

ASSEMBLY, No. 2088

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Assemblymen KELLY, DALTON, Assemblywoman Friscia,
Assemblymen R. Smith and Doria

1 AN ACT concerning project agreements with appropriate labor
2 organizations in connection with public works contracts.

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

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7 1. The Legislature finds and declares:

8 a. The United States Supreme Court held in Building & Constr.
9 Trades Council v. Associated Builders & Contractors of Mass./R.I.
10 Inc., 507 U.S. 218 (1993) that state and local governments are, when
11 acting as market participants, permitted under the National Labor
12 Relations Act (29 U.S.C. § 151 et seq.) to enforce project agreements
13 with labor organizations;

14 b. The Supreme Court commented in that case that the use of
15 project agreements "exemplifies" the purposes of the National Labor
16 Relations Act;

17 c. New Jersey has a compelling interest in carrying out public
18 works projects at the lowest reasonable cost and the highest degree of
19 quality;

20 d. New Jersey must ensure that labor disputes are resolved without
21 the disruptions of strikes, lock-outs, or slowdowns;

22 e. Project agreements provide legally enforceable guarantees that
23 projects will be carried out in an orderly and timely manner, without
24 strikes, lock-outs, or slowdowns;

25 f. Project agreements also provide for peaceful, orderly, and
26 mutually binding procedures for resolving labor issues;

27 g. The State also has a compelling interest in guaranteeing that
28 public works projects meet the highest standards of safety and quality;

29 h. A highly skilled workforce ensures lower costs over the lifetime
30 of the completed project for repairs and maintenance;

31 i. Project agreements provide the State with a guarantee that public
32 works projects are completed with highly skilled workers;

33 j. Project agreements allow public agencies to more accurately
34 predict the actual cost of projects;

35 k. Project agreements facilitate the efficient integration of work
36 schedules among different trades on project sites;

1 1. Project agreements also promote harmonious and productive
2 work environments;

3 m. New Jersey can best accomplish these goals by encouraging
4 project agreements between public works contractors and
5 subcontractors and the appropriate labor organizations concerning
6 important issues of employment, including work hours, starting times,
7 overtime rates, and procedures for resolving disputes; and

8 n. Project agreements, therefore, advance the interests of
9 efficiency, quality, and timeliness.

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11 2. For the purposes of this act:

12 "Appropriate labor organization" means, with respect to a
13 contracted work on a public works project, an organization which:

14 (1) Represents, for purposes of collective bargaining, employees
15 in one or more crafts or trades listed in N.J.A.C. 12:60-3.2;

16 (2) Has entered into one or more labor agreements with one or
17 more employers in the building and construction industry;

18 (3) Has represented employees employed in projects similar to the
19 public works project; and

20 (4) Has the present ability to refer, provide or represent sufficient
21 numbers of qualified employees in the crafts or trades required by the
22 contract to perform the contracted work.

23 "Public entity" means the State, any of its political subdivisions, any
24 authority created by the Legislature and any instrumentality or agency
25 of the State or of any of its political subdivisions.

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27 3. A public entity or its representative may enter into a project
28 agreement with one or more appropriate labor organizations. A public
29 entity may include a project agreement in a public works project on a
30 project-by-project basis, without limitation to the size, complexity or
31 cost of the public works project, if it is determined by the public entity
32 that the project agreement will promote labor stability and advance the
33 interests of the public body in cost, efficiency, quality, safety and
34 timeliness and a decision by the public entity to incorporate a project
35 agreement requirement will not be deemed to unduly restrict
36 competition if the public entity finds that the agreement is reasonably
37 related to the satisfactory performance and completion of the public
38 works project.

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40 4. Any negotiated project agreement between the public entity or
41 its representative with one or more appropriate labor organizations
42 shall be binding on all contractors and subcontractors on the public
43 works project and may include provisions that permit contractors and
44 subcontractors working on the public works project to retain a
45 percentage of their current workforce and provisions that the
46 successful bidder need not be a party to a labor agreement with the

1 appropriate labor organizations other than for the public works project
2 covered by the project agreement.

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4 5. Each project agreement executed pursuant to the provisions of
5 this act shall:

6 a. Advance the interests of the public entity, including the interests
7 in cost, efficiency, quality, timeliness, and safety;

8 b. Contain guarantees against strikes, lock-outs, or other similar
9 actions;

10 c. Set forth effective, immediate, and mutually binding procedures
11 for resolving jurisdictional and labor disputes arising before the
12 completion of the work;

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

16 e. Fully conform to all statutes, regulations and executive orders,
17 including Executive Order No. 84 of 1993, regarding the
18 implementation of set-aside goals for women and minority owned
19 businesses, the obligation to comply with which shall be expressly
20 provided in the project agreement.

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22 6. This act shall take effect immediately.

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25 STATEMENT

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27 This bill authorizes public entities to include project agreements in
28 appropriate public works projects. The public entity or its
29 representative may enter into project agreements with one or more
30 appropriate labor organizations.

31 Each project agreement entered into pursuant to the bill is required
32 to:

33 1. Advance the interests of the public entity, including the interests
34 in cost, efficiency, quality, timeliness, and safety;

35 2. Contain guarantees against strikes, lock-outs, or other similar
36 actions;

37 3. Set forth effective, immediate and mutually binding procedures
38 for resolving jurisdictional and labor disputes arising before the
39 completion of the work;

40 4. Be made binding on all contractors and subcontractors on the
41 public works project through the inclusion of appropriate bid
42 specifications in all relevant bid documents; and

43 5. Conform fully with all requirements of law regarding the
44 implementation of set-aside goals for women and minority owned
45 businesses.

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3 Concerns public works contracts and project agreements with labor

4 organizations.