

[First Reprint]

SENATE, No. 3414

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 4, 2021

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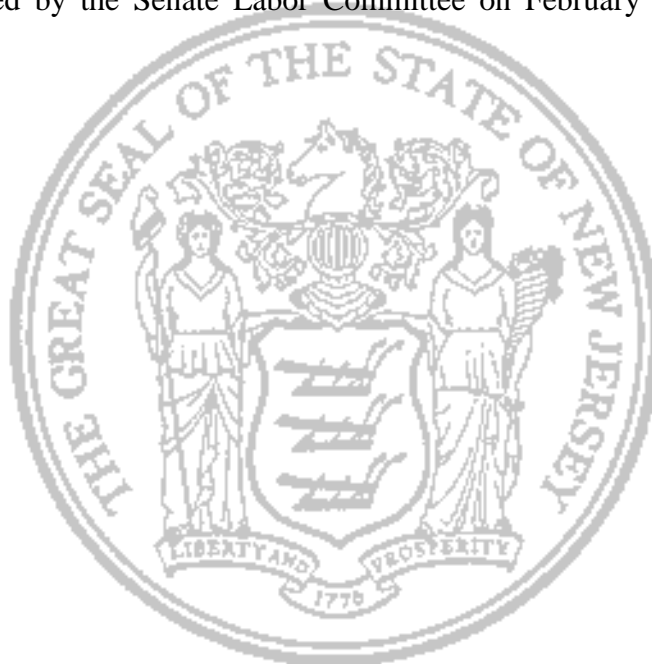
Senator Pou

SYNOPSIS

Promotes workforce diversity in public works projects; revises “public works projects” definition to permit project labor agreements for more projects.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee on February 11, 2021, with amendments.



(Sponsorship Updated As Of: 2/17/2021)

1 AN ACT expanding opportunity in project labor agreements and
 2 amending P.L.2002, c.44.

3
 4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 5 *of New Jersey:*

6
 7 1. Section 2 of P.L.2002, c.44 (C.52:38-2) is amended to read
 8 as follows:

9 2. For the purposes of this act:

10 "Apprenticeship program" means a registered apprenticeship
 11 program providing to each trainee combined classroom and on-the-
 12 job training under the direct and close supervision of a highly
 13 skilled worker in an occupation recognized as an apprenticeable
 14 trade, and registered by the **【Bureau】** Office of Apprenticeship
 15 **【and Training】** of the U.S. Department of Labor and meeting the
 16 standards established by the **【bureau】** office, or registered by a
 17 State apprenticeship agency recognized by the **【bureau】** office.

18 "Disadvantaged community" means a census block group, as
 19 determined in accordance with the most recent United States
 20 Census, in which:

21 (1) at least 35 percent of the households are low-income
 22 households;

23 (2) at least 40 percent of the residents are minority group
 24 members or members of a State-recognized tribal community; or

25 (3) at least 40 percent of the households have limited English
 26 proficiency.

27 "Labor organization" means, with respect to a contracted work
 28 on a public works project, an organization which represents, for
 29 purposes of collective bargaining, employees involved in the
 30 performance of public works contracts and eligible to be paid
 31 prevailing wages under the "New Jersey Prevailing Wage Act",
 32 P.L.1963, c.150 (C.34:11-56.25 et seq.) and has the present ability to
 33 refer, provide or represent sufficient numbers of qualified
 34 employees to perform the contracted work, in a manner consistent
 35 with the provisions of this act and an y plan mutually agreed upon
 36 by the labor organization and the public entity pursuant to
 37 subsection g. of section 5 of this act.

38 "Low-income household" means a household that is at or below
 39 twice the poverty threshold as that threshold is determined annually
 40 by the United States Census Bureau.

41 "Political subdivision" means any county, municipality, school
 42 district or other political subdivision of the State of New Jersey or
 43 any instrumentality or agency of the political subdivision.

44 "Project labor agreement" means a form of pre-hire collective
 45 bargaining agreement covering terms and conditions of a specific
 46 project.

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:

¹Senate SLA committee amendments adopted February 11, 2021.

1 "Public entity" means the State, any of its political subdivisions,
2 any authority created by the Legislature and any instrumentality or
3 agency of the State or of any of its political subdivisions.

4 "Public works project" means any public works project for [the]
5 construction, reconstruction, demolition or renovation [of buildings
6 at the public expense, other than pumping stations or water or
7 sewage treatment plants,] for which:

8 (1) It is required by law that workers be paid the prevailing
9 wage determined by the Commissioner of Labor and Workforce
10 Development pursuant to the provisions of the "New Jersey
11 Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

12 (2) The public entity estimates that the total cost of the project,
13 exclusive of any land acquisition costs, will equal or exceed \$5
14 million.

15 (cf: P.L.2002, c.44, s.2)

16
17 2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read
18 as follows:

19 3. A public entity may include a project labor agreement in a
20 public works project on a project-by-project basis, if the public
21 entity determines, taking into consideration the size, complexity and
22 cost of the public works project, that, with respect to that project the
23 project labor agreement will meet the requirements of section 5 of
24 this act, including promoting labor stability and advancing the
25 interests of the public entity in cost, efficiency, skilled labor force,
26 quality, safety and timeliness, and, in the case of a public entity
27 which is a political subdivision, promotes employment of residents
28 of the political subdivision. If the public entity determines that a
29 project labor agreement will meet those requirements with respect
30 to a particular public works project, the public entity shall either:
31 directly negotiate in good faith a project labor agreement with one
32 or more labor organizations; or condition the award of a contract to
33 a construction manager upon a requirement that the construction
34 manager negotiate in good faith a project labor agreement with one
35 or more labor organizations. Upon the request of the public entity,
36 the Commissioner of Labor shall assist in facilitating the
37 negotiation of the project labor agreement. The decision by the
38 public entity to require the inclusion of a project labor agreement
39 requirement shall not be deemed to unduly restrict competition if
40 the public entity finds that the project labor agreement is reasonably
41 related to the satisfactory performance and completion of the public
42 works project, and any bidder for the public works project refusing
43 to agree to abide by the conditions of the project labor agreement or
44 the requirement to negotiate a project labor agreement shall not be
45 regarded as a responsible bidder. Upon the request of the public
46 entity, the Commissioner of Labor shall review the finalized project
47 labor agreement and provide to the public entity, not more than 30
48 calendar days after the agreement is submitted to the commissioner

1 by the public entity, a written advisory statement regarding whether
2 the project labor agreement conforms with the provisions of this
3 act.

4 (cf: P.L.2002,c.44, s.3)

5
6 3. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to read as
7 follows:

8 5. Each project labor agreement executed pursuant to the
9 provisions of this act shall:

10 a. Advance the interests of the public entity, including the
11 interests in cost, efficiency, quality, timeliness, skilled labor force, and
12 safety;

13 b. Contain guarantees against strikes, lock-outs, or other similar
14 actions;

15 c. Set forth effective, immediate, and mutually binding
16 procedures for resolving jurisdictional and labor disputes arising
17 before the completion of the work;

18 d. Be made binding on all contractors and subcontractors on the
19 public works project through the inclusion of appropriate bid
20 specifications in all relevant bid documents;

21 e. Require that each contractor and subcontractor working on the
22 public works project have an apprenticeship program;

23 f. Fully conform to all statutes, regulations, executive orders and
24 applicable local ordinances regarding the implementation of set-aside
25 goals for women and minority owned businesses, the obligation to
26 comply with which shall be expressly provided in the project labor
27 agreement;

28 g. Include a publicly available plan regarding:

29 (1) the shares of employment and apprenticeship positions in the
30 public works project for minority group members, ~~members of~~
31 disadvantaged communities, and women which ~~is~~ are in full
32 conformance with the requirements of all applicable statutes,
33 regulations, executive orders and local ordinances and is mutually
34 agreed upon by the participating labor organizations and the public
35 entity which will own the facilities which are built, altered or repaired
36 under the public works project, provided that any shares mutually
37 agreed upon pursuant to this subsection shall equal or exceed the
38 requirements of other statutes, regulations, executive orders or local
39 ordinances; and

40 (2) all measures and programs to be undertaken to attain the goals
41 of paragraph (1) of this subsection regarding minority group members,
42 members of disadvantaged communities, and women, which may
43 include measures giving them priority in referral and placement from
44 the hiring halls of signatory unions, programs to provide on-the-job or
45 off-the-job outreach and training, and programs to provide incentives
46 ¹for¹, or otherwise facilitate, their hiring and employment;

47 h. Require the contract for the public works project to provide
48 whatever resources may be needed to prepare for apprenticeship a

1 number of women, members of disadvantaged communities, and
2 minority group members sufficient to enable compliance with the plan
3 agreed upon pursuant to subsection g. of this section and provide that
4 the use of those resources be administered jointly by the participating
5 labor organizations and the public entity or community-based
6 organizations selected by the public entity; and
7 i. Require the public body to monitor, or arrange to have a State
8 agency monitor, the amount and share of work done on the project by
9 minority group members, members of disadvantaged communities,
10 and women and the progression of minority group members, members
11 of disadvantaged communities, and women into apprentice and
12 journey worker positions, and require the public body to make public,
13 or have the State agency make public, all records of monitoring
14 conducted pursuant to this subsection.
15 (cf: P.L.2002, c.44, s.5)
16
17 4. This act shall take effect immediately.