

ASSEMBLY, No. 1576

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Co-Sponsored by:

Assemblywoman Murphy and Assemblyman Conaway

SYNOPSIS

Expands circumstances under which prevailing wage must be paid.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/8/2021)

1 AN ACT concerning prevailing wage and amending P.L.1963, c.150
2 and P.L.1979, c.303.

3

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

6

7 1. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
8 read as follows:

9 1. The New Jersey Economic Development Authority shall
10 adopt rules and regulations requiring that not less than the
11 prevailing wage rate be paid to workers employed in the
12 performance of any construction contract, including contracts for
13 millwork fabrication, undertaken in connection with authority
14 financial assistance or any of its projects, those projects which it
15 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
16 undertaken to fulfill any condition of receiving authority financial
17 assistance, including the performance of any contract to construct,
18 renovate or otherwise prepare a facility for operations which are
19 necessary for the receipt of authority financial assistance, **[unless**
20 **the]** including work performed **[under the contract is performed]**
21 on a facility owned by a landlord of the entity receiving the
22 assistance **[and less than 55% of the facility]** that is leased by the
23 entity at the time of the contract and under any agreement to
24 subsequently lease the facility. The prevailing wage rate shall be
25 the rate determined by the Commissioner of Labor and Workforce
26 Development pursuant to the provisions of P.L.1963, c.150
27 (C.34:11-56.25 et seq.). For the purposes of this section, "authority
28 financial assistance" means any loan, loan guarantee, grant,
29 incentive, tax exemption or other financial assistance that is
30 approved, funded, authorized, administered or provided by the
31 authority to any entity and is provided before, during or after
32 completion of a project, including but not limited to, all authority
33 financial assistance received by the entity pursuant to the "Business
34 Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124
35 et al.) that enables the entity to engage in a construction contract,
36 but this section shall not be construed as requiring the payment of
37 the prevailing wage for construction commencing more than two
38 years after an entity has executed with the authority a commitment
39 letter regarding authority financial assistance and the first payment
40 or other provision of the assistance is received.
41 (cf: P.L.2007, c.245, s.1)

42

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

45 2. As used in this act:

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

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

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

18 (4) "Public body" means the State of New Jersey, any of its
19 political subdivisions, any authority created by the Legislature of
20 the State of New Jersey and any instrumentality or agency of the
21 State of New Jersey or of any of its political subdivisions.

22 (5) "Public work" means construction, reconstruction,
23 demolition, alteration, custom fabrication, or repair work, or
24 maintenance work, including painting and decorating, done under
25 contract and paid for in whole or in part out of the funds of a public
26 body, except work performed under a rehabilitation program.
27 "Public work" shall also mean construction, reconstruction,
28 demolition, alteration, custom fabrication, or repair work, done on
29 any property or premises, whether or not the work is paid for from
30 public funds, if, at the time of the entering into of the contract the
31 property or premises is owned by the public body or:

32 (a) **【Not less than 55% of the】** The property or premises is
33 leased by a public body, or is subject to an agreement to be
34 subsequently leased by the public body; and

35 (b) The portion of the property or premises that is leased or
36 subject to an agreement to be subsequently leased by the public
37 body measures more than **【20,000】** 10,000 square feet.

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

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

1 (8) "Work performed under a rehabilitation program" means
2 work arranged by and at a State institution primarily for teaching
3 and upgrading the skills and employment opportunities of the
4 inmates of such institutions.

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

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

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

13 (a) In the case of any public work paid for in whole or in part
14 out of the funds of a municipality in the State of New Jersey or
15 done on property or premises owned by a public body or leased or
16 to be leased by the municipality, the dollar amount established for
17 the then current calendar year by the commissioner through rules
18 and regulations promulgated pursuant to the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which
20 amount shall be equal to \$9,850 on July 1, 1994 and which amount
21 shall be adjusted on July 1 every five calendar years thereafter in
22 direct proportion to the rise or fall in the average of the Consumer
23 Price Indices for Urban Wage Earners and Clerical Workers for the
24 New York metropolitan and the Philadelphia metropolitan regions
25 as reported by the United States Department of Labor during the
26 last full calendar year preceding the date upon which the adjustment
27 is made; and

28 (b) In the case of any public work other than a public work
29 described in paragraph (a) of this subsection, an amount equal to
30 \$2,000.

31 (12) "Custom fabrication" means the fabrication of plumbing,
32 heating, cooling, ventilation or exhaust duct systems, and
33 mechanical insulation.

34 (cf: P.L.2009, c.249, s.1)

35
36 3. This act shall take effect on the 30th day next following
37 enactment.

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39

40 STATEMENT

41

42 This bill expands the circumstances under which the prevailing
43 wage must be paid with regard to a property that is or will be leased
44 by a public body.

45 Pursuant to current law, the prevailing wage must be paid on
46 most construction that is considered public work. Public work is
47 construction done on any property, whether or not the work is paid

1 for from public funds, if, at the time of the entering into of the
2 contract the property is owned by a public body or:

3 (1) not less than 55 percent of the property is or will be leased
4 by a public body; and

5 (2) the portion of the property that is or will be leased measures
6 more than 20,000 square feet.

7 This bill lowers the threshold for leased property being subject to
8 the prevailing wage. Under the bill, prevailing wage applies to
9 work if the property is or will be leased by a public body and the
10 portion of the property that is or will be leased measures more than
11 10,000 square feet.

12 The bill also lowers the threshold for being subject to the
13 prevailing wage so that all properties leased by public bodies that
14 receive funds from the Economic Development Authority are
15 subject to the prevailing wage.