

SENATE, No. 1255

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Senators SINAGRA and LESNIAK

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;

37 l. Project agreements also promote harmonious and productive

1 work environments;

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

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

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10 2. For the purposes of this act:

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

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

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

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

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

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

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

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

1 covered by the project agreement.

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

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

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

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

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

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

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21 6. This act shall take effect immediately.

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#### STATEMENT

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

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

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

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

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

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

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

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3 Concerns public works contracts and project agreements with labor  
4 organizations.