete or inaccurate
22 information to the department under this section, all of the
23 following apply:

24 (a) the application for registration shall be rejected; and

25 (b) the contractor may not apply for registration until one year
26 from the date of the notice of disqualification.

27 c. (1) The department shall exercise reasonable discretion in
28 deciding whether to deny, suspend, or revoke a certificate of
29 registration under subsection a. or b. of this section.

30 (2) The department shall not revoke or suspend a certificate of
31 registration for longer than five years. The department shall
32 consider the following criteria to determine the length of time that a
33 certificate of registration is denied, revoked, or suspended:

34 (a) the contractor's record of previous violations of any civil or
35 criminal law related to the fitness of the contractor to bid on or
36 engage in construction services or maintenance including this act
37 and the prevailing wage law.

38 (b) if the contractor should reasonably have known that a
39 subcontractor to a contract did not have a certificate of registration,
40 had a lapsed certificate of registration, or had a certificate of
41 registration revoked or suspended.

42 (c) the total number of subcontractors not registered under this
43 act at a work site and the size and scope of the project on which the
44 unregistered subcontractor worked.

45 (d) if the contractor in contract with a subcontractor who is not
46 registered under this act obeyed the department's directive to
47 remove the unregistered subcontractor from the work site to cure
48 the violation of this act.

S1443 SINGLETON

1 d. (1) The department may require as a condition of initial or
2 continued registration that a contractor who has violated either this
3 act or the prevailing wage law to provide a surety bond payable to
4 the department.

5 (2) The department shall require a surety bond if there is a
6 pending investigation or litigation of a violation of a State or federal
7 labor law alleged against the contractor which the department finds
8 would constitute a knowing violation of this act.

9 (3) The surety bond shall be in the amount and form that the
10 department deems necessary for the protection of the contractor's
11 workers, but shall not exceed \$10,000 per worker.

12 (4) The surety bond shall be released upon a final adjudication
13 of the investigation or litigation under paragraph (2) of this
14 subsection if the final adjudication is in favor of the contractor.

15

16 5. a. Following an investigation in which the department
17 makes an initial determination that a contractor has violated a
18 provision of this act, the department may do any or all of the
19 following:

20 (1) deny, suspend, or revoke a certificate of registration;

21 (2) require the posting of a surety bond; or

22 (3) impose an administrative penalty.

23 b. The department shall notify the contractor, in writing, of a
24 decision to take an action taken under subsection a. of this section
25 which shall include:

26 (1) the action to be taken;

27 (2) the grounds upon which the determination was made to take
28 the action; and

29 (3) instructions to request a hearing.

30 c. Any hearing requested pursuant to this section shall be
31 scheduled and held in accordance with the provisions of the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.).

34 d. If a contractor's application for a certificate of registration is
35 denied or a contractor's certificate of registration is suspended or
36 revoked, the contractor shall not perform work for which a bid has
37 been submitted and which is under review.

38

39 6. a. A knowing violation of this act shall be subject to a civil
40 penalty of not less than \$5,000 and not more than \$85,000 per
41 violation.

42 b. A violation that is not a knowing violation shall be subject to
43 a civil penalty of not more than \$1,000 per violation.

44 c. The department may bring a civil action to enforce this act,
45 including an action for injunctive relief to enjoin work by an
46 unregistered contractor.

1 7. This act shall take effect on the first day of the 12th month
2 next following enactment.

3

4

5

STATEMENT

6

7 This bill requires construction service and maintenance
8 contractors to register with the Department of Labor and Workforce
9 Development.

10 As used in the bill, "construction services" means all building or
11 work on a building, structure, or improvement of any type,
12 including bridges, dams, plants, highways, parkways, streets,
13 tunnels, sewers, mains, power lines, pumping stations, heaving
14 generators, railways, airports, terminals, docks, piers, wharves,
15 buoys, jetties, breakwaters, levees, canals, dredging, shoring,
16 rehabilitation and reactivation of plants, scaffolding, drilling,
17 blasting, excavating, clearing and landscaping.

18 "Maintenance" means the repair of existing facilities when the
19 size, type, or extent of those facilities is not changed or increased.

20 Specifically, the bill requires these contractors to register with
21 the department before performing construction services or
22 maintenance.

23 The bill provides that contractors are to apply for a registration
24 certificate by submitting a complete application on the form
25 provided by the department, which is to include:

26 (1) name, principal business address, telephone number, fax
27 number, and e-mail address;

28 (2) type of business entity, including corporation, partnership, or
29 sole proprietorship;

30 (3) if the principal business address is not within the State, the
31 name and address of the custodian of records and agent for service
32 of process in the State;

33 (4) the name of the person, the date and nature of any violation,
34 conviction, or judgment, and all additional information requested by
35 the department if the contractor or a person holding a financial
36 interest in the contractor's business has ever engaged in certain
37 activities, including violations of labor laws;

38 (5) certain tax identification information;

39 (6) proof of worker's compensation insurance; and

40 (7) a safety plan that is compliant with the requirements
41 established by the federal Occupational Safety and Health
42 Administration.

43 The bill requires contractors to pay certain annual nonrefundable
44 registration fees, that vary depending on whether the contractors are
45 registered under the "The Public Works Contractor Registration
46 Act" or the "Contractors' Registration Act," or are not registered
47 under those acts.

S1443 SINGLETON

1 Except as otherwise provided under the bill, upon receipt of a
2 completed, accurate, application and fee, the department is to issue
3 a certificate of registration to the contractor. A certificate of
4 registration is valid as follows:

5 (1) for one year from the date of registration.

6 (2) for a period that ends two years from the date of registration,
7 if the contractor successfully completes two years of registration.

8 (3) a certificate of registration shall be renewed no less than 30
9 days before the expiration date of a certificate of registration. The
10 department may deny the certificate of registration under certain
11 circumstances.

12 The bill provides that a certificate of registration is non-
13 transferable.

14 A registered contractor who allows the contractor's certificate of
15 registration to expire before applying to renew the certificate shall
16 subsequently apply for a registration certificate as if for the first
17 time.

18 The bill provides that the department may deny, suspend, or
19 revoke a certificate of registration if the contractor or an officer,
20 partner, director, stockholder, or agent of the contractor violates the
21 bill, certain labor laws, or takes certain other actions.

22 The bill requires the department to reject an application that is
23 incomplete or contains inaccurate information.

24 The department is not to revoke or suspend a certificate of
25 registration for longer than five years, and is required to take the
26 circumstances of the violation and past violations into account when
27 determining the length of a revocation or suspension.

28 The department may require as a condition of initial or continued
29 registration that a contractor who has violated either this act or the
30 prevailing wage law to provide a surety bond payable to the
31 department.

32 Following an investigation in which the department makes an
33 initial determination that a contractor has violated a provision of the
34 bill, the department may do any or all of the following:

35 (1) deny, suspend, or revoke a certificate of registration;

36 (2) require the posting of a surety bond; or

37 (3) impose an administrative penalty.

38 If a contractor's application for a certificate of registration is
39 denied or a contractor's certificate of registration is suspended or
40 revoked, the contractor shall not perform work for which a bid has
41 been submitted and which is under review.

42 A knowing violation of the bill is subject to a civil penalty of not
43 less than \$5,000 and not more than \$85,000 per violation. A
44 violation that is not a knowing violation is subject to a civil penalty
45 of not more than \$1,000 per violation. The department may bring a
46 civil action to enforce the bill, including an action for injunctive
47 relief to enjoin work by an unregistered contractor.