

CHAPTER 69

AN ACT expanding opportunity in project labor agreements and amending P.L.2002, c.44.

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

1. Section 2 of P.L.2002, c.44 (C.52:38-2) is amended to read as follows:

C.52:38-2 Definitions relative to project labor agreements.

2. For the purposes of this act:

"Apprenticeship program" means a registered apprenticeship program providing to each trainee combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade, and registered by the Office of Apprenticeship of the U.S. Department of Labor and meeting the standards established by the office, or registered by a State apprenticeship agency recognized by the office.

"Disadvantaged community" means a census block group, as determined in accordance with the most recent United States Census, in which:

- (1) at least 35 percent of the households are low-income households;
- (2) at least 40 percent of the residents are minority group members or members of a State-recognized tribal community; or
- (3) at least 40 percent of the households have limited English proficiency.

"Labor organization" means, with respect to a contracted work on a public works project, an organization which represents, for purposes of collective bargaining, employees involved in the performance of public works contracts and eligible to be paid prevailing wages under the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.) and has the present ability to refer, provide or represent sufficient numbers of qualified employees to perform the contracted work, in a manner consistent with the provisions of this act and any plan mutually agreed upon by the labor organization and the public entity pursuant to subsection g. of section 5 of this act.

"Low-income household" means a household that is at or below twice the poverty threshold as that threshold is determined annually by the United States Census Bureau.

"Political subdivision" means any county, municipality, school district or other political subdivision of the State of New Jersey or any instrumentality or agency of the political subdivision.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project.

"Public entity" means the State, any of its political subdivisions, any authority created by the Legislature and any instrumentality or agency of the State or of any of its political subdivisions.

"Public works project" means any public works project for construction, reconstruction, demolition or renovation for which:

- (1) It is required by law that workers be paid the prevailing wage determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and
- (2) The public entity estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed \$5 million.

2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read as follows:

C.52:38-3 Public entity to include project labor agreements in certain public works projects.

3. A public entity may include a project labor agreement in a public works project on a project-by-project basis, if the public entity determines, taking into consideration the size, complexity and cost of the public works project, that, with respect to that project the project labor agreement will meet the requirements of section 5 of this act, including promoting labor stability and advancing the interests of the public entity in cost, efficiency, skilled labor force, quality, safety and timeliness, and, in the case of a public entity which is a political subdivision, promotes employment of residents of the political subdivision. If the public entity determines that a project labor agreement will meet those requirements with respect to a particular public works project, the public entity shall either: directly negotiate in good faith a project labor agreement with one or more labor organizations; or condition the award of a contract to a construction manager upon a requirement that the construction manager negotiate in good faith a project labor agreement with one or more labor organizations. Upon the request of the public entity, the Commissioner of Labor shall assist in facilitating the negotiation of the project labor agreement. The decision by the public entity to require the inclusion of a project labor agreement requirement shall not be deemed to unduly restrict competition if the public entity finds that the project labor agreement is reasonably related to the satisfactory performance and completion of the public works project, and any bidder for the public works project refusing to agree to abide by the conditions of the project labor agreement or the requirement to negotiate a project labor agreement shall not be regarded as a responsible bidder. Upon the request of the public entity, the Commissioner of Labor shall review the finalized project labor agreement and provide to the public entity, not more than 30 calendar days after the agreement is submitted to the commissioner by the public entity, a written advisory statement regarding whether the project labor agreement conforms with the provisions of this act.

3. Section 4 of P.L.2002, c.44 (C.52:38-4) is amended to read as follows:

C.52:38-4 Project labor agreement binding, certain stipulations required.

4. Any project labor agreement negotiated pursuant to this act between the public entity or its representative or a construction manager and one or more labor organizations shall be binding on all contractors and subcontractors working on the public works project and may include provisions that permit contractors and subcontractors working on the public works project to retain a percentage of their current workforce, and provisions that the successful bidder and any subcontractor of the bidder need not be a party to a labor agreement with the labor organizations other than for the public works project covered by the project labor agreement. Each project labor agreement shall stipulate that:

- a. the provisions of the project labor agreement shall apply to work done at construction sites of the public works project and shall not apply to work done outside of those sites; and
- b. if a union trust fund covered by the terms and conditions of the project labor agreement has not adopted the building and construction industry exemption authorized by subsection (b) of section 4203 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. s.1383(b)), the signatory employers shall not be obligated to hire employees covered by that fund.

4. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to read as follows:

C.52:38-5 Requirements for project labor agreement.

5. Each project labor agreement executed pursuant to the provisions of this act shall:
 - a. Advance the interests of the public entity, including the interests in cost, efficiency, quality, timeliness, skilled labor force, and safety;
 - b. Contain guarantees against strikes, lock-outs, or other similar actions;
 - c. Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work;
 - d. Be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents;
 - e. Require that each contractor and subcontractor working on the public works project have an apprenticeship program;
 - f. Fully conform to all statutes, regulations, executive orders and applicable local ordinances regarding the implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which shall be expressly provided in the project labor agreement;
 - g. Include a publicly available plan regarding:
 - (1) the shares of employment and apprenticeship positions in the public works project for minority group members, members of disadvantaged communities, and women which are in full conformance with the requirements of all applicable statutes, regulations, executive orders and local ordinances and is mutually agreed upon by the participating labor organizations and the public entity which will own the facilities which are built, altered or repaired under the public works project, provided that any shares mutually agreed upon pursuant to this subsection shall equal or exceed the requirements of other statutes, regulations, executive orders or local ordinances; and
 - (2) all measures and programs to be undertaken to attain the goals of paragraph (1) of this subsection regarding minority group members, members of disadvantaged communities, and women, which may include measures giving them priority in referral and placement from the hiring halls of signatory unions, programs to provide on-the-job or off-the-job outreach and training, and programs to provide incentives for, or otherwise facilitate, their hiring and employment;
 - h. Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a number of women, members of disadvantaged communities, and minority group members sufficient to enable compliance with the plan agreed upon pursuant to subsection g. of this section and provide that the use of those resources be administered jointly by the participating labor organizations and the public entity or community-based organizations selected by the public entity; and
 - i. Require the public body to monitor, or arrange to have a State agency monitor, the amount and share of work done on the project by minority group members, members of disadvantaged communities, and women and the progression of minority group members, members of disadvantaged communities, and women into apprentice and journey worker positions, and require the public body to make public, or have the State agency make public, all records of monitoring conducted pursuant to this subsection.

5. This act shall take effect immediately.

Approved April 30, 2021.