

**SENATE, No. 3117**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED APRIL 15, 2024

**Sponsored by:**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Applies certain public contract bid threshold amounts to pay to play and prevailing wage laws.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT coordinating threshold dollar amounts under certain laws  
2 concerning public contracts, prevailing wages, and campaign  
3 contributions, and amending P.L.2004, c.19, P.L.2005, c.271,  
4 P.L.1963, c.150, and P.L.1968, c.175.

5

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

8

9 1. Section 3 of P.L.2004, c.19 (C.19:44A-20.4) is amended to  
10 read as follows:

11 3. Notwithstanding the provisions of any other law to the  
12 contrary:

13 a county, or any agency or instrumentality thereof, shall not enter  
14 into a contract having an anticipated value in excess of **[\$17,500]**  
15 the local bid threshold, as determined in advance and certified in  
16 writing by the county, agency or instrumentality, with a business  
17 entity, except a contract that is awarded pursuant to a fair and open  
18 process, if, during the preceding one-year period, that business  
19 entity has made a contribution that is reportable by the recipient  
20 under P.L.1973, c.83 (C.19:44A-1 et seq.), to any candidate  
21 committee of any person serving in an elective public office of that  
22 county when the contract is awarded; and

23 a business entity that has entered into a contract having an  
24 anticipated value in excess of **[\$17,500]** the local bid threshold  
25 with a county, or any agency or instrumentality thereof, except a  
26 contract that is awarded pursuant to a fair and open process, shall  
27 not make such a contribution, reportable by the recipient under  
28 P.L.1973, c.83 (C.19:44A-1 et seq.), to any candidate committee of  
29 any person serving in an elective public office of that county when  
30 the contract is awarded, during the term of that contract.

31 No such committee shall accept such a contribution from a  
32 business entity during the term of its contract with the county.

33 Notwithstanding the provisions of any other law, rule, or  
34 regulation to the contrary, a contract having an anticipated value in  
35 excess of \$17,500 but below the applicable public bidding threshold  
36 shall not be required to be awarded by the governing body of a  
37 county, or any agency or instrumentality thereof, and may be  
38 awarded by the qualified purchasing agent of the contracting unit.

39 (cf: P.L.2023, c.30, s.11)

40

41 2. Section 4 of P.L.2004, c.19 (C.19:44A-20.5) is amended to  
42 read as follows:

43 4. Notwithstanding the provisions of any other law to the  
44 contrary:

**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 a municipality, or any agency or instrumentality thereof, shall  
2 not enter into a contract having an anticipated value in excess of  
3 **[\$17,500]** the local bid threshold, as determined in advance and  
4 certified in writing by the municipality, agency or instrumentality,  
5 with a business entity, except a contract that is awarded pursuant to  
6 a fair and open process, if, during the preceding one-year period,  
7 that business entity has made a contribution that is reportable by the  
8 recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any  
9 candidate committee of any person serving in an elective public  
10 office of that municipality when the contract is awarded; and

11 a business entity that has entered into a contract having an  
12 anticipated value in excess of **[\$17,500]** the local bid threshold  
13 with a municipality, or any agency or instrumentality thereof,  
14 except a contract that is awarded pursuant to a fair and open  
15 process, shall not make such a contribution, reportable by the  
16 recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any  
17 candidate committee of any person serving in an elective public  
18 office of that municipality when the contract is awarded, during the  
19 term of that contract.

20 No such committee shall accept such a contribution from a  
21 business entity during the term of its contract with the municipality.

22 Notwithstanding the provisions of any other law, rule, or  
23 regulation to the contrary, a contract having an anticipated value in  
24 excess of \$17,500 but below the applicable public bidding threshold  
25 shall not be required to be awarded by the governing body of a  
26 municipality, or any agency or instrumentality thereof, and may be  
27 awarded by the qualified purchasing agent of the contracting unit.  
28 (cf: P.L.2023, c.30, s.12)

29  
30 3. Section 6 of P.L.2004, c.19 (C.19:44A-20.7) is amended to  
31 read as follows:

32 6. As used in sections 2 through 12 of **[this act,]** P.L.2004,  
33 c.19 (C.19:44A-20.3 et seq.):

34 "business entity" means any natural or legal person, business  
35 corporation, professional services corporation, limited liability  
36 company, partnership, limited partnership, business trust,  
37 association or any other legal commercial entity organized under  
38 the laws of this State or of any other state or foreign jurisdiction;

39 "interest" means the ownership or control of more than 10% of  
40 the profits or assets of a business entity or 10% of the stock in the  
41 case of a business entity that is a corporation for profit, as  
42 appropriate;

43 "local bid threshold" means the bid threshold or threshold  
44 amount applicable to the contract at issue under the "Local Public  
45 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), or the  
46 "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-  
47 25.1);

1 "fair and open process" means, at a minimum, that the contract  
2 shall be: publicly advertised in newspapers or on the Internet  
3 website maintained by the public entity in sufficient time to give  
4 notice in advance of the contract; awarded under a process that  
5 provides for public solicitation of proposals or qualifications and  
6 awarded and disclosed under criteria established in writing by the  
7 public entity prior to the solicitation of proposals or qualifications;  
8 and publicly opened and announced when awarded. A contract  
9 awarded under a process that includes public bidding or competitive  
10 contracting pursuant to the "Local Public Contracts Law," P.L.1971,  
11 c.198 (C.40A:11-1 et seq.) shall constitute a fair and open process.  
12 The decision of a public entity as to what constitutes a fair and open  
13 process shall be final.

14 "State agency in the Legislative Branch" means the Legislature  
15 of the State and any office, board, bureau or commission within or  
16 created by the Legislative Branch.

17 (cf: P.L.2023, c.30, s.13)

18

19 4. Section 2 of P.L.2005, c.271 (C.19:44A-20.26) is amended  
20 to read as follows:

21 2. a. **【**Not later than 10 days prior to entering into any contract  
22 having an anticipated value in excess of \$17,500, except for a  
23 contract that is required by law to be publicly advertised for bids, a**】**

24 (1) A State agency, 【county, municipality, independent  
25 authority,】 or board of education, 【or fire district】 not later than 10  
26 days prior to entering into any contract having an anticipated value  
27 in excess of \$17,500, except for a contract that is required by law to  
28 be publicly advertised for bids; and

29 (2) a contracting unit, as defined in section 2 of the "Local  
30 Public Contracts Law," P.L.1971, c.198 (C.40A:11-2), or a county  
31 college, as defined in section 2 of P.L.1982, c.189 (C.18A:64A-25.2),  
32 not later than 10 days prior to entering into any contract having an  
33 anticipated value in excess of the local bid threshold, except for a  
34 contract that is required by law to be publicly advertised for bids:

35 shall require any business entity bidding thereon or negotiating  
36 therefor, to submit along with its bid or price quote, a list of  
37 political contributions as set forth in this subsection that are  
38 reportable by the recipient pursuant to the provisions of P.L.1973,  
39 c.83 (C.19:44A-1 et al.) and that were made by the business entity  
40 during the preceding 12-month period, along with the date and  
41 amount of each contribution and the name of the recipient of each  
42 contribution. A business entity contracting with a State agency  
43 shall disclose contributions to any candidate committee of a  
44 candidate for, or holder of, a State elective office, or any continuing  
45 political committee. A business entity contracting with a county,  
46 municipality, independent authority, other than an independent  
47 authority that is a State agency, board of education, or fire district  
48 shall disclose contributions to: any candidate committee of a

1 candidate for, or holder of, an elective office of that public entity,  
2 of that county in which that public entity is located, of another  
3 public entity within that county, or of a legislative district in which  
4 that public entity is located or, when the public entity is a county, of  
5 any legislative district which includes all or part of the county, or  
6 any continuing political committee.

7 The provisions of this section shall not apply to a contract when  
8 a public emergency requires the immediate delivery of goods or  
9 services.

10 b. When a business entity is a natural person, a contribution by  
11 that person's spouse or child, residing therewith, shall be deemed to  
12 be a contribution by the business entity. When a business entity is  
13 other than a natural person, a contribution by any person or other  
14 business entity having an interest therein shall be deemed to be a  
15 contribution by the business entity. When a business entity is other  
16 than a natural person, a contribution by: all principals, partners,  
17 officers, or directors of the business entity or their spouses; any  
18 subsidiaries directly or indirectly controlled by the business entity;  
19 or any political organization organized under section 527 of the  
20 Internal Revenue Code that is directly or indirectly controlled by  
21 the business entity, other than a candidate committee, election fund,  
22 or political party committee, shall be deemed to be a contribution  
23 by the business entity.

24 c. As used in this section:

25 "business entity" means a for-profit entity that is a natural or  
26 legal person, business corporation, professional services  
27 corporation, limited liability company, partnership, limited  
28 partnership, business trust, association or any other legal  
29 commercial entity organized under the laws of this State or of any  
30 other state or foreign jurisdiction;

31 "interest" means the ownership or control of more than 10% of  
32 the profits or assets of a business entity or 10% of the stock in the  
33 case of a business entity that is a corporation for profit, as  
34 appropriate; **[and]**

35 "local bid threshold" means the bid threshold or threshold  
36 amount applicable to the contract at issue under the "Local Public  
37 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) .), or the  
38 "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-  
39 25.1); and

40 "State agency" means any of the principal departments in the  
41 Executive Branch of the State Government, and any division, board,  
42 bureau, office, commission or other instrumentality within or  
43 created by such department, the Legislature of the State and any  
44 office, board, bureau or commission within or created by the  
45 Legislative Branch, and any independent State authority,  
46 commission, instrumentality or agency.

47 d. Any business entity that fails to comply with the provisions  
48 of this section shall be subject to a fine imposed by the New Jersey

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1 Election Law Enforcement Commission in an amount to be  
2 determined by the commission which may be based upon the  
3 amount that the business entity failed to report.

4 (cf: P.L.2023, c.30, s.20)

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

7 2. As used in this act:

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

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

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

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

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

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

43 (b) The portion of the property or premises that is leased or  
44 subject to an agreement to be subsequently leased by the public  
45 body measures more than 20,000 square feet.

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

1 (7) "Workman" or "worker" includes laborer, mechanic, skilled  
2 or semi-skilled, laborer and apprentices or helpers employed by any  
3 contractor or subcontractor and engaged in the performance of  
4 services directly upon a public work, regardless of whether their  
5 work becomes a component part thereof, but does not include  
6 material suppliers or their employees who do not perform services  
7 at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25  
8 et seq.), contractors or subcontractors engaged in custom fabrication  
9 shall not be regarded as material suppliers.

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

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

19 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-  
20 56.25 et seq.) and the rules and regulations issued hereunder.

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

22 (a) In the case of any public work paid for in whole or in part out  
23 of the funds of a **【municipality in the State of New Jersey】**  
24 contracting unit, as defined in section 2 of the "Local Public  
25 Contracts Law," P.L.1971, c.198 (C.40A:11-2) , a board of  
26 education, as defined in N.J.S.18A:18A-2, or a county college, as  
27 defined in section 2 of P.L.1982, c.189 (C.18A:64A-25.2), or done  
28 on property or premises owned by a **【public body】** contracting unit,  
29 a board of education, or a county college or leased or to be leased  
30 by **【the municipality,** the dollar amount established for the then  
31 current calendar year by the commissioner through rules and  
32 regulations promulgated pursuant to the "Administrative Procedure  
33 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which amount shall be  
34 equal to \$9,850 on July 1, 1994 and which amount shall be adjusted  
35 on July 1 every five calendar years thereafter in direct proportion to  
36 the rise or fall in the average of the Consumer Price Indices for  
37 Urban Wage Earners and Clerical Workers for the New York  
38 metropolitan and the Philadelphia metropolitan regions as reported  
39 by the United States Department of Labor during the last full  
40 calendar year preceding the date upon which the adjustment is  
41 made**】** a contracting unit , a board of education, or a county college,  
42 the local bid threshold applicable to the contract at issue under the  
43 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et  
44 seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et  
45 seq., or the "County College Contracts Law," P.L.1982, c.189  
46 (C.18A:64A-25.1); and

1 (b) In the case of any public work other than a public work  
2 described in paragraph (a) of this subsection, an amount equal to  
3 \$2,000.

4 (12) "Custom fabrication" means:

5 (a) the fabrication of any of the following: plumbing, heating,  
6 cooling, ventilation or exhaust duct systems, mechanical insulation,  
7 or one or more signs in a project which cost a total of more than  
8 \$30,000 and are part of a project upon completion; or

9 (b) any other fabrication which is one or more entire modules or  
10 structures pre-fabricated to specifications for a particular project of  
11 public work with minimal construction work remaining other than  
12 installation, regardless of whether unforeseen construction work is  
13 required on the public work site to modify the custom fabricated  
14 item for the purpose of installation, for use in a project of public  
15 work or for use in a type or classification of a project of public  
16 work. "Custom fabrication" shall not include components or  
17 materials, such as structural steel members or precast concrete, or  
18 smaller prefabricated components.

19 (cf: P.L.2023, c.133)

20

21 6. Section 3 of P.L.1968, c.175 (C.18A:20-4.4) is amended to  
22 read as follows:

23 3. Every contract in excess of **[\$2,000.00]** the bid threshold  
24 applicable to the contract at issue under the "Public School Contracts  
25 Law," N.J.S.18A:18A-1 et seq., for any public work contracted for by  
26 a private party acting under an express agreement for subsequent lease  
27 by a board of education shall contain a provision stating the prevailing  
28 wage rate which can be paid (as determined pursuant to the applicable  
29 provisions of the "New Jersey Prevailing Wage Act" (P.L. 1963, c.  
30 150)) to the workmen employed in the performance of the contract,  
31 and the contract shall contain a stipulation that such workmen shall be  
32 paid not less than such prevailing wage rate. No board of education  
33 shall enter into any such agreement or understanding except upon the  
34 condition that such provision and stipulation shall be included in the  
35 contract; and no such agreement or understanding shall be valid or  
36 shall be honored by any board of education if such provision and  
37 stipulation are not included in the contract.

38 (cf: P.L.1968, c.175, s.3)

39

40 7. This act shall take effect immediately.

41

42

43

#### STATEMENT

44

45 This bill would revise the threshold amounts under the pay-to-  
46 play and prevailing wage laws for local contracting units and  
47 county colleges to make them the same as the threshold amount  
48 under the applicable local public contracting laws. The bill would



1 also revise the threshold amount under the prevailing wage law for  
2 boards of education to make it the same as the threshold amount  
3 under the public school contracting law.

4 Under current law, the governing bodies of counties,  
5 municipalities, and other contracting units subject to the “Local  
6 Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.) may  
7 award contracts below a certain dollar amount without public  
8 advertising for bids. The statutory bid threshold is \$17,500,  
9 however, a contracting unit that has appointed a “qualified  
10 purchasing agent” (QPA), can set the bid threshold at up to  
11 \$25,000, or the adjusted amount set by the Governor every five  
12 years to account for inflation. The Governor’s adjusted threshold  
13 amount currently allows contracting units that have appointed a  
14 QPA to set the bid threshold at up to \$40,000.

15 Current law with regard to county colleges provides that such  
16 colleges may award contracts without public advertising for bids if  
17 the contract amount is below \$25,000 or, if the contract is made,  
18 negotiated, and awarded by a contracting agent, at the adjusted  
19 amount set by the Governor every five years to account for  
20 inflation. The Governor’s adjusted threshold amount currently  
21 allows county colleges to set the bid threshold at up to \$35,000 for  
22 these contracts.

23 Current law with regard to boards of education provides that  
24 such boards may award contracts without public advertising for bids  
25 if the contract amount is below \$17,500, however, a board of  
26 education that has appointed a QPA, can set the bid threshold at up  
27 to \$25,000. A board of education may adopt higher threshold  
28 amounts set by the Governor every five years to account for  
29 inflation. The Governor’s adjusted threshold amount currently  
30 allows boards of education to set the bid threshold at up to \$29,000,  
31 and boards of education with a QPA at up to \$40,000.

32 The pay-to-play laws require contracts above \$17,500 to be  
33 awarded pursuant to a fair and open process. The "New Jersey  
34 Prevailing Wage Act" stipulates the payment of prevailing wage  
35 rates for workers on construction projects that are subsidized by  
36 public funds of over \$2,000, in the case of counties, county  
37 colleges, and boards of education, and an amount over \$15,444, in  
38 the case of municipalities.

39 The bill revises these pay-to-play and prevailing wage threshold  
40 amounts for contracting units and county colleges to be consistent  
41 with the applicable local public contract threshold amounts, and  
42 revises the prevailing wage threshold amount for boards of  
43 education to be consistent with the applicable local public contract  
44 threshold amounts.