

[Second Reprint]

SENATE, No. 3414

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 4, 2021

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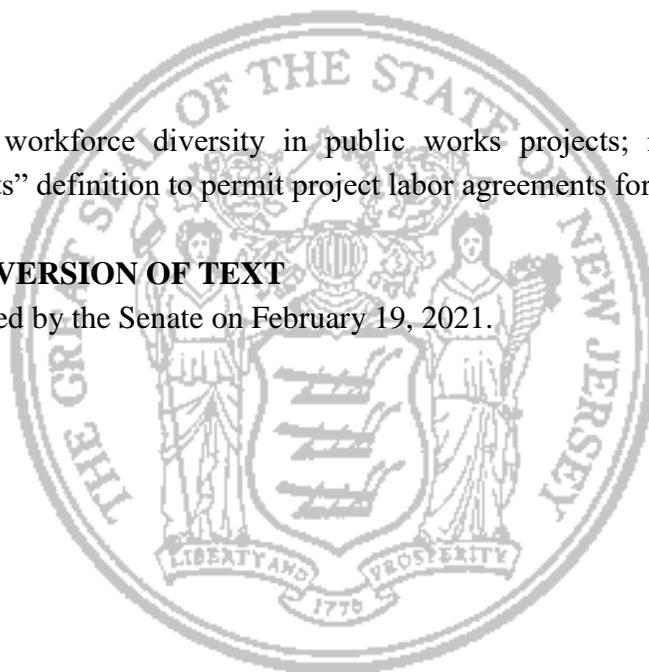
Senator Pou, Assemblywomen McKnight, Downey and Assemblyman Houghtaling

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 amended by the Senate on February 19, 2021.



(Sponsorship Updated As Of: 3/25/2021)

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.

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.

²Senate floor amendments adopted February 19, 2021.

1 "Project labor agreement" means a form of pre-hire collective
2 bargaining agreement covering terms and conditions of a specific
3 project.

4 "Public entity" means the State, any of its political subdivisions,
5 any authority created by the Legislature and any instrumentality or
6 agency of the State or of any of its political subdivisions.

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

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

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

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

19

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

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

1 entity, the Commissioner of Labor shall review the finalized project
2 labor agreement and provide to the public entity, not more than 30
3 calendar days after the agreement is submitted to the commissioner
4 by the public entity, a written advisory statement regarding whether
5 the project labor agreement conforms with the provisions of this
6 act.

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

8

9 ²3. Section 4 of P.L.2002, c.44 (C.52:38-4) is amended to read
10 as follows:

11 4. Any project labor agreement negotiated pursuant to this act
12 between the public entity or its representative or a construction
13 manager and one or more labor organizations shall be binding on all
14 contractors and subcontractors working on the public works project
15 and may include provisions that permit contractors and
16 subcontractors working on the public works project to retain a
17 percentage of their current workforce, and provisions that the
18 successful bidder and any subcontractor of the bidder need not be a
19 party to a labor agreement with the labor organizations other than
20 for the public works project covered by the project labor agreement.

21 Each project labor agreement shall stipulate that:

22 a. the provisions of the project labor agreement shall apply to
23 work done at construction sites of the public works project and shall
24 not apply to work done outside of those sites; and

25 b. if a union trust fund covered by the terms and conditions of
26 the project labor agreement has not adopted the building and
27 construction industry exemption authorized by subsection (b) of
28 section 4203 of the Employee Retirement Income Security Act of
29 1974 (29 U.S.C. 1383(b)), the signatory employers shall not be
30 obligated to hire employees covered by that fund.²

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

32

33 ²[3.] ²4. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to
34 read as follows:

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

37 a. Advance the interests of the public entity, including the
38 interests in cost, efficiency, quality, timeliness, skilled labor force, and
39 safety;

40 b. Contain guarantees against strikes, lock-outs, or other similar
41 actions;

42 c. Set forth effective, immediate, and mutually binding
43 procedures for resolving jurisdictional and labor disputes arising
44 before the completion of the work;

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

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

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

8 g. Include a publicly available plan regarding:

9 (1) the shares of employment and apprenticeship positions in the
10 public works project for minority group members, members of
11 disadvantaged communities, and women which **[is]** are in full
12 conformance with the requirements of all applicable statutes,
13 regulations, executive orders and local ordinances and is mutually
14 agreed upon by the participating labor organizations and the public
15 entity which will own the facilities which are built, altered or repaired
16 under the public works project, provided that any shares mutually
17 agreed upon pursuant to this subsection shall equal or exceed the
18 requirements of other statutes, regulations, executive orders or local
19 ordinances; and

20 (2) all measures and programs to be undertaken to attain the goals
21 of paragraph (1) of this subsection regarding minority group members,
22 members of disadvantaged communities, and women, which may
23 include measures giving them priority in referral and placement from
24 the hiring halls of signatory unions, programs to provide on-the-job or
25 off-the-job outreach and training, and programs to provide incentives
26 ¹for¹, or otherwise facilitate, their hiring and employment;

27 h. Require the contract for the public works project to provide
28 whatever resources may be needed to prepare for apprenticeship a
29 number of women, members of disadvantaged communities, and
30 minority group members sufficient to enable compliance with the plan
31 agreed upon pursuant to subsection g. of this section and provide that
32 the use of those resources be administered jointly by the participating
33 labor organizations and the public entity or community-based
34 organizations selected by the public entity; and

35 i. Require the public body to monitor, or arrange to have a State
36 agency monitor, the amount and share of work done on the project by
37 minority group members, members of disadvantaged communities,
38 and women and the progression of minority group members, members
39 of disadvantaged communities, and women into apprentice and
40 journey worker positions, and require the public body to make public,
41 or have the State agency make public, all records of monitoring
42 conducted pursuant to this subsection.

43 (cf: P.L.2002, c.44, s.5)

44
45 ²**[4.] 5.**² This act shall take effect immediately.