

ASSEMBLY, No. 5279

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2023

Sponsored by:

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblyman REGINALD W. ATKINS

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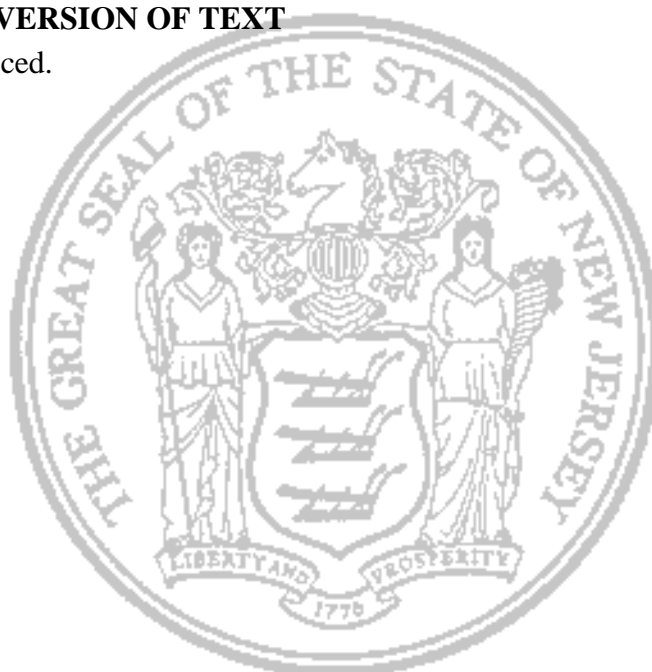
**Assemblymen Giblin, Caputo, McGuckin, Catalano, Wirths, Space,
Benson, Simonsen, Moriarty and Greenwald**

SYNOPSIS

Removes registered apprenticeship program requisites of public work contractors; sets apprenticeship standards for prevailing wage projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2023)

1 AN ACT removing apprenticeship program requirements for public
2 works projects, amending P.L.1963, c.150 and P.L.1999, c.238,
3 and repealing section 6 of P.L.2021, c.423.

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

7
8 1. Section 8 of P.L.1963, c.150 (C.34:11-56.32) is amended to
9 read as follows:

10 8. a. Contractors and subcontractors performing public work
11 of a public body subject to the provisions of [this act] the “New
12 Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et
13 seq.) shall post the prevailing wage rates for each craft and
14 classification involved as determined by the commissioner,
15 including the effective date of any changes thereof, in prominent
16 and easily accessible places at the site of the work or at such place
17 or places as are used by them to pay workmen their wages.

18 b. If a contractor or subcontractor participates in a registered
19 apprenticeship program, the contractor shall ensure that the
20 registered apprenticeship program requires the completion of the
21 on-the-job training hours which conform to the industry standards
22 for learning the skills of a specific craft or trade, as well as on-the-
23 job organized, related instruction in technical subjects related to the
24 specific apprenticeable occupation in conformance with industry
25 standards. The industry standards for program completion shall be
26 based upon the training requirements as registered and certified by
27 the United States Department of Labor for each individual
28 occupation and craft title published by the United States
29 Department of Labor Employment and Training Administration.
30 The classroom, on-the-job hours, and years of apprenticeship
31 required to meet the standards shall be equal to or greater than that
32 of the established apprenticeship programs for the craft that serves
33 as the basis for the prevailing wage determination. These
34 apprenticeship standards shall be detailed in the wage
35 determinations for each craft.

36 (cf: P.L.1963, c.150, s.8)

37
38 2. Section 3 of P.L.1999, c.238 (C.34:11-56.50) is amended to
39 read as follows:

40 3. As used in chapter 11 of Title 34 of the Revised Statutes:

41 **["Apprenticeship Agreement"** means a written agreement,
42 complying with 29 C.F.R. s.29.7, between an apprentice and either
43 the apprentice's program sponsor, or an apprenticeship committee
44 acting as agent for a program sponsor, which contains the terms and

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 conditions of the employment and training of the apprentice.

2 "Apprenticeship cohort" means the group of individual
3 apprentices registered to a specific individual program during a
4 one-year time frame, except that a cohort does not include the
5 apprentices whose apprenticeship agreement has been cancelled
6 during the probationary period.

7 "Apprenticeship committee" means those persons designated by
8 the sponsor to administer the program. A committee may be either
9 joint or non-joint, as follows:

10 (1) A joint committee is composed of an equal number of
11 representatives of the employer or employers and of the employees
12 represented by a bona fide collective bargaining agent or agents.

13 (2) A non-joint committee, which may also be known as a
14 unilateral or group non-joint committee, has employer
15 representatives, but does not have a bona fide collective bargaining
16 agent as a participant. A non-joint committee may include
17 employees.

18 "Apprenticeable occupation" means a skilled trade or technical
19 occupation that is included on the United States Department of
20 Labor's "List of Occupations Officially Recognized as
21 Apprenticeable by the Office of Apprenticeship".

22 "Apprenticeship program" means a plan containing all terms and
23 conditions for the qualification, recruitment, selection, employment,
24 and training of apprentices, as required under 29 C.F.R. ss.29 and
25 30, including such matters as the requirement for a written
26 apprenticeship agreement.】

27 "Commissioner" means the Commissioner of Labor and
28 Workforce Development or his duly authorized representatives.

29 【"Completion rate" means the percentage of an apprenticeship
30 cohort who receive a certificate of apprenticeship completion within
31 one year of the projected completion date.】

32 "Contractor" means a person, partnership, association, joint stock
33 company, trust, corporation, or other legal business entity or
34 successor thereof who enters into a contract which is subject to the
35 provisions of the "New Jersey Prevailing Wage Act," P.L.1963,
36 c.150 (C.34:11-56.25 et seq.), or who is required to pay its workers
37 the prevailing wage by any other provision of law, and includes any
38 subcontractor or lower tier subcontractor of a contractor as defined
39 herein.

40 "Department" means the Department of Labor and Workforce
41 Development.

42 "Director" means the Director of the Division of Wage and Hour
43 Compliance in the Department of Labor and Workforce
44 Development.

45 "Worker" includes laborer, mechanic, skilled or semi-skilled
46 laborer and apprentices or helpers employed by any contractor or
47 subcontractor and engaged in the performance of services directly
48 upon a public work, 【who have completed or are actively

1 participating in a registered apprenticeship program, regardless of
2 whether their work becomes a component part thereof, but does not
3 include material suppliers or their employees who do not perform
4 services at the job site.

5 ["Registered apprenticeship program" or "program" means an
6 apprenticeship program which is registered with and approved by
7 the United States Department of Labor, which provides each trainee
8 with combined classroom and on-the-job training in an occupation
9 recognized as an apprenticeable occupation, and which involves the
10 attainment of manual, mechanical, or technical skills and
11 knowledge which, in accordance with the industry standard for the
12 specific apprenticeable occupation, are outlined under 29 C.F.R.
13 s.29.5.

14 "Sponsor" means any person, association, committee, or
15 organization operating an apprenticeship program and in whose
16 name the program is or will be registered or approved.】

17 (cf: P.L.2019, c.518, s.1)

18
19 3. Section 5 of P.L.1999, c.238 (C.34:11-56.52) is amended to
20 read as follows:

21 5. a. A contractor shall register in writing with the department
22 on a form provided by the commissioner. The form shall require
23 the following information:

24 (1) The name, principal business address and telephone number
25 of the contractor;

26 (2) Whether the contractor is a corporation, partnership, sole
27 proprietorship, or other form of business entity;

28 (3) If the contractor's principal business address is not within the
29 State, the name and address of the contractor's custodian of records
30 and agent for service of process in this State;

31 (4) The name and address of each person with a financial
32 interest in the contractor and the percentage interest, except that if
33 the contractor is a publicly traded corporation, the contractor shall
34 supply the names and addresses of the corporation's officers;

35 (5) The contractor's tax identification number and
36 unemployment insurance registration number;

37 (6) A certification form provided by the commissioner, with
38 documentation satisfactory to the commissioner, that the contractor
39 has all valid and effective licenses, registrations or certificates
40 required by State law, including registrations or certifications
41 required to do business in the State of New Jersey, and the
42 contractor, if directly employing craftworkers, participates in a
43 registered apprenticeship program as defined in section 3 of
44 P.L.1999, c.238 (C.34:11-56.50) for each craft they employ;

45 (7) 【A certification form provided by the commissioner, with
46 supporting documentation, establishing to the satisfaction of the
47 commissioner that the registered apprenticeship program, as defined
48 in section 3 of P.L.1999, c.238 (C.34:11-56.50), meets all of the

1 requirements of section 6 of P.L.2021, c.423 (C.34:11-56.55a), and
2 29 C.F.R. ss.29.3, 29.4, 29.5, 29.6 and 29.7;

3 (a) If it is determined by the commissioner that a registered
4 apprenticeship program in which the contractor participates does
5 not meet all of the requirements of 29 C.F.R. ss.29.3, 29.4, 29.5,
6 29.6 and 29.7, that determination of the commissioner shall, subject
7 to the requirements of subsection b. of section 9 of P.L.1999, c.238
8 (C.34:11-56.56), including the contractor's right to request a
9 hearing, result in initial registration application denial, registration
10 renewal denial, revocation, or suspension of the certificate of
11 registration to perform public work in New Jersey;

12 (b) The determination of the commissioner under this paragraph
13 shall only impact the contractor's ability to obtain or maintain its
14 public works contractor registration certificate under P.L.1999,
15 c.238 (C.34:11-56.48 et seq.), and shall not affect the status of the
16 registered apprenticeship program for the purpose of its continued
17 operation in New Jersey;

18 (c) A determination by the commissioner under subparagraph (a)
19 of this paragraph (7) that a registered apprenticeship program in
20 which the contractor participates does not meet all of the
21 requirements of 29 C.F.R. ss. 29.3, 29.4, 29.5, 29.6 and 29.7 shall
22 result not only in initial registration application denial, registration
23 renewal denial, revocation or suspension of that contractor's
24 certificate of registration to perform public work in New Jersey, but
25 also shall result in the initial registration application denial,
26 registration renewal denial, revocation or suspension of every
27 contractor who is meeting the apprenticeship program participation
28 requirement through participation in the non-compliant registered
29 apprenticeship program; provided that any initial registration
30 application denial, registration renewal denial, revocation or
31 suspension shall be subject to the requirements of subsection b. of
32 section 9 of P.L.1999, c.238 (C.34:11-56.56), including the
33 contractor's right to request a hearing **】** (Deleted by amendment,
34 P.L. , c.) (pending before the Legislature as this bill); and

35 (8) Any other relevant and appropriate information as
36 determined by the commissioner.

37 b. At the time of registration, and subsequently upon request,
38 the contractor shall submit to the commissioner documentation
39 demonstrating that the contractor has worker's compensation
40 insurance coverage for all workers as required by law.

41 (cf: P.L.2021, c.423, s.1)

42

43 4. Section 9 of P.L.1999, c.238 (C.34:11-56.56) is amended to
44 read as follows:

45 9. a. A contractor who: (1) willfully hinders or delays the
46 commissioner in the performance of his duties in the enforcement of
47 this act; (2) fails to make, keep, and preserve any records as
48 required under the provisions of the "New Jersey Prevailing Wage

1 Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (3) falsifies any such
2 record, or refuses to make any such record accessible to the
3 commissioner upon demand; (4) refuses to furnish a sworn
4 statement of such records or any other information required for the
5 enforcement of this act to the commissioner upon demand; (5) pays
6 or agrees to pay wages at a rate less than the rate prescribed by the
7 "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25
8 et seq.); (6) willfully makes, or causes to be made, a false,
9 deceptive or fraudulent statement on the public works contractor
10 registration form; or (7) otherwise violates any provision of this act,
11 shall be guilty of a disorderly persons offense and shall, upon
12 conviction, be subject to punishment by a fine of not less than
13 \$2,500 nor more than \$25,000 and disqualification from bidding on
14 or engaging in public work for a period of up to three years.

15 **【Where the contractor has made or has caused to be made a false,**
16 **deceptive or fraudulent statement on the public works contractor**
17 **registration form in connection with the requirement of section 5 of**
18 **P.L.1999, c.238 (C.34:11-56.52) that the contractor participate in a**
19 **registered apprenticeship program for each craft that the contractor**
20 **employs, and where the false, deceptive or fraudulent statement was**
21 **made by an officer or employee charged with the duty of**
22 **completion of the registration form for a contractor, that officer or**
23 **employee, upon conviction, shall be subject to punishment by the**
24 **fine indicated in this subsection or by imprisonment not exceeding**
25 **six months, or both.】**

26 b. As an alternative to or in addition to sanctions provided by
27 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-
28 56.25 et seq.), the commissioner may, after providing the contractor
29 with notice of any alleged violation of this act, and with an
30 opportunity to request a hearing before the commissioner or his
31 designee:

32 (1) Deny renewal, revoke or suspend the registration of a
33 contractor for a period of not more than five years; or

34 (2) Require a contractor, as a condition of initial or continued
35 registration, to provide a surety bond payable to the State. The
36 surety bond shall be for the benefit of workers damaged by any
37 failure of a contractor to pay wages or benefits pursuant to or
38 otherwise comply with the provisions of the "New Jersey Prevailing
39 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or this act. The
40 surety bond shall be in the amount and form that the commissioner
41 deems necessary for the protection of the contractor's workers, but
42 shall not exceed \$10,000 per worker. The surety bond shall be
43 issued by a surety that meets the requirements of N.J.S.2A:44-143.

44 c. The director may order the immediate suspension of a
45 contractor's registration, prior to a formal hearing on the revocation
46 of the contractor's registration pursuant to subsection b. of this
47 section, if the director determines that ordering an immediate
48 suspension is in the public interest and provided that the contractor

1 is afforded an opportunity to contest the immediate suspension in
2 the following manner:

3 (1) The director shall notify the contractor in writing of the
4 immediate revocation and the contractor's rights under the
5 subsection.

6 (2) The contractor may notify the director of its request for an
7 opportunity to be heard and contest the immediate suspension in
8 writing within 72 hours of its receipt of immediate suspension
9 notification.

10 (3) Within seven business days of receipt of the notification
11 from the contractor pursuant to paragraph (2) of this subsection, the
12 director shall grant the contractor a hearing to contest the immediate
13 suspension. The director shall permit the contractor to present
14 evidence at the hearing.

15 (4) The director shall issue a written decision within five
16 business days of the hearing either upholding or reversing the
17 contractor's immediate suspension. The decision shall include the
18 grounds for upholding or reversing the contractor's immediate
19 suspension.

20 (5) If the contractor disagrees with the written decision, the
21 contractor may appeal the decision to the commissioner, in
22 accordance with the "Administrative Procedure Act," P.L.1968,
23 c.410 (C.52:14B-1 et seq.).

24 d. If the director intends to impose an immediate suspension as
25 set forth in subsection c. of this section, based upon a rebuttable
26 presumption as set forth in section 14 of P.L.1963, c.150 (C.34:11-
27 56.38), the director shall provide the contractor with a notice of
28 intent to suspend and the contractor may request a hearing before
29 the Director of the Division of Wage and Hour Compliance within
30 72 hours of the receipt of the notice of intent to suspend in order to
31 present evidence expeditiously in support of the position that the
32 suspension should not be imposed. The suspension shall not take
33 effect prior to the expiration of the 72-hour opportunity to request a
34 hearing. If such a request is not made, the suspension shall take
35 effect at the end of the 72-hour period. If such a request is made,
36 the suspension shall take effect only after the director conducts the
37 hearing.

38 e. If the director orders the immediate suspension of a
39 contractor's registration pursuant to subsection b. of this section, the
40 violation shall have no effect on the registration of any contractor or
41 subcontractor, regardless of tier, in the contractual chain with the
42 suspended contractor【, unless the registration form for the
43 contractual chain of contractors and subcontractors was filed by a
44 sponsor, in which case all of the contractors of whatever tier who
45 participated in the sponsor's apprenticeship program shall be
46 suspended and their registrations shall be revoked by the
47 commissioner】.

48 (cf: P.L.2019, c.423, s.5)

1 5. Section 6 of P.L.2021, c.423 (C.34:11-56.55a) is repealed.

2

3 6. This act shall take effect immediately.

4

5

6

STATEMENT

7

8 This bill amends the “New Jersey Prevailing Wage Act” by
9 setting a standard for apprenticeship programs if a contractor or
10 subcontractor chooses to participate in an apprenticeship program.

11 The bill revises “The Public Works Contractor Registration Act”
12 by removing the requirement that a contractor participate in a
13 registered apprenticeship program in order to be eligible for public
14 works projects.