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SENATE, No. 972

STATE OF NEW JERSEY
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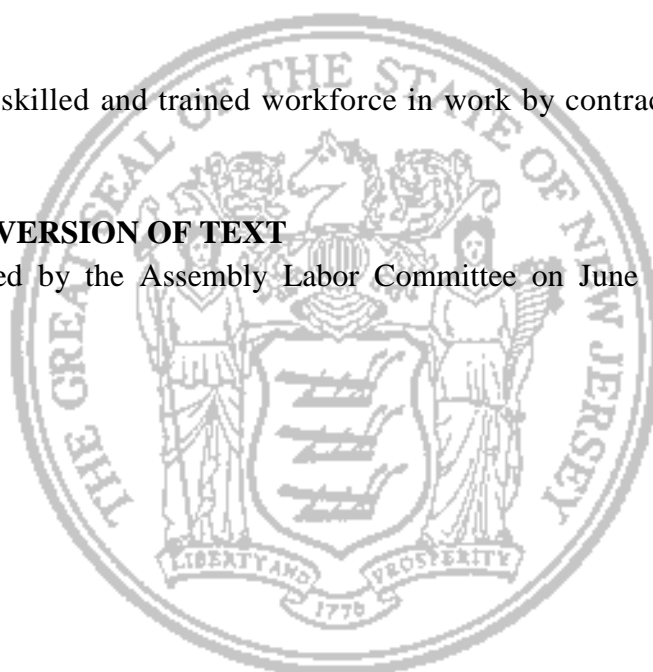
Assemblymen Caputo and Benson

SYNOPSIS

Concerns skilled and trained workforce in work by contractors in certain industries.

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on June 15, 2020, with amendments.



(Sponsorship Updated As Of: 6/29/2020)

1 AN ACT concerning a skilled and trained workforce in construction
 2 work by contractors in certain high-risk chemical manufacturing
 3 and processing facilities and supplementing article 2B of chapter
 4 11 of Title 34 of the Revised Statutes.

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

8
 9 1. The Legislature finds and declares that:

10 a. The use of unskilled and untrained workers at chemical
 11 manufacturing and processing facilities that generate, store, treat,
 12 handle, refine, process, and transport hazardous materials is a risk
 13 to public health and safety, and the risk to public health and safety
 14 is particularly high when workers are employed by outside
 15 contractors because they generally are less familiar with the
 16 operations of the facility and its emergency plans and the owner or
 17 operator of the facility has less incentive to invest in their training.

18 b. Requiring that workers employed by outside contractors at
 19 these facilities be paid at least at a rate equivalent to the prevailing
 20 journeyperson wage for their occupations, or be registered in
 21 approved apprenticeship programs, is necessary to provide an
 22 economic incentive for employers to use only the most skilled
 23 workers to perform work that poses a risk to public health and
 24 safety. The wage scale is also necessary to provide an economic
 25 incentive for the workers to obtain the mandatory advanced safety
 26 training required by section 3 of P.L. , c. (C.) (pending before
 27 the Legislature as this bill).

28 c. Requiring that apprentices be registered in approved
 29 advanced safety training is necessary to ensure that these workers
 30 are receiving the proper training and on-the-job supervision and that
 31 the programs are subject to proper oversight.

32 d. The requirement that at least 60 percent of the
 33 journeypersons working for a contractor be graduates of an
 34 approved apprenticeship program is necessary to ensure that the
 35 majority of the journeypersons will have had appropriate classroom
 36 and laboratory instruction for their occupations. A phase-in for this
 37 requirement will avoid disruption of the industry.

38
 39 2. As used in this act:

40 "Apprenticeship program" means a registered apprenticeship
 41 program providing to each trainee combined classroom and on-the-
 42 job training under the direct and close supervision of a highly
 43 skilled worker in an occupation recognized as an apprenticeable
 44 trade, registered by the Office of Apprenticeship of the U.S.
 45 Department of Labor.

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted June 15, 2020.

1 “Approved advanced safety training for workers at high hazard
2 facilities” means a curriculum approved by the State Office of
3 Apprenticeship pursuant to section 4 of this act.

4 “Labor organization” means an organization which represents,
5 for purposes of collective bargaining, employees of contractors or
6 subcontractors engaged in contracting subject to the provisions of
7 subsection a. of section 3 of P.L. , c. (C.) (pending before
8 the Legislature as this bill), and has the present ability to refer,
9 provide or represent ¹a¹ sufficient number of qualified employees to
10 perform the contracted work in a manner consistent with the
11 provisions of P.L. , c. (C.) (pending before the Legislature
12 as this bill) and a plan mutually agreed upon by the labor
13 organization and the owner or operator.

14 ¹“OEM” means original equipment manufacturer and refers to
15 organizations who manufacture or fabricate equipment for sale
16 directly to purchasers or other resellers.¹

17 “Prevailing hourly wage rate” means the prevailing hourly wage
18 rate set for the applicable occupation and geographic area pursuant
19 to the "New Jersey Prevailing Wage Act," P.L.1963, c.150
20 (C.34:11-56.25 et seq.).

21 “Registered apprentice” means an apprentice registered in an
22 apprenticeship program who is performing work covered by the
23 standards of that apprenticeship program and receiving the
24 supervision required by the standards of that apprenticeship
25 program.

26 “Skilled journeyperson” means a worker who:

27 a. Has either graduated from an apprenticeship program for the
28 applicable occupation, or has at least as many hours of on-the-job
29 experience in the applicable occupation as would be required to
30 graduate from an apprenticeship program for the applicable
31 occupation; and

32 b. Has completed within the prior two calendar years at least
33 20 hours of approved advanced safety training for workers at high
34 hazard facilities, including approved advanced safety training that
35 occurred in an approved apprenticeship program. This requirement
36 shall apply only to work performed on or after January 1, 2025.

37 “Skilled and trained workforce” means a workforce that meets
38 all of the following criteria:

39 a. ¹(1)¹ All the workers shall, as of January 1, 2021, be paid
40 ¹at least 80 percent of¹ the applicable prevailing hourly wage rate,
41 and shall be either registered apprentices or skilled journeypersons;
42 ¹**[and]**

43 (2) All the workers shall, as of January 1, 2022, be paid at least
44 85 percent of the applicable prevailing hourly wage rate, and shall
45 be either registered apprentices or skilled journeypersons;

1 (3) All the workers shall, as of January 1, 2023, be paid at least
2 90 percent of the applicable prevailing hourly wage rate, and shall
3 be either registered apprentices or skilled journeypersons; and

4 (4) All the workers shall, as of January 1, 2024, be paid the
5 applicable prevailing hourly wage rate, and shall be either
6 registered apprentices or skilled journeypersons.¹

7 b. All the workers have, as of January 1, 2025, completed
8 within the prior two calendar years at least 20 hours of approved
9 advanced safety training for workers at high hazard facilities.

10 c. (1) As of January 1, 2021, at least 30 percent of the skilled
11 journeypersons shall be graduates of an apprenticeship program for
12 the applicable occupation.

13 (2) As of January 1, 2022, at least ¹~~45~~ 40¹ percent of the
14 skilled journeypersons shall be graduates of an apprenticeship
15 program for the applicable occupation.

16 (3) As of January 1, 2023, at least ¹~~60~~ 50¹ percent of the
17 skilled journeypersons shall be graduates of an apprenticeship
18 program for the applicable occupation ¹~~1~~¹.

19 (4) ¹As of January 1, 2024, at least 60 percent of the skilled
20 journeypersons shall be graduates of an apprenticeship program for
21 the applicable occupation.

22 (5)¹ As of January 1, 2025, all of the workers shall have
23 completed within the prior two calendar years at least 20 hours of
24 approved advanced safety training for workers at high hazard
25 facilities,

26 except that the requirements of this subsection c. shall not apply
27 to the extent that the contractor requests qualified workers from a
28 labor organization that refers or provides qualified workers, but the
29 organization is unable to refer or provide sufficient qualified
30 workers within 48 hours of the request, Saturdays, Sundays, and
31 Holidays excepted, and shall not apply to the extent that compliance
32 is impracticable because an emergency requires immediate action to
33 prevent harm to public health or safety or to the environment, but
34 the criteria shall again apply as soon as the emergency is over or it
35 becomes practicable for contractors to obtain a qualified workforce.

36 “State Office of Apprenticeship” means the Office of
37 Apprenticeship in the State Department of Labor and Workforce
38 Development. “The State Office of Apprenticeship” does not mean
39 the Office of Apprenticeship in the United States Department of
40 Labor.

41
42 3. a. An owner or operator of a stationary source that is
43 engaged in activities described in Code 324110, 325110, 325180, or
44 325199 of the North American Industry Classification System, as
45 that code read on January 1, 2017, and has one or more covered
46 processes for which the owner or operator is required to prepare and
47 submit a Risk Management Plan, shall, when contracting with

1 outside contractors for the performance of construction, alteration,
2 demolition, installation, repair, or maintenance work at the
3 stationary source, require that the contractors performing the work,
4 and any subcontractors of the contractors, use a skilled and trained
5 workforce to perform all onsite work which is in an apprenticeable
6 occupation in the building and construction trades. The
7 requirement to use a skilled and trained workforce shall apply to the
8 onsite workforce of each contractor and subcontractor.

9 b. This section shall not apply to:

10 (1) Oil and gas extraction operations, and shall not apply to any
11 contract awarded before January 1, 2021, unless the contract is
12 extended or renewed after that date, and shall not apply to the
13 employees of the owner or operator of the stationary source, or
14 prevent the owner or operator of the stationary source from using its
15 own employees to perform any work that has not been assigned to
16 contractors while the employees of the contractor are present and
17 working; ¹~~or~~¹

18 (2) Any owner or operator, or contractor or subcontractor of the
19 owner or operator, who has entered into a project labor agreement
20 ¹or collectively bargained maintenance agreement¹ with labor
21 organizations with registered apprenticeship programs, if all
22 contracted work at the facility or site subject to the provisions of
23 this section is also subject to the provisions of the project labor
24 agreement ¹or collectively bargained maintenance agreement; or

25 (3) Contractors or subcontractors hired to perform OEM work
26 for purposes of compliance with equipment warranty requirements¹.

27
28 4. The State Office of Apprenticeship, in consultation with the
29 Department of Environmental Protection and the Commission on
30 Higher Education, shall approve a curriculum of in-person
31 classroom and laboratory instruction for approved advanced safety
32 training for workers at high hazard facilities. That safety training
33 shall be included in any apprenticeship program for apprentices
34 who will work for contractors or ¹~~subcontractor~~¹ subcontractors¹
35 at a stationary source subject to the provisions of this act, and shall
36 be made available for employees of the contractors or
37 subcontractors who had become skilled journeypersons before the
38 training was included in their apprenticeship program. ¹The State
39 Office of Apprenticeship shall be empowered to consider existing
40 industry and trade safety programs for compatibility and fulfillment
41 of requirements under this section.¹

42
43 5. For the purpose of implementing the provisions of sections 1
44 through 4 of P.L. , c. (C.) (pending before the Legislature as
45 this bill), the Commissioner of Labor and Workforce Development
46 shall, and a worker employed in the performance of work subject to
47 this act, the employer of the worker, or any designated

1 representative of the worker or employer may, exercise all rights,
2 powers or duties granted or imposed upon them by P.L.1963, c.150
3 (C.34:11-56.25 et seq.).

4

5 6. This act shall take effect on the 120th day following
6 enactment.