

**ASSEMBLY, No. 4194**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED MAY 2, 2024

**Sponsored by:**

**Assemblyman JOHN ALLEN**

**District 32 (Hudson)**

**Assemblyman MICHAEL VENEZIA**

**District 34 (Essex)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblymen Miller and Hutchison**

**SYNOPSIS**

Prohibits cooperatives from receiving public works contracts when one member of the cooperative fails to pay prevailing wages.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/3/2024)**

1 AN ACT concerning the eligibility for public works contracts of  
2 certain legal entities 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:

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7 1. Section 14 of P.L.1963, c.150 (C.34:11-56.38) is amended to  
8 read as follows:

9 14. The public body awarding any contract for public work, or  
10 otherwise undertaking any public work, or entering into a lease or  
11 agreement to lease pursuant to which public work is to be done,  
12 shall first ascertain from the commissioner the list of names of  
13 contractors or subcontractors who have failed to pay prevailing  
14 wages as determined in section 13 of this act, and no contract shall  
15 be awarded to such contractor or subcontractor, or to any firm,  
16 cooperative, corporation or partnership in which such contractor or  
17 subcontractor has an interest until three years have elapsed from the  
18 date of listing as determined in section 13 of this act. This  
19 prohibition shall apply to corporations or other legal entities that are  
20 owned and operated as a cooperative, in which at least one of the  
21 owners is a contractor or subcontractor who has failed to pay  
22 prevailing wages as determined by section 13 of this act.

23 For purposes of this section, "cooperative" shall mean a system  
24 of collective ownership of a corporation or other legal entity in  
25 which the shareholders or other coowners each also have a long  
26 term proprietary interest or other long term arrangement of control  
27 over the operations of the business.

28 For purposes of this section, "interest" shall mean an interest in  
29 the firm, corporation or partnership bidding on, or performing  
30 public work, whether having the interest as an owner, partner,  
31 officer, manager, employee, agent, vendor, consultant or  
32 representative. The term may also include, but not be limited to, all  
33 instances in which the contractor or subcontractor listed by the  
34 commissioner under section 13 of this act has received payments,  
35 whether those payments are in the form of cash or any other form of  
36 compensation from the firm, corporation or partnership, or when the  
37 contractor or subcontractor listed by the commissioner under  
38 section 13 of this act has entered into any contract or agreement  
39 with the firm, corporation or partnership for services performed or  
40 to be performed, for services that have been or will be assigned or  
41 subletted, or for the sale, rental or lease of vehicles, tools,  
42 equipment or supplies during the period from the initiation of the  
43 proceedings under section 13 of this act against the contractor or  
44 subcontractor until three years have elapsed from the date that the  
45 contractor or subcontractor has been listed by the commissioner

**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 under section 13 of this act. The term "interest" shall not include  
2 shares held in a publicly traded corporation if the shares were not  
3 received as compensation after the initiation of proceedings under  
4 section 13 of this act from a firm, corporation or partnership  
5 bidding or performing public work.

6 A rebuttable presumption that a contractor or subcontractor listed  
7 by the commissioner under section 13 of this act has an interest in  
8 another firm, corporation or partnership may arise if the two share  
9 any of the following capacities or characteristics: (1) perform  
10 similar work within the same geographical area and within the same  
11 monetary range, (2) occupy the same premises, (3) have the same  
12 telephone number or fax number, (4) have the same email address  
13 or internet website, (5) employ substantially the same  
14 administrative employees, (6) utilize the same tools and equipment,  
15 (7) employ or engage the services of any listed person or persons  
16 involved in the direction or control of the other, or (8) list  
17 substantially the same work experience in order to obtain the  
18 requisite pre-qualification rating from the Department of the  
19 Treasury, or any other entity, to participate in any public work.

20 If a rebuttable presumption has arisen that a contractor or  
21 subcontractor listed by the commissioner under section 13 of this  
22 act has an interest in another firm, corporation or partnership, the  
23 adversely affected contractor or subcontractor, including the firm,  
24 corporation or partnership, which would by virtue of a finding of  
25 "interest" be prevented under this section from being awarded  
26 public work, may request a hearing, which shall be conducted in  
27 accordance with the "Administrative Procedure Act," P.L.1968,  
28 c.410 (C.52:14B-1 et seq.).  
29 (cf: P.L.2007, c.67, s.1)

30  
31 2. This act shall take effect 90 days following the date of  
32 enactment.

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#### STATEMENT

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37 Under current law, contractors or subcontractors who have failed  
38 to pay prevailing wages are prohibited from receiving public works  
39 contracts for a period of three years. Under this bill, this  
40 prohibition will also apply to any corporation or other legal entity  
41 which is owned or operated as a cooperative, in which at least one  
42 member of the cooperative is a contractor or subcontractor who has  
43 failed to pay prevailing wages.

44 The bill defines "cooperative" as a system of collective  
45 ownership of a corporation or other legal entity in which the  
46 shareholders or other coowners each also have a long term  
47 proprietary interest or other long term arrangement of control over  
48 the operations of the business.