

ASSEMBLY, No. 4630

STATE OF NEW JERSEY 219th LEGISLATURE

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Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Concerns labor harmony agreements in retail and distribution center projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2021)

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1 AN ACT regarding labor harmony agreements in connection with
2 retail and distribution center projects and supplementing Title 52
3 of the Revised Statutes.

4

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

7

8 1. The Legislature hereby finds and declares that:

9 a. The State, through its investment in development projects
10 has a significant and ongoing economic interest in the financial
11 viability and competitiveness of those projects and their role in
12 promoting the vital sectors of the State's economy;

13 b. Major development projects with large retail establishments
14 and distribution centers, and the supply chain that ensures their
15 goods arrive on time and in good condition, provide essential
16 goods, services, and jobs for local residents, stimulate local
17 economies, and are a vital economic engine that provides revenue
18 for our communities and promotes vibrant downtowns and financial
19 stability;

20 c. There are labor organizations in New Jersey that represent
21 many retail and distribution center workers, and that actively
22 engage in organizing activities to unionize additional retail and
23 distribution center establishments in the State, which may include
24 strikes, pickets, boycotts, and other economic activity during labor
25 disputes;

26 d. New Jersey and other public bodies in the State have a
27 compelling interest in preventing disruptive labor disputes in
28 connection with projects in which the public bodies have
29 proprietary interests as investors, owners, or financiers; and

30 e. Labor harmony agreements make possible legally
31 enforceable guarantees that projects will be carried out in an orderly
32 and timely manner, without strikes, lock-outs, or slowdowns, thus
33 protecting the State's interest in these projects by promoting
34 harmonious and productive work environments.

35

36 2. As used in this section:

37 "Contractor" means a business entering into a contract or
38 agreement to undertake a covered retail or distribution project, or to
39 serve as the owner or operator of any facility, including but not
40 limited to a retail establishment or distribution center, that is part of
41 a covered retail or distribution project, or to provide services
42 integral to the operations of the covered retail or distribution project
43 or the facilities.

44 "Commissioner" means the Commissioner of Labor and
45 Workforce Development.

46 "Covered retail or distribution project" or "covered project"
47 means a project undertaken pursuant to an agreement entered into

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1 after the effective date of this act between a public body and a
2 contractor in which:

3 a. one or more retail establishments or distribution centers are
4 part of the project;

5 b. the public body has a proprietary interest in the project or in
6 a retail establishment or distribution center in the project; and

7 c. the project includes at least one retail establishment which
8 will have more than 10 employees, or at least one distribution
9 center which will have more than 20 employees.

10 "Distribution center" means a warehouse, distribution center,
11 sortation facility, fulfillment center, or any other building stocked
12 with products or goods to be redistributed to retailers, to
13 wholesalers, or directly to consumers.

14 "Labor harmony agreement" means an agreement between a
15 contractor and one or more labor organizations, which requires, for
16 the duration of the agreement, that any participating labor
17 organization and its members agree to refrain from picketing, work
18 stoppages, boycotts, or other economic interference against the
19 contractor.

20 "Proprietary interest" means an economic and non-regulatory
21 interest of a public body in the economic or financial success of a
22 covered retail or distribution project, or the success of any facility
23 in the project, including a retail establishment or distribution center,
24 that could be adversely affected by labor-management conflict,
25 including, but not limited to, the interest of the public body as a
26 financier, investor, lessee, lessor, operator, or owner of the project,
27 facility, or property on which the project or facility is located, or as
28 the provider or facilitator of financial assistance to or for the
29 project, facility, or property, whether by direct loan or grant, or by a
30 guarantee, subsidy, deposit, credit enhancement or similar method,
31 and any interest of a public body derived from the ongoing receipt
32 by the public body of revenues from the project or facilities of the
33 project.

34 "Public body" means the State of New Jersey, any of its political
35 subdivisions, and any authority, instrumentality, or agency of the
36 State or of any of its political subdivisions, or any other entity
37 authorized to conduct economic development activity on behalf of a
38 public body.

39 "Retail establishment" means any retail store selling goods
40 primarily to members of the general public.

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42 3. a. Except as provided in subsection c. of this section, no
43 public body shall enter into any contract or agreement under which
44 the public body has a proprietary interest in a covered project unless
45 the contract or agreement includes a precondition that the contractor
46 and all subcontractors of the contractor enter into a labor harmony
47 agreement with a labor organization which represents retail or
48 distribution center employees in the State. The public body shall,

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1 prior to entering into the contract or agreement, provide written
2 disclosure to the contractor and any subcontractors of all
3 requirements of this act relevant to the contract or agreement. If it
4 is required that contractors submit bids or other proposals to be
5 considered for the agreement or contract, the public body shall
6 provide the written disclosure to each prospective bidder or other
7 contractor as part of the specifications for bidding or otherwise
8 seeking the contract or agreement for the project. The contractor or
9 subcontractor shall incorporate the terms of the labor harmony
10 agreement in any contract, subcontract, lease, sublease, operating
11 agreement, concessionaire agreement, franchise agreement, or other
12 agreement or instrument giving a right to any person or entity to
13 own or operate a retail establishment or distribution center in the
14 covered project.

15 b. The duration of the labor harmony agreement shall be a
16 period of not less than five years from the date on which the
17 covered project becomes fully operational. The requirement to
18 include a labor harmony agreement shall apply to any successor
19 contractor, or any of its subcontractors, who takes the place of an
20 initial contractor or subcontractor if the replacement occurs during
21 the time in which a public body continues to have a proprietary
22 interest in the project, and duration of the labor harmony agreement
23 with the replacement contractor or subcontractor shall be a period
24 of not less than five years commencing with the date of replacement
25 or the date on which the covered project becomes fully operational,
26 whichever is later.

27 c. A public body may enter into a contract or agreement with a
28 contractor without entering into a labor harmony agreement only if
29 the public body determines that the covered project would not be
30 able to go forward if a labor harmony agreement is required. Such
31 determination shall only be made after soliciting input from any
32 labor organizations with which a labor harmony agreement would
33 otherwise be required. The determination shall be supported by a
34 written finding by the public body which provides documentation of
35 the specific basis for the determination. The written determination
36 shall be submitted to the commissioner, who shall review the
37 determination and make public a finding on the determination
38 within not more than 15 business days after the submission. If the
39 commissioner approves the determination, the determination shall
40 be, together with the commissioner's statement of approval,
41 included in any public materials provided to any board or agency
42 official in connection with the covered project and maintained and
43 made available to the public by the public body. If the
44 commissioner does not approve the determination, the contract or
45 agreement shall be subject to the requirement of subsection a. of
46 this section to include a precondition that the contractor and all
47 subcontractors of the contractor enter into a labor harmony
48 agreement.

1 d. The requirements of this act regarding the inclusion of a
2 labor harmony agreement in any agreement or contract for a
3 contractor to undertake a covered project shall not be deemed to
4 unduly restrict competition, and any bidder refusing to comply with
5 the requirements of this act regarding labor harmony agreements
6 shall not be regarded as a responsible bidder. No agreement or
7 contract to undertake a covered retail or distribution project entered
8 into after the effective date of this act between a public body and a
9 contractor shall be valid or enforceable if it does not comply with
10 the requirements of this act regarding the inclusion of labor
11 harmony agreements.

12 e. Labor harmony agreements shall not be required by this act
13 with respect to any construction work undertaken in connection
14 with a covered project.

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16 4. Each public body which enters into a contract which is
17 subject to the provisions of this act regarding labor harmony
18 agreements shall submit to the commissioner evidence of an
19 executed labor harmony agreement and, if the public body
20 determines that a labor harmony agreement will prevent a project
21 from going forward, a copy of the determination and documentation
22 supporting the finding. The public body shall provide, in a timely
23 manner as required by the commissioner, information regarding any
24 changes in the information submitted.

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26 5. The commissioner shall adopt rules and regulations pursuant
27 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
28 1 et seq.) to effectuate the purposes of this act. These rules and
29 regulations shall provide a model labor harmony agreement, and
30 shall provide remedies and procedures for public bodies to enforce
31 compliance with the provisions of this act and any labor harmony
32 agreement entered into pursuant to this act, including provisions for
33 reimbursement of any costs or damages incurred by the public body
34 in connection with any noncompliance with the provisions of this
35 act or the agreements.

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37 6. This act shall take effect on the 90th day after enactment.

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STATEMENT

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42 This bill requires the State, or any other public body, to include a
43 labor harmony agreement as part of any contract it enters with a
44 contractor in connection with a retail or distribution project in
45 which a public body has a proprietary interest as a financier,
46 investor, lessee, lessor, operator, or owner of the project or its
47 property or facilities of the project, as a provider of financial

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1 assistance for the project or facilities, or as a receipt of revenues
2 from the project or facilities of the project.

3 The bill defines a contractor as a business that enters into a
4 contract to undertake a covered retail or distribution project, serve
5 as the operator of any facility that is part of a covered project, or
6 provide services integral to project operations.

7 A labor harmony agreement is defined as an agreement between
8 a contractor and a labor organization, which requires, for the
9 duration of the agreement, that the labor organization and its
10 members agree to refrain from picketing, work stoppages, boycotts,
11 or other economic actions against the contractor.

12 A labor harmony agreement would apply for at least five years
13 after the covered project becomes fully operational and, apply, also
14 for a period of at least five years, to successor contractors who take
15 the place of initial contractors during the time in which public
16 bodies continue to have a proprietary interest in the project.

17 A public body would be allowed to enter into a contract without
18 a labor harmony agreement only if it issues a written public
19 statement documenting the basis of its determination that the labor
20 harmony agreement would prevent the project from going forward,
21 subject to the review and approval of the Commissioner of Labor
22 and Workforce Development. The bill also directs public bodies to
23 submit to the commissioner evidence of a labor harmony agreement
24 and up to date information regarding and changes in submitted
25 information. The commissioner is directed to make the submitted
26 information public in an annual report of all covered projects and
27 all instances of public bodies not requiring labor harmony
28 agreements.

29 The commissioner is directed to adopt regulations which include
30 the provision of remedies and procedures for public bodies to
31 enforce compliance with the provisions of the bill and labor
32 harmony agreements entered into under the bill.