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[Third Reprint]
SENATE, No. 1421

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MARCH 3, 2008

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senator Baroni

SYNOPSIS

Requires reporting of wage records under certain solid waste contracts.

CURRENT VERSION OF TEXT

As amended by the General Assembly on June 16, 2008.

(Sponsorship Updated As Of: 6/19/2009)

1 AN ACT regarding wage records in connection with certain
2 contracts for the collection or transportation of solid waste.

3

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

6

7 1. a. Every contract with a public body under which a
8 contractor or subcontractor engages in the work of the collection or
9 transportation of solid waste, including 'any' recyclable materials
10 'other than recycled or reclaimed asphalt or concrete', for the
11 public body shall contain a provision requiring the contractor and
12 subcontractor to keep an accurate record showing the name, the
13 actual hourly rate of wages paid to, and the actual daily, overtime
14 and weekly hours worked by, each individual engaged in the
15 collection and transportation work done under the contract, and any
16 other records deemed necessary by the commissioner for the
17 enforcement of wage payments, and the records shall be preserved
18 for two years from the date of payment. The record shall be open at
19 all reasonable hours to the inspection of the public body awarding
20 the contract, any other party to the contract, and the commissioner,
21 and the contractor or subcontractor shall submit a certified payroll
22 record ³showing only the name, the actual hourly rate of wages paid
23 to, and the actual daily, overtime and weekly hours worked by each
24 individual engaged in the collection and transportation work done
25 under the contract³, in a form satisfactory to the commissioner, to
26 the public body for each payroll period not more than 10 days after
27 the payment of wages. The public body shall make the certified
28 payroll record open at all reasonable hours to the inspection of any
29 party to the contract, the commissioner, and any ²[labor
30 organization representing workers in a craft or trade employed in
31 the work] member of the public².

32 b. With respect to any contract with a public body for the
33 collection or transportation of solid waste, including 'any'
34 recyclable materials 'other than recycled or reclaimed asphalt or
35 concrete¹, the commissioner shall have the authority to investigate
36 and ascertain the wages of workers employed in connection with the
37 contract, enter and inspect the place of business or employment of
38 the workers to question the workers and examine, inspect and copy
39 any books, registers, payrolls, and other records regarding the
40 wages, hours, and other conditions of employment of the workers,
41 require from the contractor or subcontractor written statements,
42 including sworn statements, regarding wages, hours, names,

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 March 6, 2008.

²Senate floor amendments adopted May 22, 2008.

³Assembly floor amendments adopted June 16, 2008.

1 addresses, and other information about the workers the
2 commissioner deems appropriate, and require the contractor or
3 subcontractor to file, within 10 days of receipt of a request, any
4 records enumerated in this section, sworn to as to their validity and
5 accuracy. If the contractor or subcontractor fails to provide the
6 requested records within 10 days, the commissioner may direct
7 within 15 days the fiscal or financial officer charged with the
8 custody and disbursements of the funds of the public body which
9 contracted for the work to withhold immediately from payment to
10 the contractor or subcontractor up to 25% of the amount, not to
11 exceed \$100,000, to be paid to the contractor or subcontractor under
12 the terms of the contract. The amount withheld shall be
13 immediately released upon receipt by the public body of a notice
14 from the commissioner indicating that the request for records has
15 been satisfied.

16 c. Any contractor or subcontractor who willfully hinders or
17 delays the commissioner in the performance of his duties in the
18 enforcement of this section, or fails to make, keep or preserve any
19 records required under the provisions of this act, or falsifies any of
20 the records, or refuses to furnish or make available any of the
21 records to the commissioner upon demand, otherwise violates any
22 provision of this act or any regulation or order issued under this act,
23 shall be guilty of a disorderly persons offense and shall, upon
24 conviction, be subject to a fine of not less than \$100 nor more than
25 \$1,000, imprisonment for not less than 10 nor more than 90 days, or
26 by both the fine and imprisonment. As an alternative to or in
27 addition to any other sanctions, if the commissioner finds that the
28 contractor or subcontractor has violated this act, the commissioner
29 is authorized to assess and collect administrative penalties, up to a
30 maximum of \$2,500 for a first violation and up to a maximum of
31 \$5,000 for each subsequent violation, specified in a schedule of
32 penalties to be promulgated as a rule or regulation by the
33 commissioner in accordance with the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the
35 amount of the penalty imposed because of a violation, the
36 commissioner shall consider factors including the history of
37 previous violations, the seriousness of the violation, the good faith
38 of the contractor or subcontractor and the size of the business. No
39 administrative penalty shall be levied pursuant to this section unless
40 the commissioner provides the alleged violator with notification of
41 the violation and of the amount of the penalty by certified mail and
42 an opportunity to request a hearing within 15 days following the
43 receipt of the notice. If a hearing is requested, the commissioner
44 shall issue a final order upon such hearing and a finding that a
45 violation has occurred. If no hearing is requested, the notice shall
46 become a final order upon expiration of the 15-day period.
47 Payment of the penalty is due when a final order is issued or when
48 the notice becomes a final order. Any penalty imposed pursuant to

1 this section may be recovered with costs in a summary proceeding
2 commenced by the commissioner pursuant to the "Penalty
3 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
4 Any sum collected as a fine or penalty pursuant to this section shall
5 be applied toward enforcement and administrative costs of the
6 Division of Workplace Standards in the Department of Labor and
7 Workforce Development.

8 d. For the purposes of this section:

9 "Commissioner" means the Commissioner of Labor and
10 Workforce Development or his duly authorized representatives.

11 "Public body" means the State of New Jersey, any of its political
12 subdivisions, any authority created by the Legislature of the State of
13 New Jersey and any instrumentality or agency of the State of New
14 Jersey or of any of its political subdivisions.

15 ¹"Contractor" or "subcontractor" means a contractor or
16 subcontractor who employs less than 1,000 employees in the State
17 of New Jersey.¹

18

19 2. This act shall take effect immediately.

1 New Jersey and any instrumentality or agency of the State of New
2 Jersey or of any of its political subdivisions.

3

4 2. This act shall take effect immediately.

5

6

7

SPONSOR'S STATEMENT

8

9 This bill requires that every contract with a State or local
10 governmental body under which a contractor or subcontractor
11 engages in the work of the collection or transportation of solid
12 waste shall require the contractor and subcontractor to keep
13 accurate records of the name, the rate of wages and hours of work
14 of each individual engaged in collection and transportation work
15 under the contract and any other records deemed necessary by the
16 Commissioner of Labor and Workforce Development to ensure the
17 enforcement of wage payments, and that the records be preserved
18 for two years from date of payment.

19 The bill requires that the records be open to the inspection of the
20 public body, any other party to the contract, and the commissioner,
21 and that the contractor or subcontractor submit a certified payroll
22 record to the public body for each payroll period not more than 10
23 days after the payment of wages. The public body is required to
24 make the record open to the inspection of any party to the contract,
25 the commissioner, and any labor organization representing workers
26 in a craft or trade employed in the work.

27 The bill gives the commissioner the same authority for the
28 enforcement of the record keeping and reporting requirements of
29 the bill as he currently has regarding the enforcement of the record
30 keeping and reporting requirements of the "New Jersey Prevailing
31 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 1421

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 6, 2008

The Senate Labor Committee reports favorably and with committee amendments, Senate Bill No. 1421.

As amended by the committee, this bill requires that every contract with a State or local governmental body under which a contractor or subcontractor with less than 1,000 employees in the State engages in the work of the collection or transportation of solid waste, including any recyclable materials other than recycled or reclaimed asphalt or concrete, shall require the contractor and subcontractor to keep accurate records of the name, the rate of wages and hours of work of each individual engaged in collection and transportation work under the contract and any other records deemed necessary by the Commissioner of Labor and Workforce Development to ensure the enforcement of wage payments. The records shall be preserved for two years from date of payment.

The bill requires that the records be open to the inspection of the public body, any other party to the contract, and the commissioner, and that the contractor or subcontractor submit a certified payroll record to the public body for each payroll period not more than 10 days after the payment of wages. The public body is required to make the record open to the inspection of any party to the contract, the commissioner, and any labor organization representing workers in a craft or trade employed in the work.

The bill gives the commissioner the same authority for the enforcement of the record keeping and reporting requirements of the bill as he currently has regarding the enforcement of the record keeping and reporting requirements of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

The amendments adopted by the committee exempt from the provisions of the bill any contractor or subcontractor with 1,000 or more employees in the State and all collection or transportation of recycled or reclaimed asphalt or concrete.

STATEMENT TO

[First Reprint]

SENATE, No. 1421

with Senate Floor Amendments
(Proposed By Senator SARLO)

ADOPTED: MAY 22, 2008

This Senate Amendment provides that the wage records required to be kept by contractors and subcontractors under the bill shall be open to the inspection of any member of the public, instead of specifying that they be made open to inspection to any labor organization representing workers in a craft or trade employed in the work.

STATEMENT TO
[Second Reprint]
SENATE, No. 1421

with Assembly Floor Amendments
(Proposed By Assemblyman SCALERA)

ADOPTED: JUNE 16, 2008

These Assembly amendments specify that the certified payroll records, which the bill requires public bodies to make public, include only the specific items of the name, the actual hourly rate of wages paid to, and the actual daily, overtime and weekly hours worked by, each individual engaged in the collection and transportation work done under the contract, but do not include other records deemed necessary by the commissioner for the enforcement of wage payments.

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

5 "Contractor" or "subcontractor" means a contractor or
6 subcontractor who employs less than 1,000 employees in the State
7 of New Jersey.

8

9 2. This act shall take effect immediately.

10

11

12 SPONSOR'S STATEMENT

13

14 This bill requires that every contract with a State or local
15 governmental body under which a contractor or subcontractor with
16 less than 1,000 employees in the State engages in the work of the
17 collection or transportation of solid waste, including any recyclable
18 materials other than recycled or reclaimed asphalt or concrete, shall
19 require the contractor and subcontractor to keep accurate records of
20 the name, the rate of wages and hours of work of each individual
21 engaged in collection and transportation work under the contract
22 and any other records deemed necessary by the Commissioner of
23 Labor and Workforce Development to ensure the enforcement of
24 wage payments. The records shall be preserved for two years from
25 date of payment.

26 The bill requires that the records be open to the inspection of the
27 public body, any other party to the contract, and the commissioner,
28 and that the contractor or subcontractor submit a certified payroll
29 record to the public body for each payroll period not more than 10
30 days after the payment of wages. The public body is required to
31 make the record open to the inspection of any party to the contract,
32 the commissioner, and any labor organization representing workers
33 in a craft or trade employed in the work.

34 The bill gives the commissioner the same authority for the
35 enforcement of the record keeping and reporting requirements of
36 the bill as he currently has regarding the enforcement of the record
37 keeping and reporting requirements of the "New Jersey Prevailing
38 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2593

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2008

The Assembly Labor Committee reports favorably and with committee amendments Assembly Bill No. 2593.

This bill, as amended, requires that every contract with a State or local governmental body under which a contractor or subcontractor with less than 1,000 employees in the State engages in the work of the collection or transportation of solid waste, including any recyclable materials other than recycled or reclaimed asphalt or concrete, shall require the contractor and subcontractor to keep accurate records of the name, the rate of wages and hours of work of each individual engaged in collection and transportation work under the contract and any other records deemed necessary by the Commissioner of Labor and Workforce Development to ensure the enforcement of wage payments. The records shall be preserved for two years from date of payment.

The bill requires that the records be open to the inspection of the public body, any other party to the contract, and the commissioner, and that the contractor or subcontractor submit a certified payroll record to the public body for each payroll period not more than 10 days after the payment of wages. As amended, the bill requires the public body to make the record open to the inspection of any party to the contract, the commissioner, and any member of the public.

The bill gives the commissioner essentially the same authority for the enforcement of the record keeping and reporting requirements of the bill as he currently has regarding the enforcement of the record keeping and reporting requirements of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

As reported by the committee, this bill is identical to Senate Bill No. 1421 (2R).

COMMITTEE AMENDMENTS

The amendments adopted by committee require that a public body make the wage record open to the inspection of any member of the public, instead of specifying that it be made open to inspection to any labor organization representing workers in a craft or trade employed in the work.