

# SENATE, No. 354

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## STATE OF NEW JERSEY 218th LEGISLATURE

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator RONALD L. RICE**

**District 28 (Essex)**

### **SYNOPSIS**

Permits creation of local hire programs for public work contracts of political subdivisions.

### **CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT permitting the establishment of programs requiring the  
2 employment of local residents in public work projects, amending  
3 P.L.2009, c.313 and supplementing Title 52 of the Revised  
4 Statutes.

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

8  
9 1. (New section) For the purposes of sections 1 through 10 of  
10 this act:

11 “Apprentice” means an apprentice participating in a registered  
12 apprenticeship program which provides to each trainee combined  
13 classroom and on-the-job training under the direct and close  
14 supervision of a highly skilled worker in an occupation recognized  
15 as an apprenticeable trade, registered by the Office of  
16 Apprenticeship of the United States Department of Labor, and  
17 meeting the standards established by that office.

18 “Area Median Income” or “AMI” means unadjusted median  
19 income levels derived from the Department of Housing and Urban  
20 Development (“HUD”) on an annual basis for the geographical area  
21 of the political subdivision, adjusted solely for household size.

22 "Disadvantaged worker" means a local resident who resides in a  
23 census tract within the geographical area of the political subdivision  
24 which has a rate of unemployment in excess of 150% of the  
25 unemployment rate for the entire area of the political subdivision,  
26 or at the time of commencing work on a covered project, has a  
27 household income of less than 80% of the AMI, or faces or has  
28 overcome one or more of the following barriers to employment:  
29 being homeless; being a custodial single parent; receiving public  
30 assistance; having discontinued education prior to obtaining a high  
31 school diploma; participating in a vocational English as a second  
32 language program; or having a criminal record or other involvement  
33 with the criminal justice system.

34 “Governing body” means the governing body of the political  
35 subdivision and any office or agency of the political subdivision,  
36 and any office or agency of the body which has authority over  
37 public work, or contracts for public work, of the political  
38 subdivision.

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

42 "Public work" means any construction, reconstruction,  
43 demolition, alteration, custom fabrication, or repair work, or  
44 maintenance work, including painting and decorating, subject to the  
45 provisions of the “New Jersey Prevailing Wage Act,” P.L.1963,

**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 c.150 (C.34:11-56.25 et seq.), and done under contract and paid for  
2 in whole or in part out of the funds of a political subdivision, except  
3 work performed under a rehabilitation program. "Public work"  
4 shall also mean construction, reconstruction, demolition, alteration,  
5 custom fabrication, or repair work, subject to the provisions of the  
6 "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25  
7 et seq.), done on any property or premises, whether or not the work  
8 is paid for from public funds, if, at the time of the entering into of  
9 the contract, the property or premises is owned by the political  
10 subdivision or:

11 (1) Not less than 55% of the property or premises is leased by  
12 the political subdivision, or is subject to an agreement to be  
13 subsequently leased by the political subdivision; and

14 (2) The portion of the property or premises that is leased or  
15 subject to an agreement to be subsequently leased by the political  
16 subdivision measures more than 20,000 square feet.

17 "Project work hours" means the total hours worked on a  
18 construction contract by all apprentices and journey level workers,  
19 whether those workers are employed by the contractor or any  
20 subcontractor.

21

22 2. (New section) a. Notwithstanding any other provision of  
23 law to the contrary, the governing body of a political subdivision  
24 may establish by ordinance or resolution a program requiring local  
25 hiring and employment in public work contracts of the political  
26 subdivision in a manner consistent with the provisions of this act,  
27 after issuing to the public a written finding, based on its evaluation  
28 of the economic and demographic impact of public work contracts  
29 on the political subdivision and its residents, that the local hiring  
30 and employment program will serve the interests of the political  
31 subdivision by utilizing limited public funds in a manner that  
32 provides an economic stimulus within the political subdivision or  
33 assists in overcoming the adverse impact of historic discrimination.  
34 In the ordinance or resolution establishing the program, the  
35 governing body shall set mandatory minimum participation levels  
36 for local residents and disadvantaged workers as it determines are  
37 necessary to serve the interests of the political subdivision or  
38 overcome the adverse impact of historic discrimination, except that  
39 the mandatory minimum participation levels shall not exceed the  
40 levels indicated in subsections b. and c. of this section. The  
41 governing body may set the mandatory minimum participation  
42 levels lower than the levels indicated in those subsections for any  
43 particular trade based on factors including a finding that there are  
44 insufficient numbers of currently qualified and available local  
45 residents and disadvantaged workers, or trainees anticipated to be  
46 available, to enable contractors and subcontractors in that trade to  
47 fully satisfy the local hiring and employment requirements at the  
48 indicated levels. The decision by the governing body to require

1 local hiring and employment in a public work contract in a manner  
2 consistent with the provisions of this act shall not be deemed to  
3 unduly restrict competition if the governing body finds that the  
4 requirement is reasonably related to serving the interests of the  
5 political subdivision or overcoming the adverse impact of historic  
6 discrimination, and any bidder for the contract not agreeing to abide  
7 by the requirement shall not be regarded as a responsible bidder.

8 b. For any public work contract covered under the program, the  
9 following requirements regarding minimum mandatory participation  
10 levels for local residents and disadvantaged workers shall apply to  
11 each prime contractor and subcontractor that performs project work,  
12 with respect to project work actually performed by the prime  
13 contractor and work included under any subcontract, including all  
14 work performed by a subcontractor and all lower-tier subcontractors  
15 under the subcontract. A minimum mandatory participation level  
16 for employing local residents and disadvantaged workers on a  
17 project subject to this act may result in a reduction of work done by  
18 residents of this State who are not local residents or disadvantaged  
19 workers, but the minimum mandatory participation level shall not  
20 apply to the extent that its application would require the reduction  
21 of the amount of work done by workers who are not residents of the  
22 State. The minimum mandatory participation levels shall be the  
23 levels set by the governing body, but the levels set by the governing  
24 body shall not exceed the following minimum mandatory  
25 participation levels:

26 (1) For the first year the program is in effect, not less than 20%  
27 of all project work hours within each trade shall be performed by  
28 local residents, and not less than 10% of all project work hours  
29 within each trade shall be performed by disadvantaged workers;

30 (2) For the second year the program is in effect, not less than  
31 25% of all project work hours within each trade shall be performed  
32 by local residents, and not less than 12.5% of all project work hours  
33 within each trade shall be performed by disadvantaged workers;

34 (3) For the third year the program is in effect, not less than 30%  
35 of all project work hours within each trade shall be performed by  
36 local residents, and not less than 15% of all project work hours  
37 within each trade shall be performed by disadvantaged workers;

38 (4) For the fourth year the program is in effect, not less than  
39 35% of all project work hours within each trade shall be performed  
40 by local residents, and not less than 17.5% of all project work hours  
41 within each trade shall be performed by disadvantaged workers;

42 (5) For the fifth year the program is in effect, not less than 40%  
43 of all project work hours within each trade shall be performed by  
44 local residents, and 20% of all project work hours within each trade  
45 shall be performed by disadvantaged workers;

46 (6) For the sixth year the program is in effect, not less than 45%  
47 of all project work hours within each trade shall be performed by

1 local residents, and not less than 22.5% of all project work hours  
2 within each trade shall be performed by disadvantaged workers; and  
3 (7) For the seventh year the program is in effect, not less than  
4 50% of all project work hours within each trade shall be performed  
5 by local residents, and not less than 25% of all project work hours  
6 within each trade shall be performed by disadvantaged workers.  
7 c. On a project subject to this act, not less than 50% of the  
8 project work hours performed by apprentices within each trade shall  
9 be performed by local residents. Not less than 25% of project work  
10 hours performed by apprentices within each trade shall be  
11 performed by disadvantaged workers.  
12 d. The governing body shall, once before the end of the second  
13 year that the program is in effect, once before the end of the fourth  
14 year that the program is in effect, and once before the end of the  
15 sixth year that the program is in effect, evaluate the impact of the  
16 program's minimum mandatory participation levels required  
17 pursuant to subsections b. and c. of this section and the continued  
18 need for incentives provided pursuant to section 4 of this act. The  
19 governing body review shall determine whether there is, or will be,  
20 based on any relevant training and recruitment programs, a  
21 sufficient supply of qualified unemployed resident workers to meet  
22 required minimum mandatory participation levels for each year  
23 following the year of the review; assess the length of time required  
24 for each trade to develop a pool of qualified resident workers  
25 sufficient to support a minimum mandatory participation target;  
26 and, if necessary, propose amendments to reduce any minimum  
27 mandatory participation level by trade as determined to be  
28 necessary because of an insufficient supply of qualified resident  
29 workers. The governing body shall also report on the financial  
30 incentive program and make relevant findings and, if necessary,  
31 propose reducing or eliminating financial incentives. Promptly  
32 upon completion of a periodic review, the governing body shall  
33 make public a report setting forth its findings, determinations and  
34 any proposed amendments to the minimum mandatory participation  
35 level by trade and the financial incentive program. Prior to taking  
36 action on any proposed amendments, the governing body shall  
37 consult with a broad spectrum of relevant stakeholders, including  
38 community organizations, the Department of Labor and Workforce  
39 Development, contractors, building trade unions, and departments  
40 and agencies of the political subdivision, and provide the  
41 stakeholders an opportunity to respond to any amendments  
42 proposed by the governing body in connection with the review  
43 process. After reviewing any responses, the governing body shall,  
44 by resolution, make any necessary amendments for reductions in the  
45 minimum mandatory participation levels by trade and in financial  
46 incentive levels and the levels set by the amendments shall remain  
47 in effect until they are subsequently changed by the governing  
48 body.

1       3. (New section) The governing body of a political subdivision  
2 may provide one or more of the following mechanisms for  
3 contractors or subcontractors to receive conditional waivers from  
4 the local hiring and employment requirements on a project-specific  
5 basis:

6       a. The governing body may establish standards permitting  
7 contractors and subcontractors to accumulate credit hours for hiring  
8 and employing disadvantaged workers or other residents of the  
9 political subdivision to work on public work projects of other  
10 political subdivisions and apply those credit hours to contracts for  
11 covered projects to meet the applicable minimum mandatory hiring  
12 and employment requirements.

13       b. The governing body is authorized to negotiate and enter into  
14 direct entry agreements with apprenticeship programs that are  
15 registered with the Office of Apprenticeship of the United States  
16 Department of Labor and develop standards and procedures through  
17 which contractors and subcontractors may avoid assessments of the  
18 penalties provided by section 10 of this act by hiring and retaining,  
19 for the entire period of the contractor or subcontractor's work on  
20 the project, apprentices who enrolled through such direct entry  
21 agreements in the number and trades specified by the governing  
22 body. The standards and procedures shall allow avoidance of  
23 penalty assessments only in those cases in which the governing  
24 body has made a project-specific determination that compliance  
25 with local hiring and employment requirements would be  
26 impractical for that contractor or subcontractor. Direct entry  
27 agreements negotiated pursuant to this subsection shall:

- 28       (1) be enforceable contracts;  
29       (2) require apprenticeship programs to enroll a class of  
30 apprentices not less frequently than once every 365 days;  
31       (3) specify all admissions standards related to applicants'  
32 training and skills;  
33       (4) specify a minimum number of local residents and  
34 disadvantaged workers meeting those standards who shall be  
35 admitted in each class of apprentices; and  
36       (5) be on file with and be deemed permissible by the Office of  
37 Apprenticeship.

38       The governing body shall verify with the Office of  
39 Apprenticeship that the governing body-specified new apprentices  
40 are registered and active apprentices prior to issuing a release from  
41 penalties. The governing body shall report annually, by trade, the  
42 number of releases from penalties granted based on this subsection,  
43 the number of local residents enrolled as apprentices based on direct  
44 entry agreements, and the number of direct entry agreements in  
45 effect.

46  
47       4. (New section) a. A governing body establishing a local  
48 hiring and employment program pursuant to this act may negotiate

1 reciprocity agreements with other political subdivisions that  
2 maintain local hiring and employment programs, provided that  
3 those agreements advance the goals of this subsection. Any  
4 reciprocity agreement shall allow targeted workers in each political  
5 subdivision to utilize and benefit from local hiring and employment  
6 requirements and referral systems in the other political subdivision  
7 on the same terms as do the workers residing in that political  
8 subdivision. When a reciprocity agreement is in effect, residents of  
9 another political subdivision may be counted toward satisfaction of  
10 the local hiring and employment requirements of this act.

11 b. The governing body is authorized to engage its community-  
12 based partners in a workforce development system in which the  
13 political subdivision participates to assist with the recruitment and  
14 retention of targeted workers. The governing body shall, through  
15 the Workforce Investment Board for the service delivery area of  
16 which the political subdivision is a part, provide a forum for  
17 community members, community-based organizations, and  
18 representatives of all stakeholders affected by, or having an interest  
19 in, this act to exchange information and ideas and to advise the  
20 governing body staff concerning the operation and results of the act.

21 c. The governing body may establish financial and  
22 nonfinancial incentives for contractors and subcontractors who  
23 exceed the local hiring and employment requirements on a covered  
24 project. Any financial incentives provided on a covered project  
25 shall comply with the provisions of this act and shall not exceed one  
26 percent of the estimated cost of the project. If financial incentives  
27 are made available for a covered project, they shall be paid, only  
28 after a contractor or subcontractor has completed work on the  
29 project and the governing body has approved the contractor's or  
30 subcontractor's request for incentive payment. Subcontractors  
31 requesting incentive payments shall submit requests to the  
32 governing body through the prime contractor. Payment of  
33 subcontractor incentives shall be paid to the prime contractor for the  
34 benefit of the appropriate subcontractors. The prime contractor  
35 shall pay subcontractors within 10 days of receipt of financial  
36 incentives. Any cost to the political subdivision of implementing  
37 this act, including any incentive provided pursuant to this section,  
38 may be paid from the 0.5% share of public work contracts retained  
39 or transferred by the political subdivision pursuant to section 1 of  
40 P.L.2009, c.313 (C.52:38-7).

41  
42 5. (New section) For covered projects estimated to cost more  
43 than \$1,000,000, the prime contractor shall prepare and submit to  
44 the governing body for approval a local hiring and employment plan  
45 for the project. The local hiring and employment plan shall be a  
46 written plan for implementation of the requirements of this act,  
47 including an approximate timeframe for hiring and employment  
48 decisions of subcontractors, a description of the hiring processes to

1 be utilized by subcontractors, an estimate of the numbers of  
2 targeted workers needed from various referral sources and  
3 qualifications needed for those targeted workers, and a recruitment  
4 plan detailing an outreach strategy for candidates representative of  
5 local demographics. No payments shall be made until it has been  
6 verified in writing that the governing body has approved the prime  
7 contractor's local hiring and employment plan.

8  
9 6. (New section) This act shall not be construed as limiting  
10 contractors' or subcontractors' ability to assess qualifications of  
11 prospective workers and use those assessments to make hiring and  
12 retention decisions. No provision of this act shall be interpreted so  
13 as to require a contractor or subcontractor to employ a worker not  
14 qualified for the position in question, or to employ any particular  
15 worker.

16  
17 7. (New section) a. Every contract and bid application for  
18 performance of project work shall contain a provision describing  
19 the requirements of this act and a statement that compliance with  
20 those requirements shall be a material term and condition of the  
21 contract or bid application and binding upon all parties entering into  
22 the contract, and directly enforceable by the political subdivision.

23 b. Each contractor and subcontractor shall ensure that every  
24 subcontractor of the contractor or subcontractor agree to comply  
25 with applicable requirements of this act. All subcontractors shall  
26 agree as a term of participation on a covered project that the  
27 political subdivision shall have third party beneficiary rights under  
28 all contracts under which subcontractors are performing project  
29 work. Those third party beneficiary rights shall be limited to the  
30 right to enforce the requirements of this act directly against the  
31 subcontractors. Every subcontractor on a covered project shall be  
32 responsible for complying with the recordkeeping and reporting  
33 requirements set forth in this act.

34  
35 8. (New section) Each contractor and subcontractor shall keep,  
36 or cause to be kept, for a period of four years from the date of  
37 substantial completion of project work on a covered project,  
38 certified payroll and basic records, including time cards, tax forms,  
39 and superintendent and foreman daily logs, for all workers within  
40 each trade performing work on the covered project. The records  
41 shall include the name, address and social security number of each  
42 worker who worked on the covered project, his or her classification,  
43 a general description of the work each worker performed each day,  
44 the apprentice or journey-level status of each worker, daily and  
45 weekly number of hours worked, the self-identified race, gender,  
46 and ethnicity of each worker, whether or not the worker was a local  
47 resident or disadvantaged worker, and the referral source or method  
48 through which the contractor or subcontractor hired or retained that



1 worker for work on the covered project. The governing body may  
2 require additional records to be kept with respect to contractor or  
3 subcontractor compliance with this act. The governing body shall  
4 establish reporting procedures for contractors and subcontractors to  
5 submit to the governing body and the awarding department the  
6 records described above, for purposes of monitoring compliance  
7 with and effectiveness of this act and monitoring operation of the  
8 political subdivision's public construction sector for other valid  
9 purposes. All records submitted by the contractor or subcontractor  
10 shall be accompanied by a statement of compliance signed by an  
11 authorized representative of the contractor or subcontractor,  
12 indicating that the records are correct and complete.

13

14 9. (New section) a. From time to time and in its sole  
15 discretion, the governing body may monitor and investigate  
16 compliance of the contractor and subcontractors working on  
17 covered projects with the requirements of this act. The governing  
18 body shall have the right to engage in random inspections of job  
19 sites, subject to construction schedules and safety concerns. Each  
20 contractor and subcontractor shall allow representatives of the  
21 governing body, in the performance of their duties, to engage in  
22 random inspections of job sites and to have access to the employees  
23 of the contractor and subcontractor and the records required to be  
24 kept by this act.

25 b. The governing body shall establish an administrative  
26 procedure for the monitoring of compliance with this act and to  
27 address allegations of noncompliance. The governing body shall  
28 have sole authority over the administration of this procedure.

29 c. Except as prohibited by law, the governing body will make  
30 data collected under this act available on-line to the public in real-  
31 time and establish a process for members of the public to submit  
32 complaints regarding alleged violations of this act.

33 d. The governing body shall investigate all complaints filed by  
34 members of the public. The scope, methods, and conclusions of all  
35 such complaint-driven investigations shall be within the discretion  
36 of the governing body, with no right of the complaining party to  
37 determine the scope or methods of the investigation.

38 e. All contractors, subcontractors and relevant agencies of the  
39 political subdivision shall cooperate fully with the governing body  
40 in monitoring and compliance activities. The governing body may  
41 interview, either at the worksite or elsewhere, any witness who may  
42 have information related to a complaint.

43

44 10. (New section) a. A governing body establishing a local  
45 hiring and employment program pursuant to this act shall have the  
46 authority to seek for violations of this act all of the consequences  
47 imposed by or described in this act or the contract for a covered  
48 project. This authority shall include the power to assess liquidated

1 damages, assess damages for other violations of terms of this act,  
2 and seek debarment.

3 b. Any contractor or subcontractor who fails to satisfy local  
4 hiring and employment requirements established pursuant to this act  
5 that are applicable to project work hours performed by local  
6 residents shall pay, and if the failure is of a subcontractor, the  
7 contractor and subcontractor shall jointly and severally pay, to the  
8 political subdivision, an amount equal to the journeyman or  
9 apprentice prevailing wage rate, as applicable, as established by the  
10 provisions of the "New Jersey Prevailing Wage Act," P.L.1963,  
11 c.150 (C.34:11-56.25 et seq.), for the primary trade used by the  
12 contractor or subcontractor on the covered project for each hour by  
13 which the contractor or subcontractor fell short of the local hiring  
14 and employment requirement. The assessment of penalties under  
15 this section shall not preclude the political subdivision from  
16 exercising any other rights or remedies to which it is entitled.  
17 Penalties under this section shall be imposed only upon an  
18 investigation by the governing body and upon written notice to the  
19 contractor or subcontractor identifying the grounds for the penalty,  
20 and providing the contractor or subcontractor with the opportunity  
21 to respond in a hearing.

22 c. The governing body shall withhold any penalties assessed as  
23 provided in this section until either the contractor or subcontractor  
24 has conceded to the penalties or, in the event of an objection, there  
25 is a determination no longer subject to judicial review. The  
26 governing body shall then deposit the amounts withheld into a  
27 special account which shall be created for the sole purpose of  
28 receiving those funds. The funds deposited into this account shall  
29 be used to support the enforcement of this act and the further  
30 development of workforce development initiatives to train and  
31 prepare local residents for careers in construction.

32 d. Violations of this act for which penalties or other remedies  
33 are not specified above constitute violations of contract terms, for  
34 which the full range of remedies under the contract may be invoked,  
35 including but not limited to withholding of progress payments in  
36 amounts deemed proportional to the violation. The governing body  
37 shall comply with and implement damages claims and other  
38 noncompliance consequences assessed or required by the governing  
39 body.

40

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

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

1 2009," Pub.L.111-5, the public body entering into the contract shall  
2 transfer an amount equal to one half of one percent (0.5%) of the  
3 portion of the contract amount funded by funds of the public body,  
4 or provided to the public body pursuant to the "American Recovery  
5 and Reinvestment Act of 2009," Pub.L.111-5, to the Department of  
6 Labor and Workforce Development, except that any Statewide  
7 authority which enters into the contract and administers a program  
8 which meets the requirements of this section may retain all or a  
9 portion of the 0.5% share of the funds under the contract as is  
10 necessary for the operation of the program, but shall transfer to the  
11 department any portion of the funds not necessary for the program,  
12 and except that funds shall not be transferred or retained pursuant to  
13 this section if the transfer or retaining of the funds is contrary to  
14 any federal requirement and may result in the loss of federal funds.  
15 For a project in which federal and State funds are combined, the  
16 entire amount may be transferred or retained from the State portion  
17 of the funds if doing so is necessary to prevent any loss of federal  
18 funds. A political subdivision may elect, but is not required, to  
19 transfer to the department or retain, for any one or more of the  
20 purposes indicated in subsection b. of this section or for the purpose  
21 of providing incentives or otherwise facilitating a local hiring and  
22 employment program pursuant to section 4 of P.L. , c. (C. )  
23 (pending before the Legislature as this bill), an amount equal to one  
24 half of one percent (0.5%) of the portion of any public work  
25 contract of the political subdivision.

26 b. The department, political subdivision or authority shall use  
27 the transferred or retained funds to provide on-the-job or off-the-job  
28 outreach and training programs for minority group members and  
29 women in construction trade occupations or other occupations,  
30 including engineering and management occupations, utilized in the  
31 performance of public works contracts. The programs funded  
32 pursuant to this subsection, shall include, but not be limited to,  
33 programs preparing minority group members and women for  
34 admission into registered apprenticeships with opportunities for  
35 long-term employment in construction trades providing economic  
36 self-sufficiency for the minority group members and women, with  
37 priority given, with respect to the funds from a contract used for  
38 apprenticeship programs or apprenticeship-related programs, to  
39 trades utilized in that contract, and shall include programs providing  
40 supportive services to help facilitate successful completion of any  
41 apprenticeship or other training assisted pursuant to this section.  
42 The department or authority shall use funds transferred or retained  
43 pursuant to this section to provide grants to implement such  
44 programs to consortia which include those community-based  
45 organizations, faith-based organizations, labor organizations,  
46 employers, contractors and trade organizations, institutions of  
47 higher education, and schools and other local public agencies which  
48 the department or authority determines are best able to facilitate

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

23 c. The Department of the Treasury, and the Division of  
24 Contract Compliance and Equal Employment Opportunities in  
25 Public Contracts in that department, shall provide, and make  
26 available to the public on the Internet, an annual report, not later  
27 than December 31 of 2010 and each year after that year, which shall  
28 list all public works contracts subject to this act and report, for each  
29 public works contract, the percentage and amount of funds withheld  
30 and provided to programs funded pursuant to this section and the  
31 numbers and percentages of apprentices and other workers under  
32 each contract who are of minority group members and women. The  
33 Department of Labor and Workforce Development shall, not later  
34 than December 31 of 2010 and each year after that year, provide an  
35 annual report, which shall also be made available to the public on  
36 the Internet, on all of the programs funded pursuant to this section,  
37 which shall include, for each program, data regarding the  
38 performance results of minority group members and women  
39 participating in the programs, including outcome measures detailing  
40 employment placement, increased earnings and employment  
41 retention, as those terms are used in the federal Workforce  
42 Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.),  
43 and shall include data regarding enrollment into registered  
44 apprentice programs and results regarding their retention in long-  
45 term employment. Public bodies and political subdivisions entering  
46 into public works contracts subject to the provisions of this section,  
47 including Statewide authorities, and the Department of the Treasury  
48 shall provide such information to the Department of Labor and

1 Workforce Development and the Department of the Treasury as the  
2 departments deem necessary for the purposes of this section.

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

22 (cf: P.L.2009, c.313, s.1)

23  
24 12. This act shall take effect immediately.

## 25 26 27 STATEMENT

28  
29 This bill authorizes any political subdivision of the State to  
30 establish a program requiring local hiring and employment in public  
31 work contracts of the political subdivision, after issuing a written  
32 finding that the local hiring and employment program will serve the  
33 interests of the political subdivision by utilizing limited public  
34 funds in a manner that provides economic stimulus or will help to  
35 overcome the adverse impact of historic discrimination. The bill  
36 permits the governing body of the political subdivision to set  
37 mandatory minimum participation levels for the hiring and  
38 employment of local residents and local disadvantaged workers as it  
39 determines to be necessary to serve the interests of the political  
40 subdivision or overcome the adverse impact of historic  
41 discrimination, subject to the following conditions:

42 1. For the first year the program is in effect, not less than 20%  
43 of all project work hours within each trade shall be performed by  
44 local residents, and not less than 10% of all project work hours  
45 within each trade shall be performed by disadvantaged workers;

46 2. The percentage of project work hours for local residents and  
47 disadvantaged workers shall increase, in equal increments over

1 seven years, to a mandatory participation level of not less than 50%  
2 by local residents, and not less than 25% by disadvantaged workers;

3 3. Not less than 50% of the project work hours performed by  
4 apprentices within each trade shall be performed by local residents,  
5 and not less than 25% by disadvantaged workers;

6 4. The governing body is directed, before the end of the  
7 second, fourth and sixth years that the program is in effect, to  
8 evaluate the impact of the program's minimum mandatory  
9 participation levels and the continued need for financial incentives,  
10 to determine whether the minimum mandatory participation levels  
11 should be reduced because of an insufficient supply of qualified  
12 unemployed resident workers; to assess the length of time required  
13 for each trade to develop a pool of qualified resident workers  
14 sufficient to support a minimum mandatory participation target; and  
15 propose any needed amendments for reductions in the participation  
16 levels; and

17 5. The minimum mandatory participation levels for hiring and  
18 employing local residents and disadvantaged workers on a project  
19 established pursuant to this act may result in a reduction of work  
20 done by residents of this State who are not local residents or  
21 disadvantaged workers, but the minimum mandatory participation  
22 level shall not apply to the extent that its application would require  
23 the reduction of the amount of work done by workers who are not  
24 residents of the State.

25 The governing body may set the mandatory minimum  
26 participation levels lower than the indicated levels for any particular  
27 trade based on factors including a finding that there are insufficient  
28 numbers of currently qualified and available local residents and  
29 disadvantaged workers or trainees anticipated to be available, to  
30 enable contractors and subcontractors in that trade to fully satisfy  
31 the local hiring requirements.

32 The bill permits the governing body to provide one or more of  
33 the following pipeline and retention compliance mechanisms for  
34 contractors or subcontractors to receive conditional waivers from  
35 the local participation requirements on a project-specific basis:

36 1. Establish standards permitting contractors and  
37 subcontractors to accumulate credit hours for hiring disadvantaged  
38 workers or other residents of the political subdivision to work on  
39 public work projects of other political subdivisions and apply those  
40 credit hours to contracts for covered projects to meet applicable  
41 hiring requirements.

42 2. Permit a contractor or subcontractor to avoid the assessment  
43 of penalties for failing to meet applicable participation requirements  
44 by demonstrating the impracticality of complying with requirements  
45 for a particular contract or class of employees and negotiating direct  
46 entry agreements with registered apprenticeship programs in which  
47 the governing body specifies that a number of new apprentices will

1 be hired and retained for the entire period of a contractor's or  
2 subcontractor's work on the project.

3 For covered projects estimated to cost more than \$1,000,000, the  
4 prime contractor is required to prepare and submit to the governing  
5 body for approval a local hiring plan for the project.

6 The bill permits a governing body establishing a local hiring  
7 program to negotiate reciprocity agreements with other political  
8 subdivisions that maintain local hiring programs, engage its  
9 community-based partners in a workforce development system in  
10 which the political subdivision participates to assist with the  
11 recruitment and retention of targeted workers, and establish  
12 financial and nonfinancial incentives for contractors and  
13 subcontractors who exceed the local participation requirements on a  
14 covered project, not exceeding one percent of the estimated cost of  
15 the project. Any cost to the political subdivision of implementing  
16 this bill, including the cost of any incentive, may be paid from the  
17 0.5% share of public work contracts retained or transferred by the  
18 political subdivision pursuant to section 1 of P.L.2009, c.313  
19 (C.52:38-7), the law requiring the set aside of an amount equal to  
20 0.5% of the value of public work contracts for the recruitment and  
21 training of women and minorities in the construction industry.

22 Finally, the bill amends that law to permit political subdivisions  
23 to elect whether to participate in the set aside program, to elect  
24 whether to retain the set aside funds for their own local use, and to  
25 elect whether to use the funds for the hiring incentives provided by  
26 the bill.