ASSEMBLY, No. 5647

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 19, 2026

Sponsored by:
Assemblyman LARRY WAINSTEIN
District 33 (Hudson)

SYNOPSIS

Clarifies applicability of "New Jersey Prevailing Wage Act" to public work projects.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning applicability of "New Jersey Prevailing Wage Act" and amending and supplementing 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**]** <u>P.L.1963, c.150 (C.34:11-56.25 et seq.)</u>:

(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**[**%**]** <u>percent</u> 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 <u>thus</u> is new matter.

(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.

Whenever the terms “public work of a public body,” “public work performed for a public body,” “public works project of a public body,” or any substantially similar terms or phrases appear in the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et seq.), or in any rule or regulation promulgated thereunder, that term or phrase shall be deemed to include and mean all “public work” as defined in this section.

(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 one or more entire modules or structures pre-fabricated to specifications for a particular project of public work 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, such as structural steel members or precast concrete, or smaller prefabricated components.

(cf: P.L.2023, c.133)

2. (New section) For purposes of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), any contractor, subcontractor, developer, construction manager, tenant, lessee, concessionaire, or other entity performing "public work" shall be subject to all obligations, duties, requirements, protections, penalties, and enforcement provisions applicable under P.L.1963, c.150 (C.34:11-56.25 et seq.), regardless of whether:

a. the work is performed pursuant to a direct contract with a public body;

b. the work is performed on behalf of a private entity;

c. the project involves a lease, sublease, concession, redevelopment agreement, public-private partnership, or other similar arrangement; or

d. public body involvement arises through public funding, ownership, leasehold interest, redevelopment authority, tax incentive, or any other basis establishing coverage under P.L.1963, c.150 (C.34:11-56.25 et seq.).

3. This act shall take effect on the 90th day next following the date of enactment.

STATEMENT

This bill clarifies the applicability of the "New Jersey Prevailing Wage Act" to public work projects.

Specifically, the bill provides that whenever the terms "public work of a public body," "public work performed for a public body,"

"public works project of a public body," or any substantially similar terms or phrases appear in the "New Jersey Prevailing Wage Act," or in any rule or regulation promulgated thereunder, that term or phrase is deemed to include and mean all "public work" as defined in the act.

The bill also provides that, for purposes of the "New Jersey Prevailing Wage Act," any contractor, subcontractor, developer, construction manager, tenant, lessee, concessionaire, or other entity performing "public work" shall be subject to all obligations, duties, requirements, protections, penalties, and enforcement provisions applicable under the act, regardless of whether:

(1) the work is performed pursuant to a direct contract with a public body;

(2) the work is performed on behalf of a private entity;

(3) the project involves a lease, sublease, concession, redevelopment agreement, public-private partnership, or other similar arrangement; or

(4) public body involvement arises through public funding, ownership, leasehold interest, redevelopment authority, tax incentive, or any other basis establishing coverage under the act.