

[First Reprint]
SENATE, No. 1439

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 10, 2022

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

Co-Sponsored by:
Senators Johnson, Greenstein and Corrado

SYNOPSIS

Requires employer or contractor engaged in work for a public body to register with and submit payroll records to DOLWD.

CURRENT VERSION OF TEXT

As amended by the General Assembly on May 25, 2023.



(Sponsorship Updated As Of: 3/20/2023)

1 AN ACT concerning the registration and payroll records of
2 employers engaged in ¹**[government construction]**¹ work ¹for a
3 public body¹ and 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 ¹1. Section 3 of P.L.1999, c.238 (C.34:11-56.50) is amended to
9 read as follows:

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

11 "Apprenticeship Agreement" means a written agreement,
12 complying with 29 C.F.R. s.29.7, between an apprentice and either the
13 apprentice's program sponsor, or an apprenticeship committee acting
14 as agent for a program sponsor, which contains the terms and
15 conditions of the employment and training of the apprentice.

16 "Apprenticeship cohort" means the group of individual apprentices
17 registered to a specific individual program during a one-year time
18 frame, except that a cohort does not include the apprentices whose
19 apprenticeship agreement has been cancelled during the probationary
20 period.

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

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

27 (2) A non-joint committee, which may also be known as a
28 unilateral or group non-joint committee, has employer representatives,
29 but does not have a bona fide collective bargaining agent as a
30 participant. A non-joint committee may include employees.

31 "Apprenticeable occupation" means a skilled trade or technical
32 occupation that

33 is included on the United States Department of Labor's "List of
34 Occupations Officially Recognized as Apprenticeable by the Office of
35 Apprenticeship".

36 "Apprenticeship program" means a plan containing all terms and
37 conditions for the qualification, recruitment, selection, employment,
38 and training of apprentices, as required under 29 C.F.R. ss.29 and 30,
39 including such matters as the requirement for a written apprenticeship
40 agreement.

41 "Commissioner" means the Commissioner of Labor and
42 Workforce Development or his duly authorized representatives.

43 "Completion rate" means the percentage of an apprenticeship
44 cohort who receive a certificate of apprenticeship completion within
45 one year of the projected completion date.

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 floor amendments adopted May 25, 2023.

1 "Contractor" means a person, partnership, association, joint stock
2 company, trust, corporation, or other legal business entity or successor
3 thereof who enters into a contract which is subject to the provisions of
4 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-
5 56.25 et seq.), or who is required to pay its workers the prevailing
6 wage by any other provision of law, or who enters into any other
7 contract for work for a public body, and includes any subcontractor or
8 lower tier subcontractor of a contractor as defined herein.

9 "Department" means the Department of Labor and Workforce
10 Development.

11 "Director" means the Director of the Division of Wage and Hour
12 Compliance in the Department of Labor and Workforce Development.

13 "Worker" includes laborer, mechanic, skilled or semi-skilled
14 laborer and apprentices or helpers employed by any contractor or
15 subcontractor and engaged in the performance of services directly
16 upon a public work, who have completed or are actively participating
17 in a registered apprenticeship program, regardless of whether their
18 work becomes a component part thereof, but does not include material
19 suppliers or their employees who do not perform services at the job
20 site.

21 "Registered apprenticeship program" or "program" means an
22 apprenticeship program which is registered with and approved by the
23 United States Department of Labor, which provides each trainee with
24 combined classroom and on-the-job training in an occupation
25 recognized as an apprenticeable occupation, and which involves the
26 attainment of manual, mechanical, or technical skills and knowledge
27 which, in accordance with the industry standard for the specific
28 apprenticeable occupation, are outlined under 29 C.F.R. s.29.5.

29 "Sponsor" means any person, association, committee, or
30 organization operating an apprenticeship program and in whose name
31 the program is or will be registered or approved.

32 "Public body" means the State, any of its political subdivisions,
33 any authority created by the Legislature, and any instrumentality or
34 agency of the State or of any of its political subdivisions.

35 "Work for a public body" means construction, reconstruction,
36 demolition, alteration, custom fabrication, duct cleaning, or repair
37 work, or maintenance work, which is done under contract and paid for
38 in whole or in part out of the funds of a public body, done on any
39 property or premises owned or leased by the public body or under
40 agreement to be owned or leased by the public body, or undertaken in
41 connection with any loan, loan guarantee, grant, incentive,
42 expenditure, investment, tax exemption or other financial assistance
43 approved, funded, authorized, administered or provided by a public
44 body, or undertaken to fulfill any condition of receiving any of the
45 financial assistance.¹

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

1 ¹**[1.] 2.**¹ Section 4 of P.L.1999, c.238 (C.34:11-56.51) is amended
2 to read as follows:

3 4. ¹**[a.]**¹ No contractor shall bid on any contract for public work as
4 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26), **[or]** ¹or¹ for
5 which payment of the prevailing wage is required by any other
6 provision of law, or for any other ¹**[type of government]**¹ work ¹for a
7 public body¹ unless the contractor is registered pursuant to ¹**[this act]**
8 P.L.1999, c.238 (C.34:11-56.48 et seq.)¹. No contractor shall list a
9 subcontractor in a bid proposal for the contract unless the
10 subcontractor is registered pursuant to P.L.1999, c.238 (C.34:11-56.48
11 et seq.) at the time the bid is made. No contractor or subcontractor,
12 including a subcontractor not listed in the bid proposal, shall engage in
13 the performance of any public work subject to the contract, unless the
14 contractor or subcontractor is registered pursuant to that act.

15 ¹**[b.** As used in this section, "government work" means all
16 construction work that is performed or completed for any municipal,
17 county, regional, or State government, or any agency, department,
18 commission or other instrumentality thereof, whether or not that work
19 is subject to the "New Jersey Prevailing Wage Act," P.L.1963, c.150
20 (C.34:11-56.25 et seq.) or is categorized as public work as defined in
21 section 2 of P.L.1963, c.150 (C.34:11-56.26).¹
22 (cf: P.L.2019, c.376, s.2)

23
24 ¹**[2.] 3.**¹ Section 7 of P.L.1963, c.150 (C.34:11-56.31) is amended
25 to read as follows:

26 7. ¹**[a.]**¹ The commissioner shall have the authority to:

27 (a) investigate and ascertain the wages of workmen employed in
28 any public work ¹or other work for a public body¹ in the State;

29 (b) enter and inspect the place of business or employment of any
30 employer or workmen in any public work ¹or other work for a public
31 body¹ in the State, for the purpose of examining and inspecting any or
32 all books, registers, payrolls, and other records of any such employer
33 that in any way relate to or have a bearing upon the question of wages,
34 hours, and other conditions of employment of any such workmen;
35 copy any or all of such books, registers, payrolls, and other records as
36 he or his authorized representative may deem necessary or appropriate;
37 obtain proof of, and question, any worker's identity to determine
38 whether the worker's identity is accurately and truthfully included or
39 reported in any or all books, registers, payrolls, and other records of
40 the employer that in any way relate to or have a bearing upon the
41 question of wages, hours, and other conditions of employment in the
42 public work; and question such workmen for the purpose of
43 ascertaining whether the provisions of this act have been and are being
44 complied with;

45 (c) require from such employer full and correct statements in
46 writing, including sworn statements, with respect to wages, hours,

1 names, addresses, and such other information pertaining to his
2 workmen and their employment as the commissioner, or his authorized
3 representative may deem necessary or appropriate; **[and]**

4 (d) require any employer to file, within 10 days of receipt of a
5 request, any records enumerated in **[subsections]** ¹**[paragraphs]**
6 subsections¹ (b) and (c) of this section, sworn to as to their validity
7 and accuracy. If the employer fails to provide the requested records
8 within 10 days, the commissioner may direct within 15 days the fiscal
9 or financial officer charged with the custody and disbursements of the
10 funds of the public body which contracted for the public work
11 immediately to withhold from payment to the employer up to 25% of
12 the amount, not to exceed \$100,000.00, to be paid to the employer
13 under the terms of the contract pursuant to which the public work is
14 being performed. The amount withheld shall be immediately released
15 upon receipt by the public body of a notice from the commissioner
16 indicating that the request for records has been satisfied; and

17 (e) require any employer or contractor engaged in any
18 ¹**[government]**¹ work ¹for a public body¹ to file, with the
19 commissioner and the public entity with which the employer or
20 contractor is engaged in work, within 10 days of receipt of a request,
21 any records all books, registers, payrolls, and other records of any such
22 employer or contractor that in any way relate to or have a bearing upon
23 the question of wages, hours, and other conditions of employment of
24 any such workmen, and copies of any or all of such books, registers,
25 payrolls, or other records as the commissioner or the commissioner's
26 authorized representative may deem necessary or appropriate. If the
27 employer fails to provide the requested records within 10 days, the
28 commissioner may direct within 15 days the fiscal or financial officer
29 charged with the custody and disbursements of the funds of the public
30 body which contracted for the public work immediately to withhold
31 from payment to the employer up to 25% of the amount, not to exceed
32 \$100,000.00, to be paid to the employer under the terms of the contract
33 pursuant to which the public work is being performed. The amount
34 withheld shall be immediately released upon receipt by the public
35 body of a notice from the commissioner indicating that the request for
36 records has been satisfied.

37 ¹**[b.** As used in paragraph (e) of subsection a. of this section,
38 "government work" means all construction work that is performed or
39 completed for any municipal, county, regional, or State government, or
40 any agency, department, commission or other instrumentality thereof,
41 whether or not that work is subject to the "New Jersey Prevailing
42 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or is categorized
43 as public work as defined in section 2 of P.L.1963, c.150 (C.34:11-
44 56.26).]¹

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

S1439 [1R] SINGLETON

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1 ¹~~3.~~ 4.¹ This act shall take effect on the ¹~~first day of the third~~
2 month] 365th day¹ next following enactment, except that the
3 Commissioner of Labor and Workforce Development may take any
4 anticipatory administrative action in advance as shall be necessary for
5 the implementation of this act.