SYNOPSIS
Concerns prevailing wage requirements for certain fabrication.

CURRENT VERSION OF TEXT
As amended by the Senate on June 26, 2023.
AN ACT concerning prevailing wage requirements for certain fabrication and amending P.L.1963, c.150.

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

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

2. As used in this act:

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

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

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

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

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

(a) Not less than 55% of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased 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.
Matter enclosed in superscript numerals has been adopted as follows:
5Senate SLA committee amendments adopted June 5, 2023.
Senate floor amendments adopted June 26, 2023.
(b) The portion of the property or premises that is leased or subject
to an agreement to be subsequently leased by the public body
measures more than 20,000 square feet.

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

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

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

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

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

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

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

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

(12) "Custom fabrication" means:

(a) The fabrication of any of the following: plumbing, heating,
cooling, ventilation or exhaust duct systems, mechanical insulation, or
one or more signs in a project which cost a total of more than $30,000
and are part of a project upon completion; or
(b) any other fabrication which is [either of components] one or more entire modules or structures pre-fabricated to specifications for a particular project of public work [or of other materials finished into components without further modification] with minimal construction work remaining other than installation, regardless of whether unforeseen construction work is required on the public work site to modify the custom fabricated item for the purpose of installation for use in a project of public work or for use in a type or classification of a project of public work. 

"Custom fabrication" shall not include components or materials that cannot be fabricated on the public work site, such as structural steel members or precast concrete, or smaller prefabricated components.

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

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