

## CHAPTER 238

AN ACT concerning public works contractors and supplementing P.L.1963, c.150 (C.34:11-56.25 et seq).

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

C.34:11-56.48 Short title.

1. This act shall be known and may be cited as "The Public Works Contractor Registration Act."

C.34:11-56.49 Findings, declarations relative to public works contractors.

2. The Legislature finds and declares that:

a. There is growing concern over the increasing number of construction industry workers on public works projects laboring under conditions which violate State labor laws and regulations concerning wages, unemployment and temporary disability insurance, workers' compensation insurance, and the payment of payroll taxes;

b. Contractors and subcontractors receiving the benefit of public tax dollars for their work should not be allowed to exploit their workers by denying them benefits and pay mandated by law;

c. It is therefore necessary and proper for the Legislature to establish a registration system for contractors and subcontractors engaged in public works projects in order to better enforce existing labor laws and regulations in the public works industry.

C.34:11-56.50 Definitions relative to public works contractors.

3. As used in this act:

"Commissioner" means the Commissioner of Labor 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.) for the construction, reconstruction, demolition, alteration, repair or maintenance of a public building regularly open to and used by the general public or a public institution, and includes any subcontractor or lower tier subcontractor of a contractor as defined herein, except that, for the purposes of this act, no pumping station, treatment plant or other facility associated with utility and environmental construction, reconstruction, demolition, alteration, repair or maintenance shall be regarded as a public building regularly open to and used by the general public or a public institution.

"Department" means the Department of Labor.

"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.

C.34:11-56.51 Registration required for contractors.

4. No contractor shall bid on or engage in any contract for public work as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26) unless the contractor is registered pursuant to this act.

C.34:11-56.52 Contractor to register in writing; form; requisites.

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:

(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) 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.

C.34:11-56.53 Registration fees.

6. a. The contractor shall pay an initial annual registration fee of \$300 to the commissioner. The registration fee for the second annual registration shall be \$300. Upon successful completion of two consecutive years of registration, a contractor may elect to register for a two-year period and pay a registration fee of \$500.

b. A contractor who is performing public work on the effective date of this act shall submit the registration application form and fee to the commissioner within 30 days of the effective date of this act.

c. Registration fees collected pursuant to this act shall be applied toward the enforcement and administration costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the department.

C.34:11-56.54 Issuance of certificate of registration.

7. Upon receipt of the fee, form and documentation required by section 5 of this act, the commissioner shall issue a certificate of registration to the contractor. A registration certificate shall be valid for one calendar year from the date of registration. Registrations shall be renewed not less than 30 days before the expiration date of the immediately preceding registration.

C.34:11-56.55 Registration required to submit bid.

8. Contractors not performing public work on the effective date of this act shall file a registration form and submit a fee to the department before submitting a bid for a public work contract. A contractor shall not be precluded from bidding for a public work contract or performing public work if the contractor has submitted a registration application to the department, and includes a copy of the application with the bid. The department shall review the application and make a determination regarding registration within 30 days of receipt of the application.

C.34:11-56.56 Violation; disorderly persons offense; other penalties; surety bonds.

9. a. A contractor who: (1) willfully hinders or delays the commissioner in the performance of his duties in the enforcement of this act; (2) fails to make, keep, and preserve any records as required under the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); (3) falsifies any such record, or refuses to make any such record accessible to the commissioner upon demand; (4) refuses to furnish a sworn statement of such records or any other information required for the enforcement of this act to the commissioner upon demand; (5) pays or agrees to pay wages at a rate less than the rate prescribed by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.); or (6) otherwise violates any provision of this act, shall be guilty of a disorderly persons offense.

b. As an alternative to or in addition to sanctions provided by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may, after providing the contractor with notice of any alleged violation of this act, and with an opportunity to request a hearing before the commissioner or his designee:

(1) Revoke or suspend the registration of a contractor for a period of not more than five years; or

(2) Require a contractor, as a condition of initial or continued registration, to provide a surety bond payable to the State. The surety bond shall be for the benefit of workers damaged by any failure of a contractor to pay wages or benefits pursuant to or otherwise comply with the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.) or this act. The surety bond shall be in the amount and form that the commissioner deems

necessary for the protection of the contractor's workers, but shall not exceed \$10,000 per worker. The surety bond shall be issued by a surety that meets the requirements of N.J.S.2A:44-143.

C.34:11-56.57 Regulations.

10. The commissioner may adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

11. This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Labor shall take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved October 14, 1999.