

SENATE, No. 1437

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senators SINAGRA, LaROSSA and Lesniak

1 AN ACT permitting project labor agreements in connection with
2 certain 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, because the use of project agreements
14 "exemplifies" the purposes of the National Labor Relations Act;

15 b. New Jersey has a compelling interest in carrying out public
16 works projects at the lowest reasonable cost and the highest standards
17 of safety and quality;

18 c. Project agreements provide the State with a guarantee that
19 public works projects are completed with highly skilled workers, thus
20 insuring lower costs over the lifetime of the completed project for
21 repairs and maintenance;

22 d. 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 and provide for peaceful, orderly, and
25 mutually binding procedures for resolving labor issues;

26 e. Project agreements allow public agencies to predict more
27 accurately the actual cost of projects, facilitate the efficient integration
28 of work schedules among different trades on project sites, and
29 promote harmonious and productive work environments;

30 f. New Jersey can best accomplish these goals, and advance the
31 interests of efficiency, quality, and timeliness, by encouraging project
32 agreements between public works contractors and subcontractors and
33 the appropriate labor organizations concerning important issues of
34 employment, including work hours, starting times, overtime rates, and
35 procedures for resolving disputes.

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37 2. For the purposes of this act:

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

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

5 (2) Has the present ability to refer, provide or represent sufficient
6 numbers of qualified employees in the crafts or trades required by the
7 contract to perform the contracted work;

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

10 (4) Has entered into one or more labor agreements with one or
11 more employers in the building and construction industry.

12 "Public entity" means the State, any of its political subdivisions, any
13 authority created by the Legislature and any instrumentality or agency
14 of the State or of any of its political subdivisions.

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16 3. A public entity or its representative may enter into a project
17 agreement with one or more appropriate labor organizations. A public
18 entity may include a project agreement in a public works project on a
19 project-by-project basis, without limitation to the size, complexity or
20 cost of the public works project, if it is determined by the public entity
21 that the project agreement will promote labor stability and advance the
22 interests of the public entity in cost, efficiency, quality, safety and
23 timeliness and a decision by the public entity to incorporate a project
24 agreement requirement will not be deemed to unduly restrict
25 competition if the public entity finds that the agreement is reasonably
26 related to the satisfactory performance and completion of the public
27 works project. Any negotiated project agreement between the public
28 entity or its representative with one or more appropriate labor
29 organizations shall be binding on all contractors and subcontractors on
30 the public works project and may include provisions that permit
31 contractors and subcontractors working on the public works project
32 to retain a percentage of their current workforce and provisions that
33 the successful bidder need not be a party to a labor agreement with the
34 appropriate labor organizations other than for the public works project
35 covered by the project agreement.

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

39 a. Advance the interests of the public entity, including the interests
40 of cost, efficiency, quality, timeliness, and safety;

41 b. Set forth effective, immediate, and mutually binding procedures
42 for resolving jurisdictional and labor disputes arising before the
43 completion of the work;

44 c. Be made binding on all contractors and subcontractors on the
45 public works project through the inclusion of appropriate bid
46 specifications in all relevant bid documents;

1 d. Contain guarantees against strikes, lock-outs, or other similar
2 actions in connection with work performed under the agreement; and

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

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9 5. This act shall take effect immediately.

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12 STATEMENT

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14 This bill authorizes public entities to include project agreements in
15 appropriate public works projects. The public entity or its
16 representative may enter into project agreements with one or more
17 appropriate labor organizations.

18 Each project agreement entered into pursuant to the bill is required
19 to:

20 1. Advance the interests of the public entity, including the interests
21 of cost, efficiency, quality, timeliness, and safety;

22 2. Set forth effective, immediate and mutually binding procedures
23 for resolving jurisdictional and labor disputes arising before the
24 completion of the work;

25 3. Be made binding on all contractors and subcontractors on the
26 public works project through the inclusion of appropriate bid
27 specifications in all relevant bid documents; and

28 4. Contain guarantees against strikes, lock-outs, or other similar
29 actions in connection with work performed under the agreement;

30 5. Conform fully with all requirements of law regarding the
31 implementation of set-aside goals for women and minority owned
32 businesses.

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37 Permits project labor agreements in public works contracts.