

ASSEMBLY COMMITTEE SUBSTITUTE FOR
**ASSEMBLY, No. 1571 and ASSEMBLY,
No. 1576**

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JANUARY 25, 2021

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Co-Sponsored by:

Assemblywoman Swain, Assemblymen Tully, Verrelli and Conaway

SYNOPSIS

Imposes prevailing wage for public work on properties receiving tax abatements or exemptions.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Committee.



(Sponsorship Updated As Of: 3/1/2021)

1 AN ACT concerning prevailing wage requirements for public work
2 on certain properties receiving tax abatements or exemptions and
3 amending P.L.1963, c.150.
4

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

7
8 1. Section 2 of P.L.1963, c.150 (34:11-56.26) is amended as
9 follows:

10 2. As used in this act:

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

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

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

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

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

42 (a) The property or premises is owned by the public body;

43 (b) A public body has provided, approved or authorized a tax
44 abatement or tax exemption for the property or premises, unless the
45 property or premises is, as the property of a nonprofit organization,

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 exempt from taxation pursuant to R.S.54:4-3.6 and is not subject to
2 the provisions of section 1 of P.L.1979, c.303 (C.34:1B-5.1) or the
3 provisions of P.L.2004, c.127 (C.5:12-161.3 et al.); or

4 **[(a)]** (i) Not less than **[55%]** 35 percent of the property or
5 premises is leased by a public body, or is subject to an agreement to
6 be subsequently leased by the public body; and

7 **[(b)]** (ii) The portion of the property or premises that is leased
8 or subject to **[an]** the agreement to be subsequently leased by the
9 public body measures more than 20,000 square feet.

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

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

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

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

30 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-
31 56.25 et seq.) and the rules and regulations issued hereunder.

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

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

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

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

13
14 2. Section 3 of P.L.1963, c.150 (34:11-56.27) is amended as
15 follows:

16 3. Every contract in excess of the prevailing wage contract
17 threshold amount for any public work to which any public body is a
18 party, or which is paid for in whole or in part out of the funds of a
19 public body, or for public work to be done on property or premises
20 which is owned by a public body, or for which a public body
21 provides, approves or authorizes a tax abatement or tax exemption
22 for a property or premises other than a property or premises which
23 is, as the property or premises of a nonprofit organization, exempt
24 from taxation pursuant to R.S.54:4-3.6 and is not subject to the
25 provisions of section 1 of P.L.1979, c.303 (C.34:1B-5.1) or the
26 provisions of P.L.2004, c.127 (C.5:12-161.3 et al.), or which is
27 leased or to be leased by a public body, shall contain a provision
28 that in the event it is found that any worker, employed by the
29 contractor or any subcontractor covered by said contract, has been
30 paid a rate of wages less than the prevailing wage required to be
31 paid by such contract, the public body, the lessee to whom the
32 public body is leasing a property or premises or the lessor from
33 whom the public body is leasing or will be leasing a property or
34 premises may terminate the contractor's or subcontractor's right to
35 proceed with the work, or such part of the work as to which there
36 has been a failure to pay required wages and to prosecute the work
37 to completion or otherwise. The contractor and his sureties shall be
38 liable for any excess costs occasioned thereby to the public body,
39 any lessee to whom the public body is leasing a property or
40 premises or any lessor from whom the public body is leasing or will
41 be leasing a property or premises.

42 (cf: P.L.2007, c.68, s.2)

43
44 3. This act shall take effect immediately.