

[Second Reprint]

**SENATE, No. 3776**

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**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

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INTRODUCED MAY 8, 2023

**Sponsored by:**

**Senator JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Senator HOLLY T. SCHEPISI**

**District 39 (Bergen and Passaic)**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

Concerns prevailing wage requirements for certain fabrication.

**CURRENT VERSION OF TEXT**

As amended by the Senate on June 26, 2023.



**(Sponsorship Updated As Of: 6/30/2023)**

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 Workforce  
11 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 or  
14 areas classified, designated and fixed by the commissioner from time  
15 to time, provided that in determining the "locality," the commissioner  
16 shall be guided by the boundary lines of political subdivisions or parts  
17 thereof, or by a consideration of the areas with respect to which it has  
18 been the practice of employers of particular crafts or trades to engage  
19 in collective bargaining with the representatives of workers in such  
20 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 changed  
23 or increased. "Maintenance work" also means any work on a  
24 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 the  
29 State of New Jersey and any instrumentality or agency of the State of  
30 New Jersey or of any of its political subdivisions.

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

41 (a) Not less than 55% of the property or premises is leased by a  
42 public body, or is subject to an agreement to be subsequently leased by  
43 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:

<sup>1</sup>Senate SLA committee amendments adopted June 5, 2023.

<sup>2</sup>Senate floor amendments adopted June 26, 2023.

1 (b) The portion of the property or premises that is leased or subject  
2 to an agreement to be subsequently leased by the public body  
3 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 or  
7 semi-skilled, laborer and apprentices or helpers employed by any  
8 contractor or subcontractor and engaged in the performance of services  
9 directly upon a public work, regardless of whether their work becomes  
10 a component part thereof, but does not include material suppliers or  
11 their employees who do not perform services at the job site. For the  
12 purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.), contractors or  
13 subcontractors engaged in custom fabrication shall not be regarded as  
14 material suppliers.

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

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

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

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

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

40 (b) In the case of any public work other than a public work  
41 described in paragraph (a) of this subsection, an amount equal to  
42 \$2,000.

43 (12) "Custom fabrication" means:

44 (a) the fabrication of any of the following: plumbing, heating,  
45 cooling, ventilation or exhaust duct systems, mechanical insulation, or  
46 one or more signs in a project which cost a total of more than \$30,000  
47 and are part of a project upon completion; or

1 (b) any other fabrication which is **【either of components】** one or  
2 more entire modules or structures pre-fabricated to specifications for a  
3 particular project of public work **【or of other materials finished into**  
4 **components without further modification】** with minimal construction  
5 work remaining other than installation<sup>2</sup>, regardless of whether  
6 unforeseen construction work is required on the public work site to  
7 modify the custom fabricated item for the purpose of installation.<sup>2</sup> for  
8 use in a project of public work or for use in a type or classification of a  
9 project of public work. <sup>1</sup>**【It】** “Custom fabrication”<sup>1</sup> shall not include  
10 components or materials <sup>1</sup>【that cannot be fabricated on the public  
11 work site】<sup>1</sup>, such as structural steel members or precast concrete, or  
12 smaller prefabricated 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.