

34:1B-5.1 to 34:1B-5.4

LEGISLATIVE HISTORY CHECKLIST

RCSA 34:1B-5.1 to 34:1B-5.4 (Economic Development Authority--construction projects--prevailing wage rates)

LAWS OF 1979 CHAPTER 303

Bill No. A1623

Sponsor(s) Pellecchia

Date Introduced Sept. 25, 1978

Committee: Assembly Labor

Senate Labor, Industry and Professions

Amended during passage Yes Amendments denoted by asterisks

according to Governor's recommendations

Date of Passage: Assembly June 21, 1979

Re-enacted Jan. 7, 1980

Senate Nov. 13, 1979

Re-enacted Jan. 7, 1980

Date of approval Jan. 17, 1980

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/>	
Committee Statement:	Assembly	Yes	<input checked="" type="checkbox"/> Also attached
	Senate	Yes	<input type="checkbox"/> Senate amendment adopted 9-10-79 (with statement)
Fiscal Note	Yes	<input type="checkbox"/>	
Veto message	Yes	<input checked="" type="checkbox"/>	
Message on signing	Yes	<input type="checkbox"/>	

Following were printed:

Reports	Yes	<input type="checkbox"/> No
Hearings	Yes	<input type="checkbox"/> No

Sponsor's statement:

The purpose of this bill is to amend, supplement and clarify the New Jersey Economic Development Authority Act to assure that prevailing wage rates are paid on all EDA--assisted construction projects.

8/1/78

ASB

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1-17-80

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ASSEMBLY, No. 1623

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 25, 1978

By Assemblyman PELLECCCHIA

Referred to Committee on Labor

A SUPPLEMENT to "The New Jersey Economic Development Authority Act," approved August 7, 1974 (P. L. 1974, c. 80; C. 34:1B-1 et seq.).

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

1 ***[1. No assistance **for any project or pollution control project**
2 under the act which this act supplements shall be authorized unless
3 the applicant therefor **or any builder, contractor or subcontractor*
4 *thereof** executes an agreement with the authority containing a
5 provision stating **that not less than** the prevailing wage rate (as
6 determined by the Commissioner of Labor and Industry pursuant to
7 section 2 of this act) ***[which shall]*** **will** be paid to ***[work-**
8 **men]*** **workers** employed **at the job site** in the performance of
9 any contract for construction, reconstruction, repair*,* alteration,
10 improvement or extension in connection with any project or pollu-
11 tion control project hereunder **paid for in whole or in part with*
12 *funds received through the assistance of the authority** ***[and which**
13 stipulates that the applicant, or any builder, contractor or sub-
14 contractor thereof, shall pay to such workmen not less than such
15 prevailing wage rate]*.

1 2. ***[Every project or pollution control project undertaken pur-**
2 **suant to the act which this act supplements which involves any**
3 **construction, reconstruction, repair alteration, improvement or**
4 **extension shall be subject to prevailing wage rates as determined**
5 **by the Commissioner of Labor and Industry as hereafter provided**
6 **and all workmen employed thereon shall be paid not less than such**
7 **prevailing wage rate.]*** In the event it is found that any such
8 ***[workmen]*** **worker** has been paid at a rate of wage less than

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

9 the prevailing wage required to be paid, the authority shall take
 10 such steps as may be necessary to ***have the applicant, builder,*
 11 *contractor or subcontractor, as the case may be, correct the situa-*
 11A *tion by payments of additional sums to each worker to bring each*
 11B *worker to the prevailing wage for past labor on said project, and*
 11C *thereafter, if there is a refusal to cooperate, the authority shall*
 11D *take such steps as may be necessary to*** terminate all assistance
 11E furnished to such project or pollution control project.

12 The Commissioner of Labor and Industry is authorized to, and
 13 shall, determine the prevailing wage rate and shall establish the
 14 prevailing wage rate in the locality in which such project or
 15 pollution control project is to be undertaken for each craft or trade
 16 or classification of all **[workmen]* *workers** employed thereon
 17 as if such work were "public work" within the meaning of chapter
 18 150 of the laws of 1963. For the purpose of carrying out the pro-
 19 visions of this section, the Commissioner of Labor and Industry,
 20 and any such workmen shall have and may exercise or perform any
 21 right, power or duty granted or imposed upon them by chapter 150
 22 of the laws of 1963.

1 **3. This act shall apply to all projects and pollution control*
 2 *projects for which financial assistance initially is authorized by a*
 3 *resolution of the members of the authority adopted on or after*
 4 *the effective date of this act.**

1 ***4. The authority shall formulate and abide by an affirmative*
 2 *action program consonant with the provisions of the "Law Against*
 3 *Discrimination," P. L. 1945, c. 169 (C. 10:5-1 et seq.) whereby it*
 4 *shall investigate and determine the percentage of population of*
 5 *minority groups in the State and establish and promulgate guide-*
 6 *lines which reflect such percentages, which guidelines shall be*
 7 *adopted by applicants for assistance in their employment of and*
 8 *agreements with builders, contractors, subcontractors and work-*
 9 *ers.**]****

1 ****1. The New Jersey Economic Development Authority shall*
 2 *adopt rules and regulations requiring that not less than the pre-*
 3 *valing wage rate be paid to workers employed in the performance*
 4 *of construction contracts undertaken in connection with Authority*
 5 *financial assistance. The prevailing wage rate shall be the rate*
 6 *determined by the Commissioner of Labor and Industry pursuant*
 7 *to the provisions of P. L. 1963, c. 150 (C. 34:11-56.25 et seq.).*

1 *2. The rules and regulations adopted under section 1 of this act*
 2 *shall provide for the proper and appropriate administration and*
 3 *enforcement of such regulations, and for the coverage and exemp-*
 4 *tions, if any, of such rules and regulations, which the Authority may*

5 *determine are appropriate and consistent with its public purpose*
 6 *and purpose of this act.*

1 3. *A violation of the rules and regulations adopted pursuant to*
 2 *section 1 of this act shall be deemed to be a violation of P. L. 1963,*
 3 *c. 150 (C. 34:11-56.25 et seq.). The Commissioner of Labor and*
 4 *Industry and any worker shall have the same powers of enforce-*
 5 *ment against violations of such rules and regulations as are pro-*
 6 *vided by Sections 11 through 16, inclusive, of P. L. 1963, c. 150*
 7 *(C. 34:11-56.35 - 34:11-56.40).*

1 4. *The New Jersey Economic Development Authority shall adopt*
 2 *rules and regulations to establish an affirmative action program for*
 3 *the hiring of minority workers employed in the performance of*
 4 *construction contracts undertaken in connection with projects re-*
 5 *ceiving Authority assistance, consistent with the provisions of*
 6 *the "Law Against Discrimination," P. L. 1945, c. 169 (C. 10:5-1*
 7 *et seq.) and the Authority shall provide for the proper enforcement*
 8 *and administration of such rules and regulations.****

1 ***[3.]* **[*4.*]** **5.** This act shall take effect immediately.**

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1623

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 1979

The Assembly Labor Committee favorably reports this legislation to require that all Economic Development Authority (E.D.A.) projects, including "pollution control projects" involving any construction, reconstruction, repair, alteration, improvement or extension, be subject to payment of State prevailing wage rates determined and enforced by the Commissioner of Labor and Industry.

Prevailing wage rates are defined in the State's Prevailing Wage Act (which is intended to serve as the basis for the bill's administration) as "the wage rate paid by virtue of collective bargaining agreements by employers employing a majority of workmen of that craft or trade subject to said collective bargaining agreements, in the locality in which the public work is done."

Committee amendments were adopted to simplify and clarify the language of the bill and to ensure that the bill would apply only to those projects for which financial assistance is authorized by the authority's members on or after the effective date of the act.

The bill, which a majority of the committee's members feel will help ensure a fairer share of employment to the State's resident work force, was backed by the large number of labor unions from around the State. Proponents of prevailing wage rates on authority projects have asserted that many contractors—organized and unorganized—who pay a fair wage have been excluded from competing for work, and that without prevailing wages, there have been out-of-state contractors and out-of-state tradesmen working on the E.D.A. projects, originally designed to help New Jersey's residents gain employment. It was asserted that construction costs have risen because of materials, land prices and interest rates, while pay scales in recent years have trailed other segments of the work force—"that construction workers have already paid their dues to inflation."

In defense of the bill, it has been the position of the Commissioner of Labor and Industry (who is E.D.A. chairman), with respect to the authority's own proposed regulation, that prevailing wages would not have any impact, positive or negative, on the bidding ability of small

SENATE AMENDMENT TO
ASSEMBLY, No. 1623

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STATE OF NEW JERSEY

ADOPTED SEPTEMBER 10, 1979

Amend page 1, section 2, line 10, after “necenasry to”, insert “have the applicant, builder, contractor or subcontractor, as the case may be, correct the situation by payments of additional sums to each worker to bring each worker to the prevailing wage for past labor on said project, and thereafter, if there is a refusal to cooperate, the authority shall take such steps as may be necessary to”.

STATEMENT

These amendments impose on applicants for assistance from the New Jersey Economic Development Authority the condition, in order to receive assistance, of payment to laborers of amounts which would restore them to the prevailing wage for past labor.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 3, 1980

ASSEMBLY BILL NO. 1623 (2ND OCR)

To the General Assembly:

Pursuant to Article V, Section I, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1623 (2nd OCR) with my objections.

This bill would require payment of the prevailing wage on all construction contracts in connection with projects receiving financial assistance from the New Jersey Economic Development Authority. The bill would also require the Authority to adopt an affirmative action plan consistent with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (c. 10:5-1 et seq.).

I fully support the basic purposes of this bill. In fact, the New Jersey Economic Development Authority adopted a prevailing wage regulation on July 17, 1979. The regulation was filed on August 24, 1979. See, N.J.A.C. 19:30-3.1 et seq. The Authority adopted an affirmative action program consistent with the "Law Against Discrimination" on October 16, 1979.

Were it not for the fact that the New Jersey Economic Development Authority's power to adopt a prevailing wage regulation is being challenged in the courts, this bill would be unnecessary. New Jersey Business and Industry Association et als v. New Jersey Economic Development Authority, Supreme Court of New Jersey Docket No. 16,449. The Authority's power to adopt such a regulation is clear. See for example, N.J.S. 34:1B-5(e), (1) and (q).

Because the New Jersey Economic Development Authority's power has been challenged, I intend to approve the bill if it is revised in accordance with my recommendations. The Authority should be given explicit power to adopt its prevailing wage regulation. It should also be given authority to adapt the regulation to current economic circumstances. The existing regulation applies only to construction contracts in excess of \$2,500. In addition, the provision in this bill which would require the Authority to discontinue its assistance if the prevailing wage is not paid would severely impair the marketability of the Authority's bonds. There are other equally effective methods of enforcement which would not have that effect.

Accordingly, I herewith return Assembly Bill No. 1623 for reconsideration

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Assembly Bill No. 1623 (2nd CCR)

Page 2

with the following recommendations:

Page 1-2, Section 1-3: Omit entirely and insert:

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of construction contracts undertaken in connection with Authority financial assistance. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Industry pursuant to the provisions of P.L. 1963, c. 150 (C. 34:11-56.25 et seq.)
2. The rules and regulations adopted under section 1 of this act shall provide for the proper and appropriate administration and enforcement of such regulations, and for the coverage and exemptions, if any, of such rules and regulations, which the Authority may determine are appropriate and consistent with its public purpose and purpose of this act.
3. A violation of the rules and regulations adopted pursuant to section 1 of this act shall be deemed to be a violation of P.L. 1963, c. 150 (C. 34:11-56.25 et seq.). The Commissioner of Labor and Industry and any worker shall have the same powers of enforcement against violations of such rules and regulations as are provided by Sections 11 through 16, inclusive, of P.L. 1963, c. 150 (C.34:11-56.35-34:11-56.40)."

Page 2, Section 4, Lines 1-9: Omit entirely, insert:

4. The New Jersey Economic Development Authority shall adopt rules and regulations to establish an affirmative action program for the hiring of minority workers employed in the performance of construction contracts undertaken in connection with projects receiving Authority assistance, consistent with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.) and the Authority shall provide for the proper enforcement and administration of such rules and regulations."

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF SECRETARY