

R.S. 34: 11-56.25 et seq.

January 8, 1969

LEGISLATIVE HISTORY OF R.S. 34:11-56.25 et seq. (Wages on public works)

COPY NO. 1

Previous law was:

R.S. 34:11-1 (Public contracts; prevailing rate of wages)
Enacted: L. 1931, Chapter 242

Our search for attempts to amend this goes back to 1954. Bills were introduced in the period 1954-60. We list below the bills beginning with 1960:

1960 - A386

February 1 - Introduced by Kijewski (& 5 others)
February 1 - Labor & Industrial Relations Committee.
Died in Committee.
No statement.

1960 - A412

February 8 - Introduced by Kijewski (& 4 others).
February 8 - Labor & Industrial Relations Committee.
Died in Committee.
Statement: copy of bill with statement attached.

1961 - A378

February 21 - Introduced by Brady and Kijewski.
February 21 - Labor & Industrial Relations Committee.
March 13 - Reported, 2nd reading.
November 20 - Recommitted.
Died in Committee.
No statement.

1961 - A433

March 20 - Introduced by Brady and Kijewski.
March 20 - Labor & Industrial Relations Committee.
May 15 - Reported, 2d reading.
November 20 - Recommitted.
Died in Committee.
Statement: The statement here is identical, word for word, with the statement on A412 of 1960, a copy of which is attached.

1962 - A211

January 29 - Introduced by Kijewski (& 5 others).
January 29 - Labor & Industrial Relations Committee.
Died in Committee.
No statement.

Original from Library

1962 - A225

January 29 - Introduced by Brady (& 7 others).
January 29 - Labor & Industrial Relations Committee.
February 19 - Reported, 2d reading.
March 26 - Passed in Assembly.
March 26 - Received in Senate.
March 26 - Labor & Industrial Relations Committee.
Died in Committee.
No statement.

1962 - A235

January 29 - Introduced by Brady (& 5 others).
January 29 - Labor & Industrial Relations Committee.
February 5 - Reported, 2d reading.
May 21 - Recommitted.
Died in Committee.
Statement: The statement here is identical, word for word,
with the statement on A412, 1960, a copy of which is
attached.

1962 - A482

March 19 - Introduced by Sweeney, Werner & Kijewski.
March 19 - Labor & Industrial Relations Committee.
Died in Committee.
No statement.

1963 - A76

January 14 - Introduced by Lynch (& 14 others).
January 14 - Labor & Industrial Relations Committee.
January 28 - Reported, 2d reading.
February 4 - Passed in Assembly.
February 11 - Received in Senate.
February 11 - Labor & Industrial Relations Committee.
Died in Committee.
No statement.

1963 - S224

March 18 - Introduced by Stamler & Ozzard.
March 18 - Labor & Industrial Relations Committee.
No statement.
Died in Committee.

The bill which became law was:

L. 1963, Chapter 150 - S253

April 22 - Introduced by Stamler.

April 22 - Committee on Labor & Industrial Relations.

May 10 - Passed in Senate, amended.

May 20 - Passed in Assembly.

September 3 - Approved, Chapter 150.

No statement.

Amendment reads: "amend page 2, section 2, line 15,
omit '35,000', insert '45,000'."

No hearings or reports were located.

L. 1966, Chapter 118 - A50

January 18 - Introduced by Vohdin (& 6 others).

January 18 - Committee on State Government.

May 23 - Passed in Assembly, amended.

May 31 - Passed in Senate.

June 17 - Approved, Chapter 118.

Statement: copy of original bill with statement is attached.

Amendment reads: "page 2, section 1, line 17, after
'45,000'; insert 'except municipalities having a population
of less than 25,000.'"

No hearing or report located.
JH/PC

ASSEMBLY, No. 412

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1960

By Assemblymen KIJEWski, BRADY, SWEENEY,
FLYNN and WERNER

Referred to Committee on Labor and Industrial Relations

AN ACT to authorize the Commissioner of Labor and Industry to set the rate of wages to be paid to laborers and mechanics in the construction, alteration or repair of any public building in this State in advance of the letting of the contract for the construction, alteration or repair of such public building, and to amend section 34:11-1 of the Revised Statutes.

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

1 1. Section 34:11-1 of the Revised Statutes is amended to read as follows:

2 34:11-1. Every contract in excess of \$5,000.00 in amount, to which the
3 State or any political subdivision is a party, which requires or involves the
4 employment of laborers or mechanics in the construction, alteration, or
5 repair of any public buildings of the State or any political subdivision
6 thereof within the geographical limits of the State shall provide that the
7 rate of wages for all laborers and mechanics employed by the contractor
8 or any subcontractor on the public buildings covered by the contract shall
9 be no less than the prevailing rate of wages for work of a similar nature
10 in the city, town, village, or other civil division of the State in which the
11 public buildings are located, and a further provision that in case any dis-
12 pute arises as to what are the prevailing rates of wages for work of a sim-
13 ilar nature applicable to the contract which cannot be adjusted by the con-
14 tracting officer, the matter shall be referred to the Commissioner of Labor

15 and Industry for determination and this decision shall be conclusive on
16 all parties to the contract. In case of national emergency the Governor
17 is authorized to suspend the provisions of this section. *The Commissioner of*
18 *Labor and Industry on application to him by petition by public officials, con-*
19 *tractors, or representatives of labor, before a contract is let to which this*
20 *section may apply, shall have power and authority, after a public hearing*
21 *in the county where said contract is to be performed, on 5 days public*
22 *notice, to set the prevailing rate of wage for occupation or occupations to be*
23 *employed on the job in question. The rate of wage so set shall be the pre-*
24 *vailing rate of wage under this section and be binding upon all parties con-*
25 *cerned.*

1 2. This act shall take effect immediately.

STATEMENT

This amendment authorizes the Commissioner of Labor and Industry to predetermine and set the prevailing rate of wages on public jobs. The present law gives him that authority only after the job has been commenced. This is a prolific source of uncertainty to public officials, contractors, and laborers. This amendment will remove that uncertainty.

SENATE, No. 253

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1963

By Senator STAMLER

Referred to Committee on Labor and Industrial Relations

AN ACT relating to public works contracts in certain cases, providing for prevailing wages, imposing duties upon the Commissioner of Labor and Industry, and providing remedies and penalties.

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

1 1. It is declared to be the public policy of this State to establish a pre-
2 vailing wage level for workmen engaged in public works in order to safe-
3 guard their efficiency and general well being and to protect them as well as
4 their employers from the effects of serious and unfair competition resulting
5 from wage levels detrimental to efficiency and well-being.

1 2. As used in this act:

2 (1) "Department" means Department of Labor and Industry of the
3 State of New Jersey.

4 (2) "Locality" means any political subdivision of the State, combina-
5 tion of the same or parts thereof, or any geographical area or areas classi-
6 fied, designated and fixed by the commissioner from time to time, provided
7 that in determining the "locality" the commissioner shall be guided by the
8 boundary lines of political subdivisions or parts thereof, or by a considera-
9 tion of the areas with respect to which it has been the practice of employers
10 of particular crafts or trades to engage in collective bargaining with the rep-
11 resentatives of workmen in such craft or trade.

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

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

14 (4) "Public body" means the State of New Jersey, any of its political
15 subdivisions, except municipalities having a population of less than [35,000,]
16 45,000, any authority created by the Legislature of the State of New Jersey and
17 any instrumentality or agency of the State of New Jersey or of any of its
18 political subdivisions.

19 (5) "Public work" means construction, reconstruction, demolition, alter-
20 ation, or repair work, or maintenance work, including painting and decorat-
21 ing, done under contract and paid for in whole or in part out of the funds
22 of a public body, except work performed under a rehabilitation program.

23 (6) "Commissioner" means the Commissioner of Labor and Industry or
24 his duly authorized deputy or representatives.

25 (7) "Workman" includes laborer, mechanic, skilled or semiskilled, la-
26 borer and apprentices or helpers employed by any contractor or subcontrac-
27 tor and engaged in the performance of services directly upon a public work,
28 regardless of whether their work becomes a component part thereof, but
29 does not include material suppliers or their employees who do not perform
30 services at the job site.

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

34 (9) "Prevailing wage" means the wage rate paid by virtue of collective
35 bargaining agreements by employers employing a majority of workmen of
36 that craft or trade subject to said collective bargaining agreements, in the
37 locality in which the public work is done.

38 (10) "Act" means the provisions of this act and the rules and regula-
39 tions issued hereunder.

1 3. Every contract in excess of \$2,000.00 for any public work to which any
2 public body is a party shall contain a provision stating the prevailing wage
3 rate which can be paid (as shall be designated by the commissioner) to the

4 workmen employed in the performance of the contract and the contract shall
5 contain a stipulation that such workmen shall be paid not less than such pre-
6 vailing wage rate. Such contract shall also contain a provision that in the event
7 it is found that any workman, employed by the contractor or any subcontract-
8 tor covered by said contract, has been paid a rate of wages less than the pre-
9 vailing wage required to be paid by such contract the public body may ter-
10 minate the contractor's or subcontractor's right to proceed with the work,
11 or such part of the work as to which there has been a failure to pay required
12 wages and to prosecute the work to completion or otherwise. The contractor
13 and his sureties shall be liable to the public body for any excess costs occa-
14 sioned thereby.

1 4. The public body awarding any contract for public work or otherwise
2 undertaking any public work shall ascertain from the commissioner the pre-
3 vailing wage rate in the locality in which the public work is to be performed
4 for each craft or trade needed to perform the contract and shall specify in
5 the contract itself what the prevailing wage rate in the locality is for each
6 craft or trade or classification of all workmen needed to perform the con-
7 tract during the anticipated term thereof. Nothing in this act however shall
8 prohibit the payment of more than the prevailing wage rate to any workmen
9 employed on a public work.

1 5. Every contractor and subcontractor shall keep an accurate record
2 showing the name, craft or trade, and actual hourly rate of wages paid to
3 each workman employed by him in connection with a public work and such
4 records shall be preserved for 2 years from date of payment. The record
5 shall be open at all reasonable hours to the inspection of the public body
6 awarding the contract and to the commissioner.

1 6. The commissioner shall determine the prevailing wage rate and forth-
2 with shall establish the prevailing wage in the locality in which the public
3 work is to be performed for each craft or trade or classification of all work-
4 men needed to perform public work contracts. The prevailing wage shall
5 be determined and computed in accordance with rules and regulations issued

6 by the commissioner as may be required to carry out the provisions of this
 7 act; provided, however, that employer contributions for employee benefits
 8 pursuant to a then existing bona fide collective bargaining agreement shall
 9 be considered an integral part of the wage rate paid by employers of any
 10 craft or trade in the locality under consideration for the purpose of deter-
 11 mining the prevailing wage under this act. Said wage determination shall
 12 be conclusive for a period of 2 years from date of issuance unless superseded
 13 within said 2-year period by a later determination. The commissioner shall
 14 forthwith announce all said determinations and give notice by mail of all
 15 determinations of prevailing wage rates made pursuant to this section to any
 16 representative of any craft or trade, any employer, or any representative of
 17 any group of employers who shall in writing request the commissioner so
 18 to do.

1 7. The commissioner shall have the authority to:

2 (a) investigate and ascertain the wages of workmen employed in any
 3 public work in the State;

4 (b) enter and inspect the place of business or employment of any em-
 5 ployer or workmen in any public work in the State, for the purpose of ex-
 6 amining and inspecting any or all books, registers, payrolls, and other
 7 records of any such employer that in any way relate to or have a bearing
 8 upon the question of wages, hours, and other conditions of employment of
 9 any such workmen; copy any or all of such books, registers, payrolls, and
 10 other records as he or his authorized representative may deem necessary
 11 or appropriate; and question such workmen for the purpose of ascertaining
 12 whether the provisions of this act have been and are being complied with;
 13 and

14 (c) require from such employer full and correct statements in writing,
 15 including sworn statements, with respect to wages, hours, names, addresses,
 16 and such other information pertaining to his workmen and their employ-
 17 ment as the commissioner, or his authorized representative may deem neces-
 18 sary or appropriate.

1 8. Contractors and subcontractors performing public work of a public
2 body subject to the provisions of this act shall post the prevailing wage
3 rates for each craft and classification involved as determined by the com-
4 missioner, including the effective date of any changes thereof, in prominent
5 and easily accessible places at the site of the work or at such place or places
6 as are used by them to pay workmen their wages.

1 9. (a) Before final payment is made by or on behalf of any public body
2 of any sum or sums due on a public work it shall be the duty of the treas-
3 urer of the public body or other officer or person charged with the custody
4 and disbursement of the funds of the public body to require the contractor
5 and subcontractor to file written statements in form satisfactory to the com-
6 missioner certifying to the amounts then due and owing from such con-
7 tractor and subcontractor filing such statement to any and all workmen for
8 wages due on account of the public work, setting forth therein the names of
9 the persons whose wages are unpaid and the amount due to each respec-
10 tively, which statement shall be verified by the oath of the contractor or sub-
11 contractor, as the case may be, that he has read such statement subscribed
12 by him, knows the contents thereof, and that the same is true of his own
13 knowledge; provided, however, that nothing herein shall impair the right of
14 a contractor to receive final payment because of the failure of any subcon-
15 tractor to comply with provisions of this act.

16 (b) In case any workman shall have filed a protest in writing within 3
17 months from the date of the occurrence of the incident complained of with
18 the commissioner, objecting to the payment to any contractor to the extent
19 of the amount or amounts due or to become due to the said workman for
20 wages for work performed on a public work, the commissioner may direct
21 the fiscal or financial officer of the public body or other person charged with
22 the custody and disbursements of the funds of the public body to deduct from
23 the whole amount of any payment, the sum or sums admitted by any con-
24 tractor in such statement or statements so filed to be due and owing by him
25 on account of wages earned on such public work.

26 Such fiscal or financial officer shall withhold the amount so deducted for
27 the benefit of the workmen whose wages are unpaid as shown by the verified
28 statement filed by such contractor, and shall pay directly to any workman
29 the amount shown by such statement to be due to him for such wages. Such
30 payment shall thereby discharge the obligation of the contractor to the per-
31 son receiving such payment to the extent of the amount thereof.

1 10. (a) The fiscal or financial officer or any public body having public
2 work performed under which any workman shall have been paid less than the
3 prevailing wage shall forthwith notify the commissioner in writing of the
4 name of the person or firm failing to pay the prevailing wages.

5 (b) Any workman may within 2 years from the date of the occurrence of
6 the incident complained of file a protest in writing with the commissioner ob-
7 jecting to the amount of wages paid for service performed by him on a public
8 work as being less than the prevailing wages for such services.

9 (c) It shall not constitute a failure to pay the prevailing wage rates for
10 the work of a particular craft or classification where the prevailing wage rate
11 determined for a specific craft or classification has been paid and thereafter
12 one or more craft unions contend that the work should have been assigned to
13 their members instead of the members of the specific craft to whom it was as-
14 signed or by whom it was performed.

1 11. Any employer who willfully hinders or delays the commissioner in the
2 performance of his duties in the enforcement of this act, or fails to make, keep,
3 and preserve any records as required under the provisions of this act, or falsi-
4 fies any such record, or refuses to make any such record accessible to the com-
5 missioner upon demand, or refuses to furnish a sworn statement of such record
6 or any other information required for the proper enforcement of this act to
7 the commissioner upon demand, or pays or agrees to pay wages at a rate less
8 than the rate applicable under this act or otherwise violates any provision of
9 this act or of any regulation or order issued under this act shall be guilty of a
10 misdemeanor and shall, upon conviction therefor, be fined not less than \$100.00
11 nor more than \$500.00 or be imprisoned for not less than 10 nor more than 90

12 days, or by both such fine and imprisonment. Each week, in any day of which
13 a workman is paid less than the rate applicable to him under this act and each
14 workman so paid, shall constitute a separate offense.

1 12. As an alternative to any other sanctions or in addition thereto, herein
2 or otherwise provided by law for violation of this act, the commissioner is au-
3 thorized to supervise the payment of amounts due to workmen under this act,
4 and the employer may be required to make these payments to the commis-
5 sioner to be held in a special account in trust for the workmen, and paid on
6 order of the commissioner directly to the workman or workmen affected.

1 13. In the event that the commissioner shall determine, after investiga-
2 tion, that any contractor or subcontractor has failed to pay the prevailing wage
3 he shall thereupon list and keep on record the name of such contractor or sub-
4 contractor and forthwith give notice by mail of such list to any public body
5 who shall request the commissioner so to do. Where the person responsible
6 denies that a failure to pay the prevailing wage has occurred, he shall have the
7 right to apply to the commissioner for a hearing which must be afforded and a
8 decision rendered within 48 hours of the request for a hearing. If the commis-
9 sioner rules against the petitioning party he shall have the right to apply for
10 injunctive relief in the Superior Court against the listing by the commissioner.

1 14. The public body awarding any contract for public work or otherwise
2 undertaking any public work shall first ascertain from the commissioner the list
3 of names of contractors or subcontractors who have failed to pay prevailing
4 wages as determined in section 14 of this act, and no contract shall be awarded
5 to such contractor or subcontractor, or to any firm, corporation or partnership
6 in which such contractor or subcontractor has an interest until 3 years have
7 elapsed from the date of listing as determined in section 14 of this act.

1 15. Any employer who discharges or in any other manner discriminates
2 against any workman because such workman has made any complaint to his
3 employer, to the public body or to the commissioner that he has not been paid
4 wages in accordance with the provisions of this act, or because such workman
5 has caused to be instituted or is about to cause to be instituted any proceeding
6 under or related to this act, or because such workman has testified or is about

7 to testify in any such proceeding shall be guilty of a misdemeanor and shall,
8 upon conviction therefor, be fined not less than \$50.00 nor more than \$200.00.

1 16. If any workman is paid by an employer less than the prevailing wage
2 to which such workman is entitled under the provisions of this act such work-
3 man may recover in a civil action the full amount of such prevailing wage
4 less any amount actually paid to him or her by the employer together with
5 costs and such reasonable attorney's fees as may be allowed by the court,
6 and any agreement between such workman and the employer to work for less
7 than such prevailing wage shall be no defense to the action. Any workman
8 shall be entitled to maintain such action for and on behalf of himself or other
9 workmen similarly situated, and such workman and workmen may designate
10 an agent or representative to maintain such action for and on behalf of all
11 workmen similarly situated. At the request of any workman paid less than
12 the prevailing wage to which such workman was entitled under the provisions
13 of this act the commissioner may take an assignment of the wage claim in
14 trust for the assigning workman and may bring any legal action necessary
15 to collect the claim, and the employer shall be required to pay the costs and
16 such reasonable attorney's fees as may be allowed by the court.

1 17. Nothing in this act shall be deemed to interfere with, impede, or
2 in any way diminish the right of workmen to bargain collectively through
3 representatives of their own choosing in order to establish wages in excess of
4 any applicable minimum under this act.

1 18. If any provision of this act, or the application thereof to any person
2 or circumstance, is held invalid, the remainder of the act and the applica-
3 tion thereof, to other persons or circumstances shall not be affected thereby.

1 19. The commissioner is hereby authorized and empowered to prescribe,
2 adopt, promulgate, rescind and enforce rules and regulations as may be re-
3 quired for the administration and enforcement of the provisions of this act.

1 20. This act shall be known as the "New Jersey Prevailing Wage Act."

1 21. All acts and parts of acts are repealed insofar as they are inconsis-
2 ent herewith.

1 22. This act shall take effect January 1, 1964.

SENATE, No. 253

STATE OF NEW JERSEY

INTRODUCED APRIL 22, 1963

By Senator STAMLER

Referred to Committee on Labor and Industrial Relations

AN ACT relating to public works contracts in certain cases, providing for prevailing wages, imposing duties upon the Commissioner of Labor and Industry, and providing remedies and penalties.

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

1 1. It is declared to be the public policy of this State to establish a pre-
2 vailing wage level for workmen engaged in public works in order to safe-
3 guard their efficiency and general well being and to protect them as well as
4 their employers from the effects of serious and unfair competition resulting
5 from wage levels detrimental to efficiency and well-being.

1 2. As used in this act:

2 (1) "Department" means Department of Labor and Industry of the
3 State of New Jersey.

4 (2) "Locality" means any political subdivision of the State, combina-
5 tion of the same or parts thereof, or any geographical area or areas classi-
6 fied, designated and fixed by the commissioner from time to time, provided
7 that in determining the "locality" the commissioner shall be guided by the
8 boundary lines of political subdivisions or parts thereof, or by a considera-
9 tion of the areas with respect to which it has been the practice of employers
10 of particular crafts or trades to engage in collective bargaining with the rep-
11 resentatives of workmen in such craft or trade.

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

14 (4) "Public body" means the State of New Jersey, any of its political
15 subdivisions, except municipalities having a population of less than 35,000,
16 any authority created by the Legislature of the State of New Jersey and
17 any instrumentality or agency of the State of New Jersey or of any of its
18 political subdivisions.

19 (5) "Public work" means construction, reconstruction, demolition, alter-
20 ation, or repair work, or maintenance work, including painting and decorat-
21 ing, done under contract and paid for in whole or in part out of the funds
22 of a public body, except work performed under a rehabilitation program.

23 (6) "Commissioner" means the Commissioner of Labor and Industry or
24 his duly authorized deputy or representatives.

25 (7) "Workman" includes laborer, mechanic, skilled or semiskilled, la-
26 borer and apprentices or helpers employed by any contractor or subcontrac-
27 tor and engaged in the performance of services directly upon a public work,
28 regardless of whether their work becomes a component part thereof, but
29 does not include material suppliers or their employees who do not perform
30 services at the job site.

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

34 (9) "Prevailing wage" means the wage rate paid by virtue of collective
35 bargaining agreements by employers employing a majority of workmen of
36 that craft or trade subject to said collective bargaining agreements, in the
37 locality in which the public work is done.

38 (10) "Act" means the provisions of this act and the rules and regula-
39 tions issued hereunder.

1 3. Every contract in excess of \$2,000.00 for any public work to which any
2 public body is a party shall contain a provision stating the prevailing wage
3 rate which can be paid (as shall be designated by the commissioner) to the

4 workmen employed in the performance of the contract and the contract shall
5 contain a stipulation that such workmen shall be paid not less than such pre-
6 vailing wage rate. Such contract shall also contain a provision that in the event
7 it is found that any workman, employed by the contractor or any subcontractor
8 covered by said contract, has been paid a rate of wages less than the pre-
9 vailing wage required to be paid by such contract the public body may terminate
10 the contractor's or subcontractor's right to proceed with the work,
11 or such part of the work as to which there has been a failure to pay required
12 wages and to prosecute the work to completion or otherwise. The contractor
13 and his sureties shall be liable to the public body for any excess costs occasioned
14 thereby.

1 4. The public body awarding any contract for public work or otherwise
2 undertaking any public work shall ascertain from the commissioner the pre-
3 vailing wage rate in the locality in which the public work is to be performed
4 for each craft or trade needed to perform the contract and shall specify in
5 the contract itself what the prevailing wage rate in the locality is for each
6 craft or trade or classification of all workmen needed to perform the contract
7 during the anticipated term thereof. Nothing in this act however shall
8 prohibit the payment of more than the prevailing wage rate to any workmen
9 employed on a public work.

1 5. Every contractor and subcontractor shall keep an accurate record
2 showing the name, craft or trade, and actual hourly rate of wages paid to
3 each workman employed by him in connection with a public work and such
4 records shall be preserved for 2 years from date of payment. The record
5 shall be open at all reasonable hours to the inspection of the public body
6 awarding the contract and to the commissioner.

1 6. The commissioner shall determine the prevailing wage rate and forth-
2 with shall establish the prevailing wage in the locality in which the public
3 work is to be performed for each craft or trade or classification of all work-
4 men needed to perform public work contracts. The prevailing wage shall
5 be determined and computed in accordance with rules and regulations issued

6 by the commissioner as may be required to carry out the provisions of this
7 act; provided, however, that employer contributions for employee benefits
8 pursuant to a then existing bona fide collective bargaining agreement shall
9 be considered an integral part of the wage rate paid by employers of any
10 craft or trade in the locality under consideration for the purpose of deter-
11 mining the prevailing wage under this act. Said wage determination shall
12 be conclusive for a period of 2 years from date of issuance unless superseded
13 within said 2-year period by a later determination. The commissioner shall
14 forthwith announce all said determinations and give notice by mail of all
15 determinations of prevailing wage rates made pursuant to this section to any
16 representative of any craft or trade, any employer, or any representative of
17 any group of employers who shall in writing request the commissioner so
18 to do.

1 7. The commissioner shall have the authority to:

2 (a) investigate and ascertain the wages of workmen employed in any
3 public work in the State;

4 (b) enter and inspect the place of business or employment of any em-
5 ployer or workmen in any public work in the State, for the purpose of ex-
6 amining and inspecting any or all books, registers, payrolls, and other
7 records of any such employer that in any way relate to or have a bearing
8 upon the question of wages, hours, and other conditions of employment of
9 any such workmen; copy any or all of such books, registers, payrolls, and
10 other records as he or his authorized representative may deem necessary
11 or appropriate; and question such workmen for the purpose of ascertaining
12 whether the provisions of this act have been and are being complied with;
13 and

14 (c) require from such employer full and correct statements in writing,
15 including sworn statements, with respect to wages, hours, names, addresses,
16 and such other information pertaining to his workmen and their employ-
17 ment as the commissioner, or his authorized representative may deem neces-
18 sary or appropriate.

1 8. Contractors and subcontractors performing public work of a public
2 body subject to the provisions of this act shall post the prevailing wage
3 rates for each craft and classification involved as determined by the com-
4 missioner, including the effective date of any changes thereof, in prominent
5 and easily accessible places at the site of the work or at such place or places
6 as are used by them to pay workmen their wages.

1 9. (a) Before final payment is made by or on behalf of any public body
2 of any sum or sums due on a public work it shall be the duty of the treas-
3 urer of the public body or other officer or person charged with the custody
4 and disbursement of the funds of the public body to require the contractor
5 and subcontractor to file written statements in form satisfactory to the com-
6 missioner certifying to the amounts then due and owing from such con-
7 tractor and subcontractor filing such statement to any and all workmen for
8 wages due on account of the public work, setting forth therein the names of
9 the persons whose wages are unpaid and the amount due to each respec-
10 tively, which statement shall be verified by the oath of the contractor or sub-
11 contractor, as the case may be, that he has read such statement subscribed
12 by him, knows the contents thereof, and that the same is true of his own
13 knowledge; provided, however, that nothing herein shall impair the right of
14 a contractor to receive final payment because of the failure of any subcon-
15 tractor to comply with provisions of this act.

16 (b) In case any workman shall have filed a protest in writing within 3
17 months from the date of the occurrence of the incident complained of with
18 the commissioner, objecting to the payment to any contractor to the extent
19 of the amount or amounts due or to become due to the said workman for
20 wages for work performed on a public work, the commissioner may direct
21 the fiscal or financial officer of the public body or other person charged with
22 the custody and disbursements of the funds of the public body to deduct from
23 the whole amount of any payment, the sum or sums admitted by any con-
24 tractor in such statement or statements so filed to be due and owing by him
25 on account of wages earned on such public work.

26 Such fiscal or financial officer shall withhold the amount so deducted for
27 the benefit of the workmen whose wages are unpaid as shown by the verified
28 statement filed by such contractor, and shall pay directly to any workman
29 the amount shown by such statement to be due to him for such wages. Such
30 payment shall thereby discharge the obligation of the contractor to the per-
31 son receiving such payment to the extent of the amount thereof.

1 10. (a) The fiscal or financial officer or any public body having public
2 work performed under which any workman shall have been paid less than the
3 prevailing wage shall forthwith notify the commissioner in writing of the
4 name of the person or firm failing to pay the prevailing wages.

5 (b) Any workman may within 2 years from the date of the occurrence of
6 the incident complained of file a protest in writing with the commissioner ob-
7 jecting to the amount of wages paid for service performed by him on a public
8 work as being less than the prevailing wages for such services.

9 (c) It shall not constitute a failure to pay the prevailing wage rates for
10 the work of a particular craft or classification where the prevailing wage rate
11 determined for a specific craft or classification has been paid and thereafter
12 one or more craft unions contend that the work should have been assigned to
13 their members instead of the members of the specific craft to whom it was as-
14 signed or by whom it was performed.

1 11. Any employer who willfully hinders or delays the commissioner in the
2 performance of his duties in the enforcement of this act, or fails to make, keep,
3 and preserve any records as required under the provisions of this act, or falsi-
4 fies any such record, or refuses to make any such record accessible to the com-
5 missioner upon demand, or refuses to furnish a sworn statement of such record
6 or any other information required for the proper enforcement of this act to
7 the commissioner upon demand, or pays or agrees to pay wages at a rate less
8 than the rate applicable under this act or otherwise violates any provision of
9 this act or of any regulation or order issued under this act shall be guilty of a
10 misdemeanor and shall, upon conviction therefor, be fined not less than \$100.00
11 nor more than \$500.00 or be imprisoned for not less than 10 nor more than 90

12 days, or by both such fine and imprisonment. Each week, in any day of which
13 a workman is paid less than the rate applicable to him under this act and each
14 workman so paid, shall constitute a separate offense.

1 12. As an alternative to any other sanctions or in addition thereto, herein
2 or otherwise provided by law for violation of this act, the commissioner is au-
3 thorized to supervise the payment of amounts due to workmen under this act,
4 and the employer may be required to make these payments to the commis-
5 sioner to be held in a special account in trust for the workmen, and paid on
6 order of the commissioner directly to the workman or workmen affected.

1 13. In the event that the commissioner shall determine, after investiga-
2 tion, that any contractor or subcontractor has failed to pay the prevailing wage
3 he shall thereupon list and keep on record the name of such contractor or sub-
4 contractor and forthwith give notice by mail of such list to any public body
5 who shall request the commissioner so to do. Where the person responsible
6 denies that a failure to pay the prevailing wage has occurred, he shall have the
7 right to apply to the commissioner for a hearing which must be afforded and a
8 decision rendered within 48 hours of the request for a hearing. If the commis-
9 sioner rules against the petitioning party he shall have the right to apply for
10 injunctive relief in the Superior Court against the listing by the commissioner.

1 14. The public body awarding any contract for public work or otherwise
2 undertaking any public work shall first ascertain from the commissioner the list
3 of names of contractors or subcontractors who have failed to pay prevailing
4 wages as determined in section 14 of this act, and no contract shall be awarded
5 to such contractor or subcontractor, or to any firm, corporation or partnership
6 in which such contractor or subcontractor has an interest until 3 years have
7 elapsed from the date of listing as determined in section 14 of this act.

1 15. Any employer who discharges or in any other manner discriminates
2 against any workman because such workman has made any complaint to his
3 employer, to the public body or to the commissioner that he has not been paid
4 wages in accordance with the provisions of this act, or because such workman
5 has caused to be instituted or is about to cause to be instituted any proceeding
6 under or related to this act, or because such workman has testified or is about

7 to testify in any such proceeding shall be guilty of a misdemeanor and shall,
8 upon conviction therefor, be fined not less than \$50.00 nor more than \$200.00.

1 16. If any workman is paid by an employer less than the prevailing wage
2 to which such workman is entitled under the provisions of this act such work-
3 man may recover in a civil action the full amount of such prevailing wage
4 less any amount actually paid to him or her by the employer together with
5 costs and such reasonable attorney's fees as may be allowed by the court,
6 and any agreement between such workman and the employer to work for less
7 than such prevailing wage shall be no defense to the action. Any workman
8 shall be entitled to maintain such action for and on behalf of himself or other
9 workmen similarly situated, and such workman and workmen may designate
10 an agent or representative to maintain such action for and on behalf of all
11 workmen similarly situated. At the request of any workman paid less than
12 the prevailing wage to which such workman was entitled under the provisions
13 of this act the commissioner may take an assignment of the wage claim in
14 trust for the assigning workman and may bring any legal action necessary
15 to collect the claim, and the employer shall be required to pay the costs and
16 such reasonable attorney's fees as may be allowed by the court.

1 17. Nothing in this act shall be deemed to interfere with, impede, or
2 in any way diminish the right of workmen to bargain collectively through
3 representatives of their own choosing in order to establish wages in excess of
4 any applicable minimum under this act.

1 18. If any provision of this act, or the application thereof to any person
2 or circumstance, is held invalid, the remainder of the act and the applica-
3 tion thereof, to other persons or circumstances shall not be affected thereby.

1 19. The commissioner is hereby authorized and empowered to prescribe,
2 adopt, promulgate, rescind and enforce rules and regulations as may be re-
3 quired for the administration and enforcement of the provisions of this act.

1 20. This act shall be known as the "New Jersey Prevailing Wage Act."

1 21. All acts and parts of acts are repealed insofar as they are inconsis-
2 ent herewith.

1 22. This act shall take effect January 1, 1964.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 253
STATE OF NEW JERSEY

ADOPTED MAY 6, 1963

Amend page 2, section 2, line 15, omit "35,000," insert "45,000,".

ASSEMBLY, No. 50

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1966

By Assemblymen VOHDIN, SWEENEY, HORN, FARRINGTON,
ALBANESE, BRADY and BIANCARDI

Referred to Committee on State Government

AN Act to amend "An act relating to public works contracts in certain cases, providing for prevailing wages, imposing duties upon the Commissioner of Labor and Industry, and providing remedies and penalties," approved September 3, 1963 (P. L. 1963, c. 150).

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

1 1. Section 2 of the act of which this act is amendatory is amended to
2 read as follows:

3 2. As used in this act:

4 (1) "Department" means Department of Labor and Industry of the
5 State of New Jersey.

6 (2) "Locality" means any political subdivision of the State, combina-
7 tion of the same or parts thereof, or any geographical area or areas classi-
8 fied, designated and fixed by the commissioner from time to time, provided
9 that in determining the "locality" the commissioner shall be guided by the
10 boundary lines of political subdivisions or parts thereof, or by a considera-
11 tion of the areas with respect to which it has been the practice of employers
12 of particular crafts or trades to engage in collective bargaining with the rep-
13 resentatives of workmen in such craft or trade.

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

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

16 (4) "Public body" means the State of New Jersey, any of its political
17 subdivisions, [except municipalities having a population of less than 45,000]
18 any authority created by the Legislature of the State of New Jersey and any
19 instrumentality or agency of the State of New Jersey or of any of its political
20 subdivisions.

21 (5) "Public work" means construction, reconstruction, demolition, al-
22 teration, or repair work, or maintenance work, including painting and deco-
23 rating, done under contract and paid for in whole or in part out of the funds
24 of a public body, except work performed under a rehabilitation program.

25 (6) "Commissioner" means the Commissioner of Labor and Industry
26 or his duly authorized deputy or representatives.

27 (7) "Workman" includes laborer, mechanic, skilled or semiskilled, la-
28 borer and apprentices or helpers employed by any contractor or subcontrac-
29 tor and engaged in the performance of services directly upon a public work,
30 regardless of whether their work becomes a component part thereof, but
31 does not include material suppliers or their employees who do not perform
32 services at the job site.

33 (8) "Work performed under a rehabilitation program" means work ar-
34 ranged by and at a State institution primarily for teaching and upgrading
35 the skills and employment opportunities of the inmates of such institutions.

36 (9) "Prevailing wage" means the wage rate paid by virtue of collective
*37 bargaining agreements by employers employing a majority of workmen of
38 that craft or trade subject to said collective bargaining agreements, in the
39 locality in which the public work is done.

40 (10) "Act" means the provisions of this act and the rules and regula-
41 tions issued hereunder.

1 2. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to extend the prevailing wage law to all municipalities rather than to limit its effect to the few large municipalities of the State.

The obligation of public officials to require the payment of prevailing rates should not be based upon the size of the municipality since the need for the maintenance of a reasonable rate of earnings is unrelated to the size of municipalities.

The present prevailing wage law should, therefore, be expanded to cover all public bodies.