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SYNOPSIS
Concerns registration of contractors and sets criteria for responsible bidders in public work.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 9/23/2014)
AN ACT concerning registration of contractors and setting criteria for responsible bidders in public work, amending P.L.1963, c.150, and amending and supplementing P.L.1999, c.238.

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

1. Section 3 of P.L.1963, c.150 (C.34:11-56.27) is amended to read as follows:

   3. a. Every contract in excess of the prevailing wage contract threshold amount for any public work to which any public body is a party or for public work to be done on property or premises owned by a public body or leased or to be leased by a public body shall contain a provision stating the prevailing wage rate which can be paid (as shall be designated by the commissioner) to the workers employed in the performance of the contract and the contract shall contain a stipulation that such workers shall be paid not less than such prevailing wage rate. Such contract shall also contain a provision that in the event it is found that any worker, employed by the contractor or any subcontractor covered by said contract, has been paid a rate of wages less than the prevailing wage required to be paid by such contract, the public body, the lessee to whom the public body is leasing a property or premises or the lessor from whom the public body is leasing or will be leasing a property or premises may terminate the contractor’s or subcontractor’s right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages and to prosecute the work to completion or otherwise. The contractor and his sureties shall be liable for any excess costs occasioned thereby to the public body, any lessee to whom the public body is leasing a property or premises or any lessor from whom the public body is leasing or will be leasing a property or premises.

   b. Every contract subject to the provisions of subsection a. of this section shall provide that every worker employed in the performance of that contract is an apprentice participating in a registered apprenticeship program or has completed a registered apprenticeship, unless the contractor or subcontractor certifies that every worker shall be paid not less than the journeyworker’s rate established for the apprenticeable trade performed pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), (cf: P.L.2007, c.68, s.2)

2. Section 3 of P.L.1999, c.238 (C.34:11-56.50) is amended to read as follows:

   3. As used in this act:

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

"Contractor" means a person, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof who enters into a contract which is subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), or into a contract under which workers are required by any other State law to be paid prevailing wage rates set pursuant to that act, and includes any subcontractor or lower tier subcontractor of a contractor as defined herein.

"Department" means the Department of Labor and Workforce Development.

"Director" means the Director of the Division of Wage and Hour Compliance in the Department of Labor and Workforce Development.

“Registered apprenticeship program” means an apprenticeship program which is registered with and approved by the United States Department of Labor and which provides each trainee with 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 meets the program performance standards of enrollment and graduation under 29 C.F.R. Part 29, section 29.6.

“Responsible bidder” means a contractor who bids upon a contract subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), or a contract under which workers are required by any other State law to be paid prevailing wage rates set pursuant to that act, and who meets all of the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52).


"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.

(cf: P.L.2007, c.67, s.2)
3. Section 4 of P.L.1999, c.238 (C.34:11-56.51) is amended to read as follows:

4. No contractor shall bid on any contract for public work as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26), or any other work in which workers are required by any other State law to be paid prevailing wage rates set pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), unless the contractor has demonstrated itself to be a responsible bidder by complying with all of the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52) and is registered pursuant to this act. No contractor shall list a subcontractor in a bid proposal for the contract unless the subcontractor has demonstrated itself to be a responsible bidder by complying with all of the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52) and is registered pursuant to that act. No contractor or subcontractor, including a subcontractor not listed in the bid proposal, shall engage in the performance of any public work subject to the contract, unless the contractor or subcontractor has demonstrated itself to be a responsible bidder by complying with all of the requirements of section 5 of P.L.1999, c.238 (C.34:11-56.52) and is registered pursuant to that act.

(cf: P.L.2003, c.91, s.2)

4. Section 5 of P.L.1999, c.238 (C.34:11-56.52) is amended to read as follows:

5. a. A contractor shall register in writing with the department on a form provided by the commissioner. The form shall require the following information, and the contractor shall not be registered unless all of the required information is provided:

(1) The name, principal business address and telephone number of the contractor;

(2) Whether the contractor is a corporation, partnership, sole proprietorship, or other form of business entity;

(3) If the contractor's principal business address is not within the State, the name and address of the contractor's custodian of records and agent for service of process in this State;

(4) The name and address of each person with a financial interest in the contractor and the percentage interest, except that if the contractor is a publicly-traded corporation, the contractor shall supply the names and addresses of the corporation's officers;

(5) The contractor's tax identification number and unemployment insurance registration number; [and]

(6) A certification form provided by the commissioner, with documentation satisfactory to the commissioner, that the contractor:

(a) Has all valid and effective licenses, registrations or certificates required by federal, State, county or local law including, but not limited to licenses, registrations or certifications required to
do business in the State of New Jersey and perform the work it seeks to perform;

(b) Has not been debarred by a federal or State government agency or authority in the past three years;

(c) Has not had any type of business, contracting or trade license, registration or other certificate suspended or revoked in the past year; and

(d) Has not been convicted of any crime of the first, second or third degree directly relating to the operation of the construction business or any other crime which would disqualify the contractor from being pre-qualified by the Division of Property Management and Construction; and

(7) Any other relevant and appropriate information as determined by the commissioner.

b. At the time of registration, and subsequently upon request, the contractor shall submit to the commissioner documentation demonstrating that the contractor has worker's compensation insurance coverage for all workers as required by law. (cf: P.L.1999, c.238, s.5)

5. (New section) The Legislature finds that there is a need to ensure that all public work subject to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), or any other State law requiring the payment of prevailing wage rates set pursuant to that act, is performed by responsible, qualified contractors that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable and cost-effective manner. Nothing in P.L.1999, c.238 (C.34:11-56.48 et seq.), or any other law of this State, shall be construed as preventing any political subdivision of the State from setting standards, criteria or requirements for the qualifications of contractors bidding for public work with the political subdivision which equal or exceed the standards, criteria or requirements of P.L.1999, c.238 (C.34:11-56.48 et seq.), or any other State law, including, but not limited to, standards regarding technical qualifications, competency, experience, adequacy of resources, including equipment, facilities, finances and personnel and the qualifications and provisions for training of the personnel, and having a satisfactory record regarding past project performance, safety, and business integrity and compliance with laws applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, and environmental laws.

6. (New section) No contractor or subcontractor shall be registered pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) if the contractor or subcontractor has, in any of the three most recent
calendar years occurring after the effective date of this act, been
determined by the commissioner to have a total of three or more
knowing and willful violations of State wage, benefit and tax laws,
as defined in section 3 of P.L.1999, c.238 (C.34:11-56.50),
occurring on two or more public contracts.

7. This act shall take effect immediately and its provisions
shall apply to each new registration or renewal of a registration
made pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) on or
after 90th day after the effective date of this act.

STATEMENT

This bill requires any contractor or subcontractor who registers
to contract for public work pursuant to the “Public Works
Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.) to demonstrate that it is a responsible bidder by complying
with all of the requirements of section 5 of P.L.1999, c.238
(C.34:11-56.52). The bill states that section to add to those
requirements a requirement to submit, as part of the registration, a
certification, with documentation satisfactory to the commissioner,
that the contractor or subcontractor:

1. Has all valid and effective licenses, registrations or
certificates required by federal, State, county or local law including,
but not limited to licenses, registrations or certifications required to
do business in the State of New Jersey and perform the work it
seeks to perform;

2. Has not been debarred by a federal or State government
agency or authority in the past three years;

3. Has not had any type of business, contracting or trade
license, registration or other certificate suspended or revoked in the
past year;

4. Has not been convicted of any crime of the first, second and
third degrees directly relating to the construction business or any
other crime which would disqualify the contractor from being pre-
qualified by the Division of Property Management and
Construction; and

5. Has not, in any of the three most recent calendar years, been
determined to have a total of three or more knowing and willful
violations of State wage, benefits and tax laws occurring on two or
more public contracts.

The bill requires every contract subject to State prevailing wage
requirements to require each worker employed under the contract to
be enrolled in, or have completed, a registered apprenticeship,
unless the contractor or subcontractor certifies that the worker is
paid not less than the journeyworker wage rate.
The bill also provides that nothing in the bill, or any other law of this State, shall be construed as preventing any political subdivision of the State from setting standards, criteria or requirements for the qualifications of contractors bidding for public work with the political subdivision which equal or exceed the standards, criteria or requirements of the bill or any other State law, including, but not limited to, standards concerning technical qualifications, competency, experience, adequacy of resources, including equipment, facilities, finances and personnel and the qualifications and provisions for training of the personnel, and having a satisfactory record regarding past project performance, safety, and business integrity and compliance with laws applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, and environmental laws.

Finally, the bill clarifies that contractor registration requirements of the “Public Works Contractor Registration Act” apply to any contractor bidding for any work in which workers are required to be paid prevailing wage rates set pursuant to the State’s prevailing wage law, P.L.1963, c.150 (C.34:11-56.25 et seq.), whether they are required to pay those rates by the prevailing wage law or by any other law.