

**ASSEMBLY, No. 5085**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JANUARY 19, 2023

**Sponsored by:**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Assemblyman EDWARD H. THOMSON**

**District 30 (Monmouth and Ocean)**

**Assemblyman REGINALD W. ATKINS**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblymen Schaer, Benson, Danielsen, Assemblywomen Reynolds-Jackson, Park and Assemblyman DiMaio**

**SYNOPSIS**

Requires employer or contractor engaged in government construction work to register with and submit payroll records to DOLWD.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/30/2023)**

1 AN ACT concerning the registration and payroll records of  
2 employers engaged in government construction work and  
3 amending P.L.1963, c.150 and P.L.1999, c.238.

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

7  
8 1. Section 4 of P.L.1999, c.238 (C.34:11-56.51) is amended to  
9 read as follows:

10 4. a. No contractor shall bid on any contract for public work as  
11 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26), **[or]** for  
12 which payment of the prevailing wage is required by any other  
13 provision of law, or for any other type of government work unless  
14 the contractor is registered pursuant to this act. No contractor shall  
15 list a subcontractor in a bid proposal for the contract unless the  
16 subcontractor is registered pursuant to P.L.1999, c.238 (C.34:11-  
17 56.48 et seq.) at the time the bid is made. No contractor or  
18 subcontractor, including a subcontractor not listed in the bid  
19 proposal, shall engage in the performance of any public work  
20 subject to the contract, unless the contractor or subcontractor is  
21 registered pursuant to that act.

22 b. As used in this section, "government work" means all  
23 construction work that is performed or completed for any  
24 municipal, county, regional, or State government, or any agency,  
25 department, commission or other instrumentality thereof, whether  
26 or not that work is subject to the "New Jersey Prevailing Wage  
27 Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or is categorized as  
28 public work as defined in section 2 of P.L.1963, c.150 (C.34:11-  
29 56.26).

30 (cf: P.L.2019, c.376, s.2)

31  
32 2. Section 7 of P.L.1963, c.150 (C.34:11-56.31) is amended to  
33 read as follows:

34 7. a. The commissioner shall have the authority to:

35 (a) investigate and ascertain the wages of workmen employed in  
36 any public work in the State;

37 (b) enter and inspect the place of business or employment of any  
38 employer or workmen in any public work in the State, for the  
39 purpose of examining and inspecting any or all books, registers,  
40 payrolls, and other records of any such employer that in any way  
41 relate to or have a bearing upon the question of wages, hours, and  
42 other conditions of employment of any such workmen; copy any or  
43 all of such books, registers, payrolls, and other records as he or his  
44 authorized representative may deem necessary or appropriate;  
45 obtain proof of, and question, any worker's identity to determine  
46 whether the worker's identity is accurately and truthfully included

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.

1 or reported in any or all books, registers, payrolls, and other records  
2 of the employer that in any way relate to or have a bearing upon the  
3 question of wages, hours, and other conditions of employment in  
4 the public work; and question such workmen for the purpose of  
5 ascertaining whether the provisions of this act have been and are  
6 being complied with;

7 (c) require from such employer full and correct statements in  
8 writing, including sworn statements, with respect to wages, hours,  
9 names, addresses, and such other information pertaining to his  
10 workmen and their employment as the commissioner, or his  
11 authorized representative may deem necessary or appropriate;  
12 **[and]**

13 (d) require any employer to file, within 10 days of receipt of a  
14 request, any records enumerated in **[subsections]** paragraphs (b)  
15 and (c) of this section, sworn to as to their validity and accuracy. If  
16 the employer fails to provide the requested records within 10 days,  
17 the commissioner may direct within 15 days the fiscal or financial  
18 officer charged with the custody and disbursements of the funds of  
19 the public body which contracted for the public work immediately  
20 to withhold from payment to the employer up to 25% of the amount,  
21 not to exceed \$100,000.00, to be paid to the employer under the  
22 terms of the contract pursuant to which the public work is being  
23 performed. The amount withheld shall be immediately released  
24 upon receipt by the public body of a notice from the commissioner  
25 indicating that the request for records has been satisfied; and

26 (e) require any employer or contractor engaged in any  
27 government work to file, with the commissioner and the public  
28 entity with which the employer or contractor is engaged in work,  
29 within 10 days of receipt of a request, any records all books,  
30 registers, payrolls, and other records of any such employer or  
31 contractor that in any way relate to or have a bearing upon the  
32 question of wages, hours, and other conditions of employment of  
33 any such workmen, and copies of any or all of such books, registers,  
34 payrolls, or other records as the commissioner or the  
35 commissioner's authorized representative may deem necessary or  
36 appropriate. If the employer fails to provide the requested records  
37 within 10 days, the commissioner may direct within 15 days the  
38 fiscal or financial officer charged with the custody and  
39 disbursements of the funds of the public body which contracted for  
40 the public work immediately to withhold from payment to the  
41 employer up to 25% of the amount, not to exceed \$100,000.00, to  
42 be paid to the employer under the terms of the contract pursuant to  
43 which the public work is being performed. The amount withheld  
44 shall be immediately released upon receipt by the public body of a  
45 notice from the commissioner indicating that the request for records  
46 has been satisfied.

b. As used in paragraph (e) of subsection a. of this section, “government work” means all construction work that is performed or completed for any municipal, county, regional, or State government, or any agency, department, commission or other instrumentality thereof, whether or not that work is subject to the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or is categorized as public work as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

(cf: P.L.2015, c.281, s.1)

3. This act shall take effect on the first day of the third month next following enactment, except that the Commissioner of Labor and Workforce Development may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

## STATEMENT

This bill requires any employer or contractor engaged in government work to register with the Department of Labor and Workforce Development and submit certified payroll records to the department and to the public entity with which the employer or contractor is engaged to work. Under current law, employers and contractors engaged in public work, or otherwise subject to the State's prevailing wage requirements, are required to register with the State and submit certified payroll records. This bill would require all contractors engaged in government work to register, whether or not that work is subject to the prevailing wage law or constitutes public work under the law.

The bill defines government work as work that is performed or completed for any municipal, county, regional, or State government, or any agency, department, commission or other instrumentality thereof, whether or not that work is subject to the "New Jersey Prevailing Wage Act," or is categorized as public work.