

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 436

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 1996

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 436.

This bill, as amended by the committee, 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 (defendant) based on violations of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), or failure to pay any contribution, tax, assessment or benefit required by any other applicable law.

If the court finds that the winning bidder or a subcontractor of that bidder violated that law or failed to make any of those payments and the sum of the winning bid plus any additional payments that the violator would have paid to be in full compliance with those laws is greater than such unsuccessful bidder's bid, the court is required to order the violator or violators to pay the reasonable attorney's fees of such unsuccessful bidder and the damages sustained by him or triple damages, if the violation was intentional. Damages include the cost of preparing a bid plus 10% of the value of the portion of the contract awarded to the defendant.

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

The committee amendments: provide that only the unsuccessful bidder whose bid was the lowest bid other than the winning bid may bring an action under the bill; eliminate the provisions of the bill permitting multiple plaintiffs; and provide that the damages sustained by a plaintiff are equal to the plaintiff's cost of preparing the bid plus 10% of the value of the portion of the contract awarded to the defendant.

As reported by the committee, this bill is identical to Assembly, No. 1404 (1R).