

P.L. 2021, CHAPTER 69, *approved April 30, 2021*  
Senate, No. 3414 (*Second Reprint*)

1    **AN ACT** expanding opportunity in project labor agreements and  
2       amending P.L.2002, c.44.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7       1.   Section 2 of P.L.2002, c.44 (C.52:38-2) is amended to read  
8 as follows:

9       2.   For the purposes of this act:

10       "Apprenticeship program" means a registered apprenticeship  
11 program providing to each trainee combined classroom and on-the-  
12 job training under the direct and close supervision of a highly  
13 skilled worker in an occupation recognized as an apprenticeable  
14 trade, and registered by the **【Bureau】** Office of Apprenticeship  
15 **【and Training】** of the U.S. Department of Labor and meeting the  
16 standards established by the **【bureau】** office, or registered by a  
17 State apprenticeship agency recognized by the **【bureau】** office.

18       "Disadvantaged community" means a census block group, as  
19 determined in accordance with the most recent United States  
20 Census, in which:

21       (1) at least 35 percent of the households are low-income  
22 households;

23       (2) at least 40 percent of the residents are minority group  
24 members or members of a State-recognized tribal community; or

25       (3) at least 40 percent of the households have limited English  
26 proficiency.

27       "Labor organization" means, with respect to a contracted work  
28 on a public works project, an organization which represents, for  
29 purposes of collective bargaining, employees involved in the  
30 performance of public works contracts and eligible to be paid  
31 prevailing wages under the "New Jersey Prevailing Wage Act",  
32 P.L.1963, c.150 (C.34:11-56.25 et seq.)and has the present ability to  
33 refer, provide or represent sufficient numbers of qualified  
34 employees to perform the contracted work, in a manner consistent  
35 with the provisions of this act and an y plan mutually agreed upon  
36 by the labor organization and the public entity pursuant to  
37 subsection g. of section 5 of this act.

38       "Low-income household" means a household that is at or below  
39 twice the poverty threshold as that threshold is determined annually  
40 by the United States Census Bureau.

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SLA committee amendments adopted February 11, 2021.

<sup>2</sup>Senate floor amendments adopted February 19, 2021.

1       "Political subdivision" means any county, municipality, school  
2 district or other political subdivision of the State of New Jersey or  
3 any instrumentality or agency of the political subdivision.

4       "Project labor agreement" means a form of pre-hire collective  
5 bargaining agreement covering terms and conditions of a specific  
6 project.

7       "Public entity" means the State, any of its political subdivisions,  
8 any authority created by the Legislature and any instrumentality or  
9 agency of the State or of any of its political subdivisions.

10       "Public works project" means any public works project for **[the]**  
11 construction, reconstruction, demolition or renovation **[of buildings**  
12 **at the public expense, other than pumping stations or water or**  
13 **sewage treatment plants,]** for which:

14       (1) It is required by law that workers be paid the prevailing  
15 wage determined by the Commissioner of Labor and Workforce  
16 Development pursuant to the provisions of the "New Jersey  
17 Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

18       (2) The public entity estimates that the total cost of the project,  
19 exclusive of any land acquisition costs, will equal or exceed \$5  
20 million.

21       (cf: P.L.2002, c.44, s.2)

22

23       2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read  
24 as follows:

25       3. A public entity may include a project labor agreement in a  
26 public works project on a project-by-project basis, if the public  
27 entity determines, taking into consideration the size, complexity and  
28 cost of the public works project, that, with respect to that project the  
29 project labor agreement will meet the requirements of section 5 of  
30 this act, including promoting labor stability and advancing the  
31 interests of the public entity in cost, efficiency, skilled labor force,  
32 quality, safety and timeliness, and, in the case of a public entity  
33 which is a political subdivision, promotes employment of residents  
34 of the political subdivision. If the public entity determines that a  
35 project labor agreement will meet those requirements with respect  
36 to a particular public works project, the public entity shall either:  
37 directly negotiate in good faith a project labor agreement with one  
38 or more labor organizations; or condition the award of a contract to  
39 a construction manager upon a requirement that the construction  
40 manager negotiate in good faith a project labor agreement with one  
41 or more labor organizations. Upon the request of the public entity,  
42 the Commissioner of Labor shall assist in facilitating the  
43 negotiation of the project labor agreement. The decision by the  
44 public entity to require the inclusion of a project labor agreement  
45 requirement shall not be deemed to unduly restrict competition if  
46 the public entity finds that the project labor agreement is reasonably  
47 related to the satisfactory performance and completion of the public  
48 works project, and any bidder for the public works project refusing

1 to agree to abide by the conditions of the project labor agreement or  
2 the requirement to negotiate a project labor agreement shall not be  
3 regarded as a responsible bidder. Upon the request of the public  
4 entity, the Commissioner of Labor shall review the finalized project  
5 labor agreement and provide to the public entity, not more than 30  
6 calendar days after the agreement is submitted to the commissioner  
7 by the public entity, a written advisory statement regarding whether  
8 the project labor agreement conforms with the provisions of this  
9 act.

10 (cf: P.L.2002,c.44, s.3)

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12 <sup>2</sup>3. Section 4 of P.L.2002, c.44 (C.52:38-4) is amended to read  
13 as follows:

14 4. Any project labor agreement negotiated pursuant to this act  
15 between the public entity or its representative or a construction  
16 manager and one or more labor organizations shall be binding on all  
17 contractors and subcontractors working on the public works project  
18 and may include provisions that permit contractors and  
19 subcontractors working on the public works project to retain a  
20 percentage of their current workforce, and provisions that the  
21 successful bidder and any subcontractor of the bidder need not be a  
22 party to a labor agreement with the labor organizations other than  
23 for the public works project covered by the project labor agreement.

24 Each project labor agreement shall stipulate that:

25 a. the provisions of the project labor agreement shall apply to  
26 work done at construction sites of the public works project and shall  
27 not apply to work done outside of those sites; and

28 b. if a union trust fund covered by the terms and conditions of  
29 the project labor agreement has not adopted the building and  
30 construction industry exemption authorized by subsection (b) of  
31 section 4203 of the Employee Retirement Income Security Act of  
32 1974 (29 U.S.C. 1383(b)), the signatory employers shall not be  
33 obligated to hire employees covered by that fund.<sup>2</sup>

34 (cf: P.L.2002, c.44, s.4)

35  
36 <sup>2</sup>[3.] <sup>2</sup>4. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to  
37 read as follows:

38 5. Each project labor agreement executed pursuant to the  
39 provisions of this act shall:

40 a. Advance the interests of the public entity, including the  
41 interests in cost, efficiency, quality, timeliness, skilled labor force, and  
42 safety;

43 b. Contain guarantees against strikes, lock-outs, or other similar  
44 actions;

45 c. Set forth effective, immediate, and mutually binding  
46 procedures for resolving jurisdictional and labor disputes arising  
47 before the completion of the work;

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

4 e. Require that each contractor and subcontractor working on the  
5 public works project have an apprenticeship program;

6 f. Fully conform to all statutes, regulations, executive orders and  
7 applicable local ordinances regarding the implementation of set-aside  
8 goals for women and minority owned businesses, the obligation to  
9 comply with which shall be expressly provided in the project labor  
10 agreement;

11 g. Include a publicly available plan regarding;

12 (1) the shares of employment and apprenticeship positions in the  
13 public works project for minority group members, members of  
14 disadvantaged communities, and women which **[is]** are in full  
15 conformance with the requirements of all applicable statutes,  
16 regulations, executive orders and local ordinances and is mutually  
17 agreed upon by the participating labor organizations and the public  
18 entity which will own the facilities which are built, altered or repaired  
19 under the public works project, provided that any shares mutually  
20 agreed upon pursuant to this subsection shall equal or exceed the  
21 requirements of other statutes, regulations, executive orders or local  
22 ordinances; and

23 (2) all measures and programs to be undertaken to attain the goals  
24 of paragraph (1) of this subsection regarding minority group members,  
25 members of disadvantaged communities, and women, which may  
26 include measures giving them priority in referral and placement from  
27 the hiring halls of signatory unions, programs to provide on-the-job or  
28 off-the-job outreach and training, and programs to provide incentives  
29 <sup>1</sup>for<sup>1</sup>, or otherwise facilitate, their hiring and employment;

30 h. Require the contract for the public works project to provide  
31 whatever resources may be needed to prepare for apprenticeship a  
32 number of women, members of disadvantaged communities, and  
33 minority group members sufficient to enable compliance with the plan  
34 agreed upon pursuant to subsection g. of this section and provide that  
35 the use of those resources be administered jointly by the participating  
36 labor organizations and the public entity or community-based  
37 organizations selected by the public entity; and

38 i. Require the public body to monitor, or arrange to have a State  
39 agency monitor, the amount and share of work done on the project by  
40 minority group members, members of disadvantaged communities,  
41 and women and the progression of minority group members, members  
42 of disadvantaged communities, and women into apprentice and  
43 journey worker positions, and require the public body to make public,  
44 or have the State agency make public, all records of monitoring  
45 conducted pursuant to this subsection.

46 (cf: P.L.2002, c.44, s.5)

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48 <sup>2</sup>**[4.]** 5.<sup>2</sup> This act shall take effect immediately.

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2  
3 Promotes workforce diversity in public works projects; revises  
4 “public works projects” definition to permit project labor  
5 agreements for more projects.