

P.L. 2021, CHAPTER 301, *approved November 8, 2021*
Assembly, No. 4869 (*Second Reprint*)

1 AN ACT concerning certain contracts for public work and amending
2 and supplementing P.L.1963, c.150.

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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. (New section) ¹a.¹ If a person makes the lowest bid for a
8 contract with a public body for public work subject to the provisions of
9 the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-
10 56.25 et seq.) and that bid is ten percent or more lower than the next
11 lowest bid for the contract, the person making the lowest bid shall
12 **[provide proof to the satisfaction of]** certify to² the public body that
13 the prevailing wage rates required by that act shall be paid. If the
14 bidder does not provide the **[proof]** certification prior to award of the
15 contract², the **[bid shall be rejected]** public body shall award the
16 contract to the next lowest responsible and responsive bidder. This
17 certification shall be required only when a public body is engaging in
18 competitive bidding for public work².

19 **[**²1b. Proof in accordance with subsection a. of this section may
20 include, but shall not be limited to, employment contracts or
21 agreements with workers stating the rate of wages that the person
22 contracts or agrees to pay the employees or workers for the contract,
23 documentation of the costs of supplies required to complete the
24 contract, documentation as to the number of employees or workers
25 whose services will be engaged for the contract, the estimated number
26 of hours or days to complete the project, and any additional
27 documentation as may be permitted by the Commissioner of Labor and
28 Workforce Development.¹**]**

29 b. The Commissioner of Labor and Workforce Development, in
30 consultation with the Division of Local Government Services in the
31 Department of Community Affairs, shall promulgate rules and
32 regulations concerning the standardization of the certification
33 necessary to effectuate the provisions of this section.²

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35 2. Section 3 of P.L.1963, c.150 (C.34:11-56.27) is amended to
36 read as follows:

37 3. a. Every contract in excess of the prevailing wage contract
38 threshold amount for any public work to which any public body is a
39 party or for public work to be done on property or premises owned by

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:

¹Assembly ALA committee amendments adopted December 14, 2020.

²Assembly floor amendments adopted June 21, 2021.

1 a public body or leased or to be leased by a public body shall contain a
2 ~~provision~~ ²~~certification~~ provision² stating the prevailing wage
3 rate which can be paid (as shall be designated by the commissioner) to
4 the workers employed in the performance of the contract and ~~the~~
5 ~~contract shall contain a stipulation that~~ ²the contract shall contain a
6 stipulation that² such workers shall be paid not less than such
7 prevailing wage rate. Such ~~contract~~ ²~~certification~~ contract² shall
8 also contain a provision that in the event it is found that any worker,
9 employed by the contractor or any subcontractor covered by said
10 contract, has been paid a rate of wages less than the prevailing wage
11 required to be paid by such contract, the public body, the lessee to
12 whom the public body is leasing a property or premises or the lessor
13 from whom the public body is leasing or will be leasing a property or
14 premises may terminate the contractor's or subcontractor's right to
15 proceed with the work, or such part of the work as to which there has
16 been a failure to pay required wages and to prosecute the work to
17 completion or otherwise. The contractor and his sureties shall be liable
18 for any excess costs occasioned thereby to the public body, any lessee
19 to whom the public body is leasing a property or premises or any
20 lessor from whom the public body is leasing or will be leasing a
21 property or premises.

22 b. The Commissioner of Labor and Workforce Development, in
23 consultation with the Division of Local Government Services, shall
24 promulgate rules and regulations concerning the standardization of the
25 ²~~certification~~ contractual language² necessary to effectuate the
26 provisions of ²~~P.L. , c. (C.)~~ (pending before the Legislature
27 as this bill) this section².

28 (cf: P.L.2007, c.68, s.2)

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30 3. This act shall take effect ²~~immediately~~ 180 days from the
31 date of enactment, except that the Commissioner of Labor and
32 Workforce Development make take any anticipatory action in
33 advance thereof as may be necessary for the implementation of this
34 act².

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39 Requires certain bidders for prevailing wage public work to
40 provide proof that prevailing wage will be paid.