

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2088, 1655 and 2089

STATE OF NEW JERSEY

ADOPTED JUNE 27, 1996

Sponsored by Assemblymen KELLY, DORIA, R. Smith,
Assemblywoman Friscia, and Assemblyman Dalton

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
21 without 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
32 public 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;

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

3 l. Project agreements also promote harmonious and productive
4 work environments;

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

10 n. Project agreements, therefore, advance the interests of
11 efficiency, quality, and timeliness.

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13 2. For the purposes of this act:

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

16 (1) Represents, for purposes of collective bargaining, employees
17 in one or more crafts or trades involved in the performance of public
18 work contracts and eligible to be paid prevailing wages under the
19 "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25
20 et seq.);

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

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

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

28 "Public entity" means the State, any of its political subdivisions,
29 any authority created by the Legislature and any instrumentality or
30 agency of the State or of any of its political subdivisions.

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

1 4. Any negotiated project agreement between the public entity or
2 its representative with one or more appropriate labor organizations
3 shall be binding on all contractors and subcontractors on the public
4 works project and may include provisions that permit contractors and
5 subcontractors working on the public works project to retain a
6 percentage of their current workforce and provisions that the
7 successful bidder need not be a party to a labor agreement with the
8 appropriate labor organizations other than for the public works project
9 covered by the project agreement.

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

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

15 b. Contain guarantees against strikes, lock-outs, or other similar
16 actions;

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

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

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

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28 6. This act shall take effect immediately.

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33 Concerns public works contracts and project agreements with labor
34 organizations.