

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1404

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 1996

The Assembly Labor Committee reports favorably Assembly Bill No. 1404 with committee amendments.

As amended by the committee, this bill permits any contractor who unsuccessfully bids for a public works contract and whose bid is the lowest bid other than the winning bid to bring a court action as a plaintiff against the bidder who won the bid or the winning bidder's subcontractors based on violations of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or other applicable laws requiring payments in connection with the contract.

If the court finds that the winning bidder or a subcontractor of that bidder violated the laws and that the sum of the winning bid plus any additional payments that the violator or violators would have paid to be in full compliance with the laws is greater than the plaintiff's bid, the court is required to order the violator or violators to pay the reasonable attorney's fees of the plaintiff and the damages sustained by the plaintiff or triple damages, if the violation was intentional.

If the court determines that there was no violation, the plaintiff is required to pay the reasonable attorney's fees of the defendant.

The purpose of this bill is to give recourse for conscientious, law-abiding building contractors who are often underbid by unscrupulous competitors who fail to pay the wages, benefits or taxes required by law and undermine the health, safety and training standards needed to sustain appropriate quality levels in public works. The bill empowers the private sector to help ensure that required wages are paid in full, along with the associated unemployment insurance contributions, taxes and health benefits, therefore reducing State costs caused by uncompensated health care, lost taxes and contributions and substandard construction practices.

The amendments provide that only a bidder whose bid was the lowest bid other than the winning bid may bring an action under the bill and eliminate the provisions of the bill permitting multiple

plaintiffs. In addition, the amendments provide that the damages sustained by a plaintiff are equal to the plaintiff's cost of preparing a bid plus ten percent of the value of the portion of the contract awarded to the defendant.