

52:38-2 to 52:38-5
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2021 **CHAPTER:** 69

NJSA: 52:38-2 to 52:38-5 (Promotes workforce diversity in public works projects; revises "public works projects" definition to permit project labor agreements for more projects.)

BILL NO: S3414 (Substituted for A5378 (1R))

SPONSOR(S) Sweeney, Stephen M. and others

DATE INTRODUCED: 2/4/2021

COMMITTEE: **ASSEMBLY:** Labor

SENATE: Labor

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 3/25/2021

SENATE: 2/22/2021

DATE OF APPROVAL: 4/30/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

S3414

INTRODUCED BILL (INCLUDES SPONSOR’S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: No

A5378 (1R)

INTRODUCED BILL (INCLUDES SPONSOR’S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

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No

NEWSPAPER ARTICLES:

No

RH/CL

P.L. 2021, CHAPTER 69, *approved April 30, 2021*
Senate, No. 3414 (*Second Reprint*)

1 AN ACT expanding opportunity in project labor agreements and
2 amending P.L.2002, c.44.

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.2002, c.44 (C.52:38-2) is amended to read
8 as follows:

9 2. For the purposes of this act:

10 "Apprenticeship program" means a registered apprenticeship
11 program providing to each trainee combined classroom and on-the-
12 job training under the direct and close supervision of a highly
13 skilled worker in an occupation recognized as an apprenticeable
14 trade, and registered by the **[Bureau] Office** of Apprenticeship
15 **[and Training]** of the U.S. Department of Labor and meeting the
16 standards established by the **[bureau] office**, or registered by a
17 State apprenticeship agency recognized by the **[bureau] office**.

18 "Disadvantaged community" means a census block group, as
19 determined in accordance with the most recent United States
20 Census, in which:

21 (1) at least 35 percent of the households are low-income
22 households;

23 (2) at least 40 percent of the residents are minority group
24 members or members of a State-recognized tribal community; or

25 (3) at least 40 percent of the households have limited English
26 proficiency.

27 "Labor organization" means, with respect to a contracted work
28 on a public works project, an organization which represents, for
29 purposes of collective bargaining, employees involved in the
30 performance of public works contracts and eligible to be paid
31 prevailing wages under the "New Jersey Prevailing Wage Act",
32 P.L.1963, c.150 (C.34:11-56.25 et seq.)and has the present ability to
33 refer, provide or represent sufficient numbers of qualified
34 employees to perform the contracted work, in a manner consistent
35 with the provisions of this act and an y plan mutually agreed upon
36 by the labor organization and the public entity pursuant to
37 subsection g. of section 5 of this act.

38 "Low-income household" means a household that is at or below
39 twice the poverty threshold as that threshold is determined annually
40 by the United States Census Bureau.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLA committee amendments adopted February 11, 2021.

²Senate floor amendments adopted February 19, 2021.

1 “Political subdivision” means any county, municipality, school
2 district or other political subdivision of the State of New Jersey or
3 any instrumentality or agency of the political subdivision.

4 "Project labor agreement" means a form of pre-hire collective
5 bargaining agreement covering terms and conditions of a specific
6 project.

7 "Public entity" means the State, any of its political subdivisions,
8 any authority created by the Legislature and any instrumentality or
9 agency of the State or of any of its political subdivisions.

10 "Public works project" means any public works project for **[the]**
11 construction, reconstruction, demolition or renovation **[of buildings**
12 **at the public expense, other than pumping stations or water or**
13 **sewage treatment plants,]** for which:

14 (1) It is required by law that workers be paid the prevailing
15 wage determined by the Commissioner of Labor and Workforce
16 Development pursuant to the provisions of the "New Jersey
17 Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

18 (2) The public entity estimates that the total cost of the project,
19 exclusive of any land acquisition costs, will equal or exceed \$5
20 million.

21 (cf: P.L.2002, c.44, s.2)

22

23 2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read
24 as follows:

25 3. A public entity may include a project labor agreement in a
26 public works project on a project-by-project basis, if the public
27 entity determines, taking into consideration the size, complexity and
28 cost of the public works project, that, with respect to that project the
29 project labor agreement will meet the requirements of section 5 of
30 this act, including promoting labor stability and advancing the
31 interests of the public entity in cost, efficiency, skilled labor force,
32 quality, safety and timeliness, and, in the case of a public entity
33 which is a political subdivision, promotes employment of residents
34 of the political subdivision. If the public entity determines that a
35 project labor agreement will meet those requirements with respect
36 to a particular public works project, the public entity shall either:
37 directly negotiate in good faith a project labor agreement with one
38 or more labor organizations; or condition the award of a contract to
39 a construction manager upon a requirement that the construction
40 manager negotiate in good faith a project labor agreement with one
41 or more labor organizations. Upon the request of the public entity,
42 the Commissioner of Labor shall assist in facilitating the
43 negotiation of the project labor agreement. The decision by the
44 public entity to require the inclusion of a project labor agreement
45 requirement shall not be deemed to unduly restrict competition if
46 the public entity finds that the project labor agreement is reasonably
47 related to the satisfactory performance and completion of the public
48 works project, and any bidder for the public works project refusing

1 to agree to abide by the conditions of the project labor agreement or
2 the requirement to negotiate a project labor agreement shall not be
3 regarded as a responsible bidder. Upon the request of the public
4 entity, the Commissioner of Labor shall review the finalized project
5 labor agreement and provide to the public entity, not more than 30
6 calendar days after the agreement is submitted to the commissioner
7 by the public entity, a written advisory statement regarding whether
8 the project labor agreement conforms with the provisions of this
9 act.
10 (cf: P.L.2002,c.44, s.3)

11
12 ²3. Section 4 of P.L.2002, c.44 (C.52:38-4) is amended to read
13 as follows:

14 4. Any project labor agreement negotiated pursuant to this act
15 between the public entity or its representative or a construction
16 manager and one or more labor organizations shall be binding on all
17 contractors and subcontractors working on the public works project
18 and may include provisions that permit contractors and
19 subcontractors working on the public works project to retain a
20 percentage of their current workforce, and provisions that the
21 successful bidder and any subcontractor of the bidder need not be a
22 party to a labor agreement with the labor organizations other than
23 for the public works project covered by the project labor agreement.
24 Each project labor agreement shall stipulate that:

25 a. the provisions of the project labor agreement shall apply to
26 work done at construction sites of the public works project and shall
27 not apply to work done outside of those sites; and

28 b. if a union trust fund covered by the terms and conditions of
29 the project labor agreement has not adopted the building and
30 construction industry exemption authorized by subsection (b) of
31 section 4203 of the Employee Retirement Income Security Act of
32 1974 (29 U.S.C. 1383(b)), the signatory employers shall not be
33 obligated to hire employees covered by that fund.²

34 (cf: P.L.2002, c.44, s.4)

35
36 ²[3.] ²4. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to
37 read as follows:

38 5. Each project labor agreement executed pursuant to the
39 provisions of this act shall:

40 a. Advance the interests of the public entity, including the
41 interests in cost, efficiency, quality, timeliness, skilled labor force, and
42 safety;

43 b. Contain guarantees against strikes, lock-outs, or other similar
44 actions;

45 c. Set forth effective, immediate, and mutually binding
46 procedures for resolving jurisdictional and labor disputes arising
47 before the completion of the work;

- 1 d. Be made binding on all contractors and subcontractors on the
2 public works project through the inclusion of appropriate bid
3 specifications in all relevant bid documents;
- 4 e. Require that each contractor and subcontractor working on the
5 public works project have an apprenticeship program;
- 6 f. Fully conform to all statutes, regulations, executive orders and
7 applicable local ordinances regarding the implementation of set-aside
8 goals for women and minority owned businesses, the obligation to
9 comply with which shall be expressly provided in the project labor
10 agreement;
- 11 g. Include a publicly available plan regarding:
- 12 (1) the shares of employment and apprenticeship positions in the
13 public works project for minority group members, members of
14 disadvantaged communities, and women which **[is]** are in full
15 conformance with the requirements of all applicable statutes,
16 regulations, executive orders and local ordinances and is mutually
17 agreed upon by the participating labor organizations and the public
18 entity which will own the facilities which are built, altered or repaired
19 under the public works project, provided that any shares mutually
20 agreed upon pursuant to this subsection shall equal or exceed the
21 requirements of other statutes, regulations, executive orders or local
22 ordinances; and
- 23 (2) all measures and programs to be undertaken to attain the goals
24 of paragraph (1) of this subsection regarding minority group members,
25 members of disadvantaged communities, and women, which may
26 include measures giving them priority in referral and placement from
27 the hiring halls of signatory unions, programs to provide on-the-job or
28 off-the-job outreach and training, and programs to provide incentives
29 ¹for¹, or otherwise facilitate, their hiring and employment;
- 30 h. Require the contract for the public works project to provide
31 whatever resources may be needed to prepare for apprenticeship a
32 number of women, members of disadvantaged communities, and
33 minority group members sufficient to enable compliance with the plan
34 agreed upon pursuant to subsection g. of this section and provide that
35 the use of those resources be administered jointly by the participating
36 labor organizations and the public entity or community-based
37 organizations selected by the public entity; and
- 38 i. Require the public body to monitor, or arrange to have a State
39 agency monitor, the amount and share of work done on the project by
40 minority group members, members of disadvantaged communities,
41 and women and the progression of minority group members, members
42 of disadvantaged communities, and women into apprentice and
43 journey worker positions, and require the public body to make public,
44 or have the State agency make public, all records of monitoring
45 conducted pursuant to this subsection.

46 (cf: P.L.2002, c.44, s.5)

47

48 ²**[4.]** 5.² This act shall take effect immediately.

S3414 [2R]

5

1

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5

Promotes workforce diversity in public works projects; revises
“public works projects” definition to permit project labor
agreements for more projects.

SENATE, No. 3414

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 4, 2021

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Promotes workforce diversity in public works projects; revises “public works projects” definition to permit project labor agreements for more projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/9/2021)

1 AN ACT expanding opportunity in project labor agreements and
2 amending P.L.2002, c.44.

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.2002, c.44 (C.52:38-2) is amended to read as
8 follows:

9 2. For the purposes of this act:

10 "Apprenticeship program" means a registered apprenticeship
11 program providing to each trainee combined classroom and on-the-
12 job training under the direct and close supervision of a highly skilled
13 worker in an occupation recognized as an apprenticeable trade, and
14 registered by the **【Bureau】** Office of Apprenticeship **【and Training】**
15 of the U.S. Department of Labor and meeting the standards
16 established by the **【bureau】** office, or registered by a State
17 apprenticeship agency recognized by the **【bureau】** office.

18 "Disadvantaged community" means a census block group, as
19 determined in accordance with the most recent United States Census,
20 in which:

21 (1) at least 35 percent of the households are low-income
22 households;

23 (2) at least 40 percent of the residents are minority group members
24 or members of a State-recognized tribal community; or

25 (3) at least 40 percent of the households have limited English
26 proficiency.

27 "Labor organization" means, with respect to a contracted work on
28 a public works project, an organization which represents, for
29 purposes of collective bargaining, employees involved in the
30 performance of public works contracts and eligible to be paid
31 prevailing wages under the "New Jersey Prevailing Wage Act",
32 P.L.1963, c.150 (C.34:11-56.25 et seq.)and has the present ability to
33 refer, provide or represent sufficient numbers of qualified employees
34 to perform the contracted work, in a manner consistent with the
35 provisions of this act and an y plan mutually agreed upon by the labor
36 organization and the public entity pursuant to subsection g. of section
37 5 of this act.

38 "Low-income household" means a household that is at or below
39 twice the poverty threshold as that threshold is determined annually
40 by the United States Census Bureau.

41 "Political subdivision" means any county, municipality, school
42 district or other political subdivision of the State of New Jersey or
43 any instrumentality or agency of the political subdivision.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 "Project labor agreement" means a form of pre-hire collective
2 bargaining agreement covering terms and conditions of a specific
3 project.

4 "Public entity" means the State, any of its political subdivisions,
5 any authority created by the Legislature and any instrumentality or
6 agency of the State or of any of its political subdivisions.

7 "Public works project" means any public works project for **[the]**
8 construction, reconstruction, demolition or renovation **[of buildings]**
9 at the public expense, other than pumping stations or water or sewage
10 treatment plants, **]** for which:

11 (1) It is required by law that workers be paid the prevailing wage
12 determined by the Commissioner of Labor and Workforce
13 Development pursuant to the provisions of the "New Jersey
14 Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

15 (2) The public entity estimates that the total cost of the project,
16 exclusive of any land acquisition costs, will equal or exceed \$5
17 million.

18 (cf: P.L.2002, c.44, s.2)

19

20 2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read as
21 follows:

22 3. A public entity may include a project labor agreement in a
23 public works project on a project-by-project basis, if the public entity
24 determines, taking into consideration the size, complexity and cost
25 of the public works project, that, with respect to that project the
26 project labor agreement will meet the requirements of section 5 of
27 this act, including promoting labor stability and advancing the
28 interests of the public entity in cost, efficiency, skilled labor force,
29 quality, safety and timeliness, and, in the case of a public entity which
30 is a political subdivision, promotes employment of residents of the
31 political subdivision. If the public entity determines that a project
32 labor agreement will meet those requirements with respect to a
33 particular public works project, the public entity shall either: directly
34 negotiate in good faith a project labor agreement with one or more
35 labor organizations; or condition the award of a contract to a
36 construction manager upon a requirement that the construction
37 manager negotiate in good faith a project labor agreement with one
38 or more labor organizations. Upon the request of the public entity,
39 the Commissioner of Labor shall assist in facilitating the negotiation
40 of the project labor agreement. The decision by the public entity to
41 require the inclusion of a project labor agreement requirement shall
42 not be deemed to unduly restrict competition if the public entity finds
43 that the project labor agreement is reasonably related to the
44 satisfactory performance and completion of the public works project,
45 and any bidder for the public works project refusing to agree to abide
46 by the conditions of the project labor agreement or the requirement
47 to negotiate a project labor agreement shall not be regarded as a
48 responsible bidder. Upon the request of the public entity, the

1 Commissioner of Labor shall review the finalized project labor
2 agreement and provide to the public entity, not more than 30 calendar
3 days after the agreement is submitted to the commissioner by the
4 public entity, a written advisory statement regarding whether the
5 project labor agreement conforms with the provisions of this act.

6 (cf: P.L.2002,c.44, s.3)

7
8 3. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to read as
9 follows:

10 5. Each project labor agreement executed pursuant to the
11 provisions of this act shall:

12 a. Advance the interests of the public entity, including the
13 interests in cost, efficiency, quality, timeliness, skilled labor force,
14 and safety;

15 b. Contain guarantees against strikes, lock-outs, or other similar
16 actions;

17 c. Set forth effective, immediate, and mutually binding
18 procedures for resolving jurisdictional and labor disputes arising
19 before the completion of the work;

20 d. Be made binding on all contractors and subcontractors on the
21 public works project through the inclusion of appropriate bid
22 specifications in all relevant bid documents;

23 e. Require that each contractor and subcontractor working on the
24 public works project have an apprenticeship program;

25 f. Fully conform to all statutes, regulations, executive orders
26 and applicable local ordinances regarding the implementation of set-
27 aside goals for women and minority owned businesses, the obligation
28 to comply with which shall be expressly provided in the project labor
29 agreement;

30 g. Include a publicly available plan regarding:

31 (1) the shares of employment and apprenticeship positions in the
32 public works project for minority group members, members of
33 disadvantaged communities, and women which **[is]** are in full
34 conformance with the requirements of all applicable statutes,
35 regulations, executive orders and local ordinances and is mutually
36 agreed upon by the participating labor organizations and the public
37 entity which will own the facilities which are built, altered or repaired
38 under the public works project, provided that any shares mutually
39 agreed upon pursuant to this subsection shall equal or exceed the
40 requirements of other statutes, regulations, executive orders or local
41 ordinances; and

42 (2) all measures and programs to be undertaken to attain the goals
43 of paragraph (1) of this subsection regarding minority group
44 members, members of disadvantaged communities, and women,
45 which may include measures giving them priority in referral and
46 placement from the hiring halls of signatory unions, programs to
47 provide on-the-job or off-the-job outreach and training, and programs

1 to provide incentives, or otherwise facilitate, their hiring and
2 employment;

3 h. Require the contract for the public works project to provide
4 whatever resources may be needed to prepare for apprenticeship a
5 number of women, members of disadvantaged communities, and
6 minority group members sufficient to enable compliance with the
7 plan agreed upon pursuant to subsection g. of this section and provide
8 that the use of those resources be administered jointly by the
9 participating labor organizations and the public entity or community-
10 based organizations selected by the public entity; and

11 i. Require the public body to monitor, or arrange to have a State
12 agency monitor, the amount and share of work done on the project
13 by minority group members, members of disadvantaged
14 communities, and women and the progression of minority group
15 members, members of disadvantaged communities, and women into
16 apprentice and journey worker positions, and require the public body
17 to make public, or have the State agency make public, all records of
18 monitoring conducted pursuant to this subsection.

19 (cf: P.L.2002, c.44, s.5)

20

21 4. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill promotes workforce diversity in public works projects by
27 permitting any public entity which includes a project labor agreement
28 (PLA) in a public works contract for a public works project to
29 include, as part of the PLA, provisions to provide on-the-job or off-
30 the-job outreach and training programs for minority group members,
31 members of disadvantaged communities, and women, which may
32 include programs to provide incentives, or otherwise facilitate, the
33 hiring, training, and employment of minority group members,
34 members of disadvantaged communities, and women.

35 This bill also expands the permissible use of PLAs beyond
36 contracts for building-based public works projects, thus allowing
37 PLAs to be used for highway, bridge, pumping station, water, and
38 sewage treatment plant projects.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 3414

STATE OF NEW JERSEY

DATED: MARCH 15, 2021

The Assembly Labor Committee reports favorably Senate Bill No. 3414 (2R).

This bill promotes workforce diversity in public works projects by permitting any public entity which includes a project labor agreement (PLA) in a contract for a public works project to include, as part of the PLA, provisions to provide on-the-job or off-the-job outreach and training programs for minority group members, members of disadvantaged communities, and women, which may include programs to provide incentives for, or otherwise facilitate, the hiring, training, and employment of minority group members, members of disadvantaged communities, and women, including employment of local residents.

This bill also expands the permissible use of PLAs beyond contracts for building-based public works projects, thus allowing PLAs to be used for highway, bridge, pumping station, water, and sewage treatment plant projects.

The bill requires that each project labor agreement stipulates that:

1. the project labor agreement applies to work done at construction sites of the public works project but not to work done outside of those sites; and
2. if a union trust fund covered by the PLA has not adopted the building and construction industry exemption authorized by the federal Employee Retirement Income Security Act, the signatory employers are not obligated to hire employees covered by that fund.

Current law permits, but does not require, public entities to enter into PLAs for projects over \$5 million. The bill does not affect the requirement that a political subdivision would be required to adopt an ordinance approving a PLA. Any requirements to have PLAs in private public partnerships are not affected or diminished by the bill.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 3414

STATE OF NEW JERSEY

DATED: FEBRUARY 11, 2021

The Senate Labor Committee reports favorably, with committee amendments, Senate Bill No. 3414.

This bill promotes workforce diversity in public works projects by permitting any public entity which includes a project labor agreement (PLA) in a contract for a public works project to include, as part of the PLA, provisions to provide on-the-job or off-the-job outreach and training programs for minority group members, members of disadvantaged communities, and women, which may include programs to provide incentives for, or otherwise facilitate, the hiring, training, and employment of minority group members, members of disadvantaged communities, and women, including employment of local residents.

This bill also expands the permissible use of PLAs beyond contracts for building-based public works projects, thus allowing PLAs to be used for highway, bridge, pumping station, water, and sewage treatment plant projects.

The committee amendments are technical.

STATEMENT TO
[First Reprint]
SENATE, No. 3414

with Senate Floor Amendments
(Proposed by Senator SWEENEY)

ADOPTED: FEBRUARY 19, 2021

These amendments require that each project labor agreement stipulates that:

1. the project labor agreement applies to work done at construction sites of the public works project but not to work done outside of those sites; and
2. if a union trust fund covered by the PLA has not adopted the building and construction industry exemption authorized by the federal Employee Retirement Income Security Act, the signatory employers are not obligated to hire employees covered by that fund.

ASSEMBLY, No. 5378

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

SYNOPSIS

Promotes workforce diversity in public works projects; revises “public works projects” definition to permit project labor agreements for more projects.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2021)

1 AN ACT expanding opportunity in project labor agreements and
2 amending P.L.2002, c.44.

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.2002, c.44 (C.52:38-2) is amended to read as
8 follows:

9 2. For the purposes of this act:

10 "Apprenticeship program" means a registered apprenticeship
11 program providing to each trainee combined classroom and on-the-
12 job training under the direct and close supervision of a highly skilled
13 worker in an occupation recognized as an apprenticeable trade, and
14 registered by the **【Bureau】** Office of Apprenticeship **【and Training】**
15 of the U.S. Department of Labor and meeting the standards
16 established by the **【bureau】** office, or registered by a State
17 apprenticeship agency recognized by the **【bureau】** office.

18 "Disadvantaged community" means a census block group, as
19 determined in accordance with the most recent United States Census,
20 in which:

21 (1) at least 35 percent of the households are low-income
22 households;

23 (2) at least 40 percent of the residents are minority group
24 members or members of a State-recognized tribal community; or

25 (3) at least 40 percent of the households have limited English
26 proficiency.

27 "Labor organization" means, with respect to a contracted work on
28 a public works project, an organization which represents, for
29 purposes of collective bargaining, employees involved in the
30 performance of public works contracts and eligible to be paid
31 prevailing wages under the "New Jersey Prevailing Wage Act",
32 P.L.1963, c.150 (C.34:11-56.25 et seq.)and has the present ability to
33 refer, provide or represent sufficient numbers of qualified employees
34 to perform the contracted work, in a manner consistent with the
35 provisions of this act and an y plan mutually agreed upon by the labor
36 organization and the public entity pursuant to subsection g. of section
37 5 of this act.

38 "Low-income household" means a household that is at or below
39 twice the poverty threshold as that threshold is determined annually
40 by the United States Census Bureau.

41 "Political subdivision" means any county, municipality, school
42 district or other political subdivision of the State of New Jersey or
43 any instrumentality or agency of the political subdivision.

44 "Project labor agreement" means a form of pre-hire collective
45 bargaining agreement covering terms and conditions of a specific
46 project.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 "Public entity" means the State, any of its political subdivisions,
2 any authority created by the Legislature and any instrumentality or
3 agency of the State or of any of its political subdivisions.

4 "Public works project" means any public works project for **【the】**
5 construction, reconstruction, demolition or renovation **【of buildings**
6 **at the public expense, other than pumping stations or water or sewage**
7 **treatment plants,】** for which:

8 (1) It is required by law that workers be paid the prevailing wage
9 determined by the Commissioner of Labor and Workforce
10 Development pursuant to the provisions of the "New Jersey
11 Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

12 (2) The public entity estimates that the total cost of the project,
13 exclusive of any land acquisition costs, will equal or exceed \$5
14 million.

15 (cf: P.L.2002, c.44, s.2)

16
17 2. Section 3 of P.L.2002, c.44 (C.52:38-3) is amended to read as
18 follows:

19 3. A public entity may include a project labor agreement in a
20 public works project on a project-by-project basis, if the public entity
21 determines, taking into consideration the size, complexity and cost
22 of the public works project, that, with respect to that project the
23 project labor agreement will meet the requirements of section 5 of
24 this act, including promoting labor stability and advancing the
25 interests of the public entity in cost, efficiency, skilled labor force,
26 quality, safety and timeliness, and, in the case of a public entity which
27 is a political subdivision, promotes employment of residents of the
28 political subdivision. If the public entity determines that a project
29 labor agreement will meet those requirements with respect to a
30 particular public works project, the public entity shall either: directly
31 negotiate in good faith a project labor agreement with one or more
32 labor organizations; or condition the award of a contract to a
33 construction manager upon a requirement that the construction
34 manager negotiate in good faith a project labor agreement with one
35 or more labor organizations. Upon the request of the public entity,
36 the Commissioner of Labor shall assist in facilitating the negotiation
37 of the project labor agreement. The decision by the public entity to
38 require the inclusion of a project labor agreement requirement shall
39 not be deemed to unduly restrict competition if the public entity finds
40 that the project labor agreement is reasonably related to the
41 satisfactory performance and completion of the public works project,
42 and any bidder for the public works project refusing to agree to abide
43 by the conditions of the project labor agreement or the requirement
44 to negotiate a project labor agreement shall not be regarded as a
45 responsible bidder. Upon the request of the public entity, the
46 Commissioner of Labor shall review the finalized project labor
47 agreement and provide to the public entity, not more than 30 calendar
48 days after the agreement is submitted to the commissioner by the

1 public entity, a written advisory statement regarding whether the
2 project labor agreement conforms with the provisions of this act.

3 (cf: P.L.2002,c.44, s.3)

4

5 3. Section 5 of P.L.2002, c.44 (C.52:38-5) is amended to read as
6 follows:

7 5. Each project labor agreement executed pursuant to the
8 provisions of this act shall:

9 a. Advance the interests of the public entity, including the
10 interests in cost, efficiency, quality, timeliness, skilled labor force,
11 and safety;

12 b. Contain guarantees against strikes, lock-outs, or other similar
13 actions;

14 c. Set forth effective, immediate, and mutually binding
15 procedures for resolving jurisdictional and labor disputes arising
16 before the completion of the work;

17 d. Be made binding on all contractors and subcontractors on the
18 public works project through the inclusion of appropriate bid
19 specifications in all relevant bid documents;

20 e. Require that each contractor and subcontractor working on the
21 public works project have an apprenticeship program;

22 f. Fully conform to all statutes, regulations, executive orders
23 and applicable local ordinances regarding the implementation of set-
24 aside goals for women and minority owned businesses, the obligation
25 to comply with which shall be expressly provided in the project labor
26 agreement;

27 g. Include a publicly available plan regarding:

28 (1) the shares of employment and apprenticeship positions in the
29 public works project for minority group members, members of
30 disadvantaged communities, and women which **[is]** are in full
31 conformance with the requirements of all applicable statutes,
32 regulations, executive orders and local ordinances and is mutually
33 agreed upon by the participating labor organizations and the public
34 entity which will own the facilities which are built, altered or repaired
35 under the public works project, provided that any shares mutually
36 agreed upon pursuant to this subsection shall equal or exceed the
37 requirements of other statutes, regulations, executive orders or local
38 ordinances; and

39 (2) all measures and programs to be undertaken to attain the goals
40 of paragraph (1) of this subsection regarding minority group
41 members, members of disadvantaged communities, and women,
42 which may include measures giving them priority in referral and
43 placement from the hiring halls of signatory unions, programs to
44 provide on-the-job or off-the-job outreach and training, and programs
45 to provide incentives for, or otherwise facilitate, their hiring and
46 employment;

47 h. Require the contract for the public works project to provide
48 whatever resources may be needed to prepare for apprenticeship a

1 number of women, members of disadvantaged communities, and
2 minority group members sufficient to enable compliance with the
3 plan agreed upon pursuant to subsection g. of this section and provide
4 that the use of those resources be administered jointly by the
5 participating labor organizations and the public entity or community-
6 based organizations selected by the public entity; and
7 i. Require the public body to monitor, or arrange to have a State
8 agency monitor, the amount and share of work done on the project
9 by minority group members, members of disadvantaged
10 communities, and women and the progression of minority group
11 members, members of disadvantaged communities, and women into
12 apprentice and journey worker positions, and require the public body
13 to make public, or have the State agency make public, all records of
14 monitoring conducted pursuant to this subsection.
15 (cf: P.L.2002, c.44, s.5)

16
17 4. This act shall take effect immediately.

18
19
20 STATEMENT

21
22 This bill promotes workforce diversity in public works projects by
23 permitting any public entity which includes a project labor agreement
24 (PLA) in a contract for a public works project to include, as part of
25 the PLA, provisions to provide on-the-job or off-the-job outreach and
26 training programs for minority group members, members of
27 disadvantaged communities, and women, which may include
28 programs to provide incentives for, or otherwise facilitate, the hiring,
29 training, and employment of minority group members, members of
30 disadvantaged communities, and women, including employment of
31 local residents.

32 This bill also expands the permissible use of PLAs beyond
33 contracts for building-based public works projects, thus allowing
34 PLAs to be used for highway, bridge, pumping station, water, and
35 sewage treatment plant projects.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5378

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 15, 2021

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 5378.

As amended, this bill promotes workforce diversity in public works projects by permitting any public entity which includes a project labor agreement (PLA) in a contract for a public works project to include, as part of the PLA, provisions to provide on-the-job or off-the-job outreach and training programs for minority group members, members of disadvantaged communities, and women, which may include programs to provide incentives for, or otherwise facilitate, the hiring, training, and employment of minority group members, members of disadvantaged communities, and women, including employment of local residents.

This bill also expands the permissible use of PLAs beyond contracts for building-based public works projects, thus allowing PLAs to be used for highway, bridge, pumping station, water, and sewage treatment plant projects.

As amended, the bill requires that each project labor agreement stipulates that:

1. the project labor agreement applies to work done at construction sites of the public works project but not to work done outside of those sites; and
2. if a union trust fund covered by the PLA has not adopted the building and construction industry exemption authorized by the federal Employee Retirement Income Security Act, the signatory employers are not obligated to hire employees covered by that fund.

Current law permits, but does not require, public entities to enter into PLAs for projects over \$5 million. The bill does not affect the requirement that a political subdivision would be required to adopt an ordinance approving a PLA. Any requirements to have PLAs in private public partnerships are not affected or diminished by the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to require that each project labor agreement stipulates that:

1. the project labor agreement applies to work done at construction sites of the public works project but not to work done outside of those sites; and

2. if a union trust fund covered by the PLA has not adopted the building and construction industry exemption authorized by the federal Employee Retirement Income Security Act, the signatory employers are not obligated to hire employees covered by that fund.

As adopted and reported, the amendments make the bill identical to Senate Bill No. 3414 (2R) of the 2020-2021 session.

Governor Murphy Takes Action on Legislation

04/30/2021

TRENTON – Today, Governor Murphy signed the following bills into law:

S-3414/A-5378 (Sweeney, Greenstein/DeAngelo, Egan, Johnson) – Promotes workforce diversity in public works projects; revises “public works projects” definition to permit project labor agreements for more projects

A-1145/S-1739 (Freiman, Egan, Karabinchak/Oroho, Beach) – Establishes "Electronic Permit Processing Review System"

A-1285/SS for S-2874 (Greenwald, Chiaravalloti, Moen/Singleton, Cryan, Oroho) w/STATEMENT
- Establishes procedures for awarding of design-build contracts

[Copy of Statement](#)

A-3199/S-2315 (Murphy, Benson, Vainieri Huttel/Beach, Scutari) – Prohibits discrimination against living organ donors in relation to life, health, and long-term care insurance

A-5057/S-3190 (Danielsen, Speight, Taliaferro/Smith, Bateman) – Authorizes NJ Infrastructure Bank to finance aviation and marine infrastructure projects; makes various other changes to bank’s enabling act