

34:11-56.26

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2004 **CHAPTER:** 101

NJSA: 34:11-56.26 (Applies prevailing wage to custom fabrication of certain trades)

BILL NO: S596 (Substituted for A264)

SPONSOR(S) Sweeney and Rice

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:**
SENATE: Labor

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 24, 2004

SENATE: June 21, 2004

DATE OF APPROVAL: July 14, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) 1st reprint enacted

S596

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

A264

[SPONSOR'S STATEMENT:](#) (Begins on 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

P.L. 2004, CHAPTER 101, *approved July 14, 2004*
Senate, No. 596 (*First Reprint*)

1 **AN ACT** concerning the payment of prevailing wages for custom
2 fabrication work in public work 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:

6

7 1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to
8 read as follows:

9 2. As used in this act:

10 (1) "Department" means the Department of Labor of the State of
11 New Jersey.

12 (2) "Locality" means any political subdivision of the State,
13 combination of the same or parts thereof, or any geographical area or
14 areas classified, designated and fixed by the commissioner from time
15 to time, provided that in determining the "locality" the commissioner
16 shall be guided by the boundary lines of political subdivisions or parts
17 thereof, or by a consideration of the areas with respect to which it has
18 been the practice of employers of particular crafts or trades to engage
19 in collective bargaining with the representatives of workers in such
20 craft or trade.

21 (3) "Maintenance work" means the repair of existing facilities when
22 the size, type or extent of such facilities is not thereby changed or
23 increased.

24 (4) "Public body" means the State of New Jersey, any of its
25 political subdivisions, any authority created by the Legislature of the
26 State of New Jersey and any instrumentality or agency of the State of
27 New Jersey or of any of its political subdivisions.

28 (5) "Public work" means construction, reconstruction, demolition,
29 alteration, custom fabrication, or repair work, or maintenance work,
30 including painting and decorating, done under contract and paid for in
31 whole or in part out of the funds of a public body, except work
32 performed under a rehabilitation program. "Public work" shall also
33 mean construction, reconstruction, demolition, alteration, custom
34 fabrication, or repair work, done on any property or premises, whether
35 or not the work is paid for from public funds, if, at the time of the
36 entering into of the contract:

37 (a) Not less than 55% of the property or premises is leased by a
38 public body, or is subject to an agreement to be subsequently leased
39 by the public body; and

40 (b) The portion of the property or premises that is leased or subject

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLA committee amendments adopted March 22, 2004.

1 to an agreement to be subsequently leased by the public body measures
2 more than 20,000 square feet.

3 (6) "Commissioner" means the Commissioner of Labor or his duly
4 authorized representatives.

5 (7) "Workman" or "worker" includes laborer, mechanic, skilled or
6 semi-skilled, laborer and apprentices or helpers employed by any
7 contractor or subcontractor and engaged in the performance of
8 services directly upon a public work, regardless of whether their work
9 becomes a component part thereof, but does not include material
10 suppliers or their employees who do not perform services at the job
11 site. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.),
12 contractors or subcontractors engaged in custom fabrication shall not
13 be regarded as material suppliers.

14 (8) "Work performed under a rehabilitation program" means work
15 arranged by and at a State institution primarily for teaching and
16 upgrading the skills and employment opportunities of the inmates of
17 such institutions.

18 (9) "Prevailing wage" means the wage rate paid by virtue of
19 collective bargaining agreements by employers employing a majority
20 of workers of that craft or trade subject to said collective bargaining
21 agreements, in the locality in which the public work is done.

22 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-
23 56.25 et seq.) and the rules and regulations issued hereunder.

24 (11) "Prevailing wage contract threshold amount" means:

25 (a) In the case of any public work paid for in whole or in part out
26 of the funds of a municipality in the State of New Jersey or done on
27 property or premises leased or to be leased by the municipality, the
28 dollar amount established for the then current calendar year by the
29 commissioner through rules and regulations promulgated pursuant to
30 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), which amount shall be equal to \$9,850 on July 1, 1994 and
32 which amount shall be adjusted on July 1 every five calendar years
33 thereafter in direct proportion to the rise or fall in the average of the
34 Consumer Price Indices for Urban Wage Earners and Clerical Workers
35 for the New York metropolitan and the Philadelphia metropolitan
36 regions as reported by the United States Department of Labor during
37 the last full calendar year preceding the date upon which the
38 adjustment is made; and

39 (b) In the case of any public work other than a public work
40 described in paragraph (a) of this subsection, an amount equal to
41 \$2,000.

42 (12) "Custom fabrication" means the fabrication of¹ [woodwork,
43 cases, cabinets or counters and the fabrication of]¹ plumbing, heating,
44 cooling, ventilation or exhaust duct systems¹, and mechanical
45 insulation¹.

46 (cf: P.L.1995, c.259, s.13)

1 2. This act shall take effect immediately.

2

3

4

5

6 Applies prevailing wage to custom fabrication of woodwork and
7 plumbing, heating, cooling, ventilation or exhaust duct systems.

SENATE, No. 596

STATE OF NEW JERSEY
211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator RONALD L. RICE

District 28 (Essex)

SYNOPSIS

Applies prevailing wage to custom fabrication of woodwork and plumbing, heating, cooling, ventilation or exhaust duct systems.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/23/2004)

S596 SWEENEY, RICE

2

1 AN ACT concerning the payment of prevailing wages for custom
2 fabrication work in public work 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:

6
7 1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to
8 read as follows:

9 2. As used in this act:

10 (1) "Department" means the Department of Labor of the State of
11 New Jersey.

12 (2) "Locality" means any political subdivision of the State,
13 combination of the same or parts thereof, or any geographical area or
14 areas classified, designated and fixed by the commissioner from time
15 to time, provided that in determining the "locality" the commissioner
16 shall be guided by the boundary lines of political subdivisions or parts
17 thereof, or by a consideration of the areas with respect to which it has
18 been the practice of employers of particular crafts or trades to engage
19 in collective bargaining with the representatives of workers in such
20 craft or trade.

21 (3) "Maintenance work" means the repair of existing facilities when
22 the size, type or extent of such facilities is not thereby changed or
23 increased.

24 (4) "Public body" means the State of New Jersey, any of its
25 political subdivisions, any authority created by the Legislature of the
26 State of New Jersey and any instrumentality or agency of the State of
27 New Jersey or of any of its political subdivisions.

28 (5) "Public work" means construction, reconstruction, demolition,
29 alteration, custom fabrication, or repair work, or maintenance work,
30 including painting and decorating, done under contract and paid for in
31 whole or in part out of the funds of a public body, except work
32 performed under a rehabilitation program. "Public work" shall also
33 mean construction, reconstruction, demolition, alteration, custom
34 fabrication, or repair work, done on any property or premises, whether
35 or not the work is paid for from public funds, if, at the time of the
36 entering into of the contract:

37 (a) Not less than 55% of the property or premises is leased by a
38 public body, or is subject to an agreement to be subsequently leased
39 by the public body; and

40 (b) The portion of the property or premises that is leased or subject
41 to an agreement to be subsequently leased by the public body measures
42 more than 20,000 square feet.

43 (6) "Commissioner" means the Commissioner of Labor or his duly

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 authorized representatives.

2 (7) "Workman" or "worker" includes laborer, mechanic, skilled or
3 semi-skilled, laborer and apprentices or helpers employed by any
4 contractor or subcontractor and engaged in the performance of
5 services directly upon a public work, regardless of whether their work
6 becomes a component part thereof, but does not include material
7 suppliers or their employees who do not perform services at the job
8 site. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.),
9 contractors or subcontractors engaged in custom fabrication shall not
10 be regarded as material suppliers.

11 (8) "Work performed under a rehabilitation program" means work
12 arranged by and at a State institution primarily for teaching and
13 upgrading the skills and employment opportunities of the inmates of
14 such institutions.

15 (9) "Prevailing wage" means the wage rate paid by virtue of
16 collective bargaining agreements by employers employing a majority
17 of workers of that craft or trade subject to said collective bargaining
18 agreements, in the locality in which the public work is done.

19 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-
20 56.25 et seq.) and the rules and regulations issued hereunder.

21 (11) "Prevailing wage contract threshold amount" means:

22 (a) In the case of any public work paid for in whole or in part out
23 of the funds of a municipality in the State of New Jersey or done on
24 property or premises leased or to be leased by the municipality, the
25 dollar amount established for the then current calendar year by the
26 commissioner through rules and regulations promulgated pursuant to
27 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), which amount shall be equal to \$9,850 on July 1, 1994 and
29 which amount shall be adjusted on July 1 every five calendar years
30 thereafter in direct proportion to the rise or fall in the average of the
31 Consumer Price Indices for Urban Wage Earners and Clerical Workers
32 for the New York metropolitan and the Philadelphia metropolitan
33 regions as reported by the United States Department of Labor during
34 the last full calendar year preceding the date upon which the
35 adjustment is made; and

36 (b) In the case of any public work other than a public work
37 described in paragraph (a) of this subsection, an amount equal to
38 \$2,000.

39 (12) "Custom fabrication" means the fabrication of woodwork,
40 cases, cabinets or counters and the fabrication of plumbing, heating,
41 cooling, ventilation or exhaust duct systems.

42 (cf: P.L.1995, c.259, s.13)

43

44 2. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12

This bill provides that any custom fabrication of woodwork, cases, cabinets or counters and the fabrication of plumbing, heating, cooling, ventilation or exhaust duct systems used in public work is subject to the "New Jersey Prevailing Wage Act" P.L.1963, c.150 (C.34:11-56.25 et seq.), whether or not the fabrication is done on the site of the public work. The bill specifies that, for the purposes of that act, contractors or subcontractors engaged in custom fabrication are not regarded as material suppliers, and therefore are not given the exemption from the provisions of that act the material suppliers are given.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 596

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 22, 2004

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 596.

As amended, this bill provides that any custom fabrication of mechanical insulation, plumbing, heating, cooling, ventilation or exhaust duct systems used in public work is subject to the "New Jersey Prevailing Wage Act" P.L.1963, c.150 (C.34:11-56.25 et seq.), whether or not the fabrication is done on the site of the public work. The bill specifies that, for the purposes of that act, contractors or subcontractors engaged in custom fabrication are not regarded as material suppliers, and therefore are not given the exemption from the provisions of that act the material suppliers are given.

This bill was amended to remove the custom fabrication of woodwork, cases, cabinets or counters from the definition of custom fabrication and to add mechanical insulation.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 596

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: JULY 7, 2004

SUMMARY

Synopsis: Applies prevailing wage to custom fabrication of woodwork and plumbing, heating, cooling, ventilation or exhaust duct systems.

Type of Impact: Indeterminate but minimal State cost

Agencies Affected: Department of Labor

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate minimal increase	Indeterminate minimal increase	Indeterminate minimal increase

- ! This bill provides that any custom fabrication of mechanical insulation, plumbing, heating, cooling, ventilation or exhaust duct systems used in public work is subject to the "New Jersey Prevailing Wage Act" P.L.1963, c.150 (C.34:11-56.25 et seq.).
- ! There is no available information concerning the value of custom fabrication undertaken in connection with public work that may become subject to the "New Jersey Prevailing Wage Act" upon enactment of the bill. However, the Office of Legislative Services (OLS) estimates that the bill will result in a minimal increase in State cost due to the limited scope of entities engaged in custom fabrication as defined in the bill.

BILL DESCRIPTION

Senate Bill No. 596 (1R) of 2004 provides that any custom fabrication of mechanical insulation, plumbing, heating, cooling, ventilation or exhaust duct systems used in public work is subject to the "New Jersey Prevailing Wage Act" P.L.1963, c.150 (C.34:11-56.25 et seq.), whether or not the fabrication is done on the site of the public work. The bill specifies that, for the purposes of that act, contractors or subcontractors engaged in custom fabrication are not regarded as material suppliers, and therefore are not given the exemption from the provisions of that act the material suppliers are given.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

There is no available information concerning the value of custom fabrication undertaken in connection with public works that may become subject to the "New Jersey Prevailing Wage Act" upon enactment of the bill. However, the Office of Legislative Services (OLS) estimates that the bill will result in a minimal increase in State cost due to the limited scope of entities engaged in custom fabrication as defined in the bill. OLS also finds that the cost will be minimal because the portion of custom fabrication work which is performed on site is already subject to prevailing wage rates, and any fabrication which is not created specifically for a particular project is not covered by the bill.

Section: *Commerce, Labor and Industry*

Analyst: *Sonya S. Davis*
Associate Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 264

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

SYNOPSIS

Applies prevailing wage requirement to certain custom fabrication.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the payment of prevailing wages for custom
2 fabrication work in public work 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:

6
7 1. Section 2 of P.L.1963, c.150 (C.34:11-56.26) is amended to
8 read as follows:

9 2. As used in this act:

10 (1) "Department" means the Department of Labor of the State of
11 New Jersey.

12 (2) "Locality" means any political subdivision of the State,
13 combination of the same or parts thereof, or any geographical area or
14 areas classified, designated and fixed by the commissioner from time
15 to time, provided that in determining the "locality" the commissioner
16 shall be guided by the boundary lines of political subdivisions or parts
17 thereof, or by a consideration of the areas with respect to which it has
18 been the practice of employers of particular crafts or trades to engage
19 in collective bargaining with the representatives of workers in such
20 craft or trade.

21 (3) "Maintenance work" means the repair of existing facilities when
22 the size, type or extent of such facilities is not thereby changed or
23 increased.

24 (4) "Public body" means the State of New Jersey, any of its
25 political subdivisions, any authority created by the Legislature of the
26 State of New Jersey and any instrumentality or agency of the State of
27 New Jersey or of any of its political subdivisions.

28 (5) "Public work" means construction, reconstruction, demolition,
29 alteration, custom fabrication, or repair work, or maintenance work,
30 including painting and decorating, done under contract and paid for in
31 whole or in part out of the funds of a public body, except work
32 performed under a rehabilitation program. "Public work" shall also
33 mean construction, reconstruction, demolition, alteration, custom
34 fabrication, or repair work, done on any property or premises, whether
35 or not the work is paid for from public funds, if, at the time of the
36 entering into of the contract:

37 (a) Not less than 55% of the property or premises is leased by a
38 public body, or is subject to an agreement to be subsequently leased
39 by the public body; and

40 (b) The portion of the property or premises that is leased or subject
41 to an agreement to be subsequently leased by the public body measures
42 more than 20,000 square feet.

43 (6) "Commissioner" means the Commissioner of Labor or his duly

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 authorized representatives.

2 (7) "Workman" or "worker" includes laborer, mechanic, skilled or
3 semi-skilled, laborer and apprentices or helpers employed by any
4 contractor or subcontractor and engaged in the performance of
5 services directly upon a public work, regardless of whether their work
6 becomes a component part thereof, but does not include material
7 suppliers or their employees who do not perform services at the job
8 site. For the purpose of P.L.1963, c.150 (C.34:11-56.25 et seq.)
9 contractors or subcontractors engaged in custom fabrication shall not
10 be regarded as material suppliers.

11 (8) "Work performed under a rehabilitation program" means work
12 arranged by and at a State institution primarily for teaching and
13 upgrading the skills and employment opportunities of the inmates of
14 such institutions.

15 (9) "Prevailing wage" means the wage rate paid by virtue of
16 collective bargaining agreements by employers employing a majority
17 of workers of that craft or trade subject to said collective bargaining
18 agreements, in the locality in which the public work is done.

19 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-
20 56.25 et seq.) and the rules and regulations issued hereunder.

21 (11) "Prevailing wage contract threshold amount" means:

22 (a) In the case of any public work paid for in whole or in part out
23 of the funds of a municipality in the State of New Jersey or done on
24 property or premises leased or to be leased by the municipality, the
25 dollar amount established for the then current calendar year by the
26 commissioner through rules and regulations promulgated pursuant to
27 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), which amount shall be equal to \$9,850 on July 1, 1994 and
29 which amount shall be adjusted on July 1 every five calendar years
30 thereafter in direct proportion to the rise or fall in the average of the
31 Consumer Price Indices for Urban Wage Earners and Clerical Workers
32 for the New York metropolitan and the Philadelphia metropolitan
33 regions as reported by the United States Department of Labor during
34 the last full calendar year preceding the date upon which the
35 adjustment is made; and

36 (b) In the case of any public work other than a public work
37 described in paragraph (a) of this subsection, an amount equal to
38 \$2,000.

39 (12) "Custom fabrication" means the fabrication of woodwork,
40 cases, cabinets or counters and the fabrication of heating, cooling,
41 ventilation or exhaust duct systems.

42 (cf: P.L.1995, c.259, s.13)

43

44 2. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11

This bill provides that any custom fabrication of woodwork, cases, cabinets or counters and the fabrication of heating, cooling, ventilation or exhaust duct systems used in public work is subject to the "New Jersey Prevailing Wage Act" P.L.1963, c.150 (C.34:11-56.25 et seq.), whether or not the fabrication is done on the site of the public work. The bill specifies that, for the purposes of that act, contractors or subcontractors engaged in custom fabrication are not regarded as material suppliers, and therefore are not given the exemption from the provisions of that act the material suppliers are given.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 264

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 2004

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 264.

As amended by the committee, this bill provides that any custom fabrication of plumbing, heating, cooling, ventilation, exhaust duct systems and mechanical insulation used in public work is subject to the "New Jersey Prevailing Wage Act" P.L.1963, c.150 (C.34:11-56.25 et seq.), whether or not the fabrication is done on the site of the public work. The bill specifies that, for the purposes of that act, contractors or subcontractors engaged in custom fabrication are not regarded as material suppliers, and therefore are not given the exemption from the provisions of that act the material suppliers are given.

COMMITTEE AMENDMENTS:

The amendment adopted by the committee deleted woodwork, cases, cabinets or counters from the custom fabrication work covered by the bill, and added plumbing and mechanical insulation.

This bill was pre-filed for introduction in the 2004-2005 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.