

SENATE, No. 3776

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 8, 2023

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

SYNOPSIS

Concerns prevailing wage requirements for certain fabrication.

CURRENT VERSION OF TEXT

As introduced.



S3776 LAGANA, SCHEPISI

2

1 AN ACT concerning prevailing wage requirements for certain
2 fabrication and amending P.L.1963, c.150.

3

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

6

7 1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to
8 read as follows:

9 2. As used in this act:

10 (1) "Department" means the Department of Labor and
11 Workforce Development of the State of New Jersey.

12 (2) "Locality" means any political subdivision of the State,
13 combination of the same or parts thereof, or any geographical area
14 or areas classified, designated and fixed by the commissioner from
15 time to time, provided that in determining the "locality," the
16 commissioner shall be guided by the boundary lines of political
17 subdivisions or parts thereof, or by a consideration of the areas with
18 respect to which it has been the practice of employers of particular
19 crafts or trades to engage in collective bargaining with the
20 representatives of workers in such craft or trade.

21 (3) "Maintenance work" means the repair of existing facilities
22 when the size, type or extent of such facilities is not thereby
23 changed or increased. "Maintenance work" also means any work on
24 a maintenance-related project that exceeds the scope of work and
25 capabilities of in-house maintenance personnel, requires the
26 solicitation of bids, and has an aggregate value exceeding \$50,000.

27 (4) "Public body" means the State of New Jersey, any of its
28 political subdivisions, any authority created by the Legislature of
29 the State of New Jersey and any instrumentality or agency of the
30 State of New Jersey or of any of its political subdivisions.

31 (5) "Public work" means construction, reconstruction,
32 demolition, alteration, custom fabrication, duct cleaning, or repair
33 work, or maintenance work, including painting, and decorating,
34 done under contract and paid for in whole or in part out of the funds
35 of a public body, except work performed under a rehabilitation
36 program. "Public work" shall also mean construction,
37 reconstruction, demolition, alteration, custom fabrication, duct
38 cleaning, or repair work, done on any property or premises, whether
39 or not the work is paid for from public funds, if, at the time of the
40 entering into of the contract the property or premises is owned by
41 the public body or

42 (a) Not less than 55% of the property or premises is leased by a
43 public body, or is subject to an agreement to be subsequently leased
44 by the public body; 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 (b) The portion of the property or premises that is leased or
2 subject to an agreement to be subsequently leased by the public
3 body measures more than 20,000 square feet.

4 (6) "Commissioner" means the Commissioner of Labor and
5 Workforce Development or his duly authorized representatives.

6 (7) "Workman" or "worker" includes laborer, mechanic, skilled
7 or semi-skilled, laborer and apprentices or helpers employed by any
8 contractor or subcontractor and engaged in the performance of
9 services directly upon a public work, regardless of whether their
10 work becomes a component part thereof, but does not include
11 material suppliers or their employees who do not perform services
12 at the job site. For the purpose of P.L.1963, c.150
13 (C.34:11-56.25 et seq.), contractors or subcontractors engaged in
14 custom fabrication shall not be regarded as material suppliers.

15 (8) "Work performed under a rehabilitation program" means
16 work arranged by and at a State institution primarily for teaching
17 and upgrading the skills and employment opportunities of the
18 inmates of such institutions.

19 (9) "Prevailing wage" means the wage rate paid by virtue of
20 collective bargaining agreements by employers employing a
21 majority of workers of that craft or trade subject to said collective
22 bargaining agreements, in the locality in which the public work is
23 done.

24 (10) "Act" means the provisions of P.L.1963, c.150
25 (C.34:11-56.25 et seq.) and the rules and regulations issued
26 hereunder.

27 (11) "Prevailing wage contract threshold amount" means:

28 (a) In the case of any public work paid for in whole or in part out
29 of the funds of a municipality in the State of New Jersey or done on
30 property or premises owned by a public body or leased or to be
31 leased by the municipality, the dollar amount established for the
32 then current calendar year by the commissioner through rules and
33 regulations promulgated pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which amount shall be
35 equal to \$9,850 on July 1, 1994 and which amount shall be adjusted
36 on July 1 every five calendar years thereafter in direct proportion to
37 the rise or fall in the average of the Consumer Price Indices for
38 Urban Wage Earners and Clerical Workers for the New York
39 metropolitan and the Philadelphia metropolitan regions as reported
40 by the United States Department of Labor during the last full
41 calendar year preceding the date upon which the adjustment is
42 made; and

43 (b) In the case of any public work other than a public work
44 described in paragraph (a) of this subsection, an amount equal to
45 \$2,000.

46 (12) "Custom fabrication" means:

47 (a) the fabrication of any of the following: plumbing, heating,
48 cooling, ventilation or exhaust duct systems, mechanical insulation,

1 or one or more signs in a project which cost a total of more than
2 \$30,000 and are part of a project upon completion; or
3 (b) any other fabrication which is ~~either of components~~ one or
4 more entire modules or structures pre-fabricated to specifications
5 for a particular project of public work ~~or of other materials~~
6 ~~finished into components without further modification~~ with
7 minimal construction work remaining other than installation for use
8 in a project of public work or for use in a type or classification of a
9 project of public work. It shall not include components or materials
10 that cannot be fabricated on the public work site, such as structural
11 steel members or precast concrete, or smaller prefabricated
12 components.

13 (cf: P.L.2022, c.113, s.1)

14
15 2. This act shall take effect immediately and shall apply
16 retroactively to the effective date of P.L.2019, c.44.

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19 STATEMENT

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21 This bill amends the “New Jersey Prevailing Wage Act” to
22 clarify that certain offsite fabrication that historically had not been
23 subject to prevailing wage requirements was not intended to be
24 covered. In 2019, the “New Jersey Prevailing Wage Act” was
25 amended to provide coverage under the law for custom fabrication
26 which is either of components or structures pre-fabricated to
27 specifications for a particular project or other materials finished into
28 components without further modification for use in a project or type
29 of classification of a project. This bill amends that language to
30 clarify that the “New Jersey Prevailing Wage Act” applies only to
31 fabrication which is one or more entire structures or modules of the
32 building or work, as opposed to smaller pre-fabricated components,
33 with minimal construction work remaining other than the
34 installation or assembly of the structure or modules.

35 It is the sponsor’s intent to clarify that the purpose of the 2019
36 amendment was to ensure that companies were not able to avoid the
37 “New Jersey Prevailing Wage Act” by constructing entire portions
38 of public buildings or works off-site that previously had been
39 performed on-site and subject to the law. The amendment was not
40 intended to expand the coverage of prevailing wage requirements to
41 activities that have long been understood to be outside the scope of
42 the “New Jersey Prevailing Wage Act.” This bill provides that
43 clarification. The bill applies retroactively to the effective date of
44 P.L.2019, c.44.