

34.11.56.25

LEGISLATIVE HISTORY CHECKLIST
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(Public Works)

NJSA: 34:11-56.25

LAWS OF: 1996 CHAPTER: 71

BILL NO: S436

SPONSOR(S): Sinagra and Ciesla

DATE INTRODUCED: January 18, 1996

COMMITTEE: ASSEMBLY: ---

SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments during passage
Third reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 24, 1996

SENATE: May 16, 1996

DATE OF APPROVAL: July 18, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes Also attached: statement
adopted 3-21-96 and
statement adopted 6-24-96

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:
REPORTS: Yes

HEARINGS: No

KBP:pp

copy

P.L. 1996, CHAPTER 71, *approved July 18, 1996*
Senate, No. 436 (*Third Reprint*)

1 AN ACT concerning certain projects and supplementing P.L.1963,
2 c.150 (C.34:11-56.25 et seq.).

3

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

6

7 1. a. Any person who submits a bid directly to a public body for
8 a contract for any public work subject to the provisions of the "New
9 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.)
10 and is not awarded the contract ¹and whose bid is the lowest bid other
11 than the bid accepted by the public body^{1 3} or, if, pursuant to law, the
12 contract is awarded on the basis of factors other than or in addition to
13 the lowest bid, whose bid is the highest in rank other than the bid
14 accepted by the public body³ (hereinafter referred to in this section as
15 the "plaintiff") may bring an action for damages in a court of
16 competent jurisdiction against the contractor who was directly
17 awarded the contract by the public body or any subcontractor of that
18 contractor (hereinafter referred to in this section as the "defendant")
19 alleging that the defendant has, in connection with work performed
20 pursuant to the contract, violated the provisions of P.L.1963, c.150
21 (C.34:11-56.25 et seq.) or failed to pay any contribution, tax,
22 assessment or benefit required by any other applicable law. ³If there
23 is more than one losing bidder, a bidder with a higher bid than the
24 second lowest bidder or lower rank than the second highest rank, if,
25 pursuant to law, the contract is awarded on the basis of factors other
26 than or in addition to the lowest bid, may bring the action if that
27 bidder gives written notice of his intention to bring an action, sent by
28 first-class mail and certified mail, return receipt requested, to every
29 other losing bidder whose bid was lower than his or whose bid was

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted February 15, 1996.

² Senate floor amendments adopted March 21, 1996.

³ Assembly floor amendments adopted June 24, 1996.

1 higher in rank than his and none of the bidders notified files an action
2 within 30 days following the date of their receipt of notice. The
3 written notice of intention to bring an action must contain the
4 following: (1) a statement of the specific violations or failures to pay
5 allegedly committed, which shall not preclude, in the course of the
6 action, consideration of other violations or failures to pay as may be
7 revealed in the course of discovery, (2) a statement that the action is
8 to be filed pursuant to this act, and (3) a statement that the recipient
9 of the notice may have the right to file an action and will be precluded
10 from doing so if he does not file an action within 30 days of his receipt
11 of the notice. If no other losing bidder so notified files an action
12 within 30 days of his receipt of the notice, the losing bidder who sent
13 the notice shall file an action pursuant to this act within 15 days of the
14 last day any of the recipients of the notice could have filed an action.
15 If more than one bidder files an action, all actions other than that filed
16 by the bidder whose bid is the lowest of the bidders who filed actions, or, if,
17 pursuant to law, the contract is awarded on the basis of factors other than or
18 in addition to the lowest bid, whose bid is the highest in rank of the bidders
19 who filed actions, shall be dismissed.³

20 b. Upon ²a finding by the court that the plaintiff was a responsible
21 bidder for the contract and a² finding that one or more defendants
22 violated the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) or
23 failed to pay any contribution, tax, assessment or benefit required by
24 any other applicable law in connection with work performed pursuant
25 to the contract, and that the plaintiff submitted a bid for the contract
26 which was less than the sum total of the bid accepted by the public
27 body plus any additional amount that the defendant or defendants
28 would have paid during the term of the contract to be in full
29 compliance with P.L.1963, c.150 (C.34:11-56.25 et seq.) and other
30 applicable laws in connection with the contract, the court shall order
31 the defendant or defendants to pay to the plaintiff the entire amount of
32 damages sustained plus ³costs and³ reasonable attorney's fees or, if the
33 court finds the noncompliance to be intentional, three times the
34 amount of damages sustained plus ³costs and³ reasonable attorney's
35 fees ², except that the court shall order no payment to the plaintiff if
36 the court finds that the violation or failure to pay was caused by minor
37 record keeping mistakes or minor computational errors² ³or by other
38 minor mistakes. The occurrence of more than two violations or
39 failures to pay shall lead to the rebuttable presumption that the
40 violation or failure to pay at issue is not minor ³. If there are two or
41 more defendants, the court shall allocate the payments for damages
42 sustained and attorney's fees among the defendants in a reasonable
43 manner. Nothing in this section shall be construed as requiring
44 payments to a plaintiff by any contractor or subcontractor who has not
45 violated the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) or
46 failed to pay any contribution, tax, assessment or benefit required by

1 any other applicable law in connection with work performed pursuant
2 to the contract. ²A plaintiff may designate an agent or representative
3 to maintain the action ³if the violation or failure to pay has an adverse
4 effect on the agent or representative or, if the agent or representative
5 is an organization or association, on any member of the organization
6 or association. If the plaintiff prevails, the agent or representative
7 shall be entitled to reimbursement for costs and reasonable attorney's
8 fees of the agent or representative but not to a financial interest in the
9 damages awarded^{3, 2}

10 c. ¹[A plaintiff may designate an agent or representative to
11 maintain the action for and on behalf of all other plaintiffs who are
12 similarly situated. In any action involving two or more plaintiffs, each
13 plaintiff shall recover the entire amount of damages sustained by that
14 plaintiff, as determined by the court, or if the court finds the
15 noncompliance to be intentional, each plaintiff shall recover three
16 times the entire amount of damages sustained by that plaintiff.

17 d.]¹ For the purposes of this section, the damages sustained by a
18 plaintiff shall ¹[include] ²[be¹] include² the plaintiff's costs of
19 preparing and submitting the bid ¹[and may, if sought by the plaintiff,
20 include profits that the court determines the plaintiff would have made
21 if the plaintiff had been awarded the contract and complied with the
22 P.L.1963, c.150 (C.34:11-56.25 et seq.) and other applicable laws]
23 ²[plus ten percent of the value of the portion of the contract awarded
24 to the defendant¹] and may, if sought by the plaintiff, include profits
25 that the court determines the plaintiff would have made if the plaintiff
26 had been awarded the contract and complied with P.L.1963, c.150
27 (C.34:11-56.25 et seq.) and other applicable laws².

28 ¹[e.] d.¹ If the court determines that the defendant did not, in
29 connection with work performed pursuant to the contract, violate the
30 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) or fail to pay
31 any contribution, tax, assessment or benefit required by other
32 applicable law, the court shall order the plaintiff to pay the ³costs and³
33 reasonable attorney's fees of the defendant. ³Nothing herein shall
34 preclude a defendant who is found to have committed minor record
35 keeping mistakes, minor computational errors or other minor mistakes
36 from being awarded relief pursuant to section 1 of P.L.1988, c.46
37 (C.2A:15-59.1).³

38 ¹[f.] e.¹ As used in this section:

39 "Person" means any individual, corporation, company, partnership,
40 firm, association or business;

41 "Contractor" means a person who is directly awarded a contract for
42 a public work by a public body; and

43 "Subcontractor" means any subcontractor or lower tier
44 subcontractor of a contractor.

45 2. This act shall take effect immediately.

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3 Concerns certain projects.

[Third Reprint]
SENATE, No. 436

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senators SINAGRA, CIESLA, Matheussen, Palaia,
Martin, MacInnes, Kyrillos, Sacco, McGreevey,
Assemblymen Roma and DiGaetano

1 AN ACT concerning certain projects and supplementing P.L.1963,
2 c.150 (C.34:11-56.25 et seq.).

3

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

6

7 1. a. Any person who submits a bid directly to a public body for
8 a contract for any public work subject to the provisions of the "New
9 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.)
10 and is not awarded the contract ¹and whose bid is the lowest bid other
11 than the bid accepted by the public body^{1 3}or, if, pursuant to law, the
12 contract is awarded on the basis of factors other than or in addition to
13 the lowest bid, whose bid is the highest in rank other than the bid
14 accepted by the public body³ (hereinafter referred to in this section as
15 the "plaintiff") may bring an action for damages in a court of
16 competent jurisdiction against the contractor who was directly
17 awarded the contract by the public body or any subcontractor of that
18 contractor (hereinafter referred to in this section as the "defendant")
19 alleging that the defendant has, in connection with work performed
20 pursuant to the contract, violated the provisions of P.L.1963, c.150
21 (C.34:11-56.25 et seq.) or failed to pay any contribution, tax,
22 assessment or benefit required by any other applicable law. ³If there
23 is more than one losing bidder, a bidder with a higher bid than the
24 second lowest bidder or lower rank than the second highest rank, if,
25 pursuant to law, the contract is awarded on the basis of factors other
26 than or in addition to the lowest bid, may bring the action if that
27 bidder gives written notice of his intention to bring an action, sent by
28 first-class mail and certified mail, return receipt requested, to every

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

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted February 15, 1996.

² Senate floor amendments adopted March 21, 1996.

³ Assembly floor amendments adopted June 24, 1996.

1 other losing bidder whose bid was lower than his or whose bid was
2 higher in rank than his and none of the bidders notified files an action
3 within 30 days following the date of their receipt of notice. The
4 written notice of intention to bring an action must contain the
5 following: (1) a statement of the specific violations or failures to pay
6 allegedly committed, which shall not preclude, in the course of the
7 action, consideration of other violations or failures to pay as may be
8 revealed in the course of discovery, (2) a statement that the action is
9 to be filed pursuant to this act, and (3) a statement that the recipient
10 of the notice may have the right to file an action and will be precluded
11 from doing so if he does not file an action within 30 days of his receipt
12 of the notice. If no other losing bidder so notified files an action
13 within 30 days of his receipt of the notice, the losing bidder who sent
14 the notice shall file an action pursuant to this act within 15 days of the
15 last day any of the recipients of the notice could have filed an action.
16 If more than one bidder files an action, all actions other than that filed
17 by the bidder whose bid is the lowest of the bidders who filed actions,
18 or, if, pursuant to law, the contract is awarded on the basis of factors
19 other than or in addition to the lowest bid, whose bid is the highest in
20 rank of the bidders who filed actions, shall be dismissed.³

21 b. Upon ²a finding by the court that the plaintiff was a responsible
22 bidder for the contract and a² finding that one or more defendants
23 violated the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) or
24 failed to pay any contribution, tax, assessment or benefit required by
25 any other applicable law in connection with work performed pursuant
26 to the contract, and that the plaintiff submitted a bid for the contract
27 which was less than the sum total of the bid accepted by the public
28 body plus any additional amount that the defendant or defendants
29 would have paid during the term of the contract to be in full
30 compliance with P.L.1963, c.150 (C.34:11-56.25 et seq.) and other
31 applicable laws in connection with the contract, the court shall order
32 the defendant or defendants to pay to the plaintiff the entire amount of
33 damages sustained plus ³costs and³ reasonable attorney's fees or, if the
34 court finds the noncompliance to be intentional, three times the
35 amount of damages sustained plus ³costs and³ reasonable attorney's
36 fees ², except that the court shall order no payment to the plaintiff if
37 the court finds that the violation or failure to pay was caused by minor
38 record keeping mistakes or minor computational errors^{2 3} or by other
39 minor mistakes. The occurrence of more than two violations or
40 failures to pay shall lead to the rebuttable presumption that the
41 violation or failure to pay at issue is not minor³. If there are two or
42 more defendants, the court shall allocate the payments for damages
43 sustained and attorney's fees among the defendants in a reasonable
44 manner. Nothing in this section shall be construed as requiring
45 payments to a plaintiff by any contractor or subcontractor who has not
46 violated the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) or

1 failed to pay any contribution, tax, assessment or benefit required by
2 any other applicable law in connection with work performed pursuant
3 to the contract. ²A plaintiff may designate an agent or representative
4 to maintain the action ³if the violation or failure to pay has an adverse
5 effect on the agent or representative or, if the agent or representative
6 is an organization or association, on any member of the organization
7 or association. If the plaintiff prevails, the agent or representative
8 shall be entitled to reimbursement for costs and reasonable attorney's
9 fees of the agent or representative but not to a financial interest in the
10 damages awarded^{3 2}.

11 c. ¹[A plaintiff may designate an agent or representative to
12 maintain the action for and on behalf of all other plaintiffs who are
13 similarly situated. In any action involving two or more plaintiffs, each
14 plaintiff shall recover the entire amount of damages sustained by that
15 plaintiff, as determined by the court, or if the court finds the
16 noncompliance to be intentional, each plaintiff shall recover three
17 times the entire amount of damages sustained by that plaintiff.

18 d.]¹ For the purposes of this section, the damages sustained by a
19 plaintiff shall ¹[include] ²[be] ²include the plaintiff's costs of
20 preparing and submitting the bid ¹[and may, if sought by the plaintiff,
21 include profits that the court determines the plaintiff would have made
22 if the plaintiff had been awarded the contract and complied with the
23 P.L.1963, c.150 (C.34:11-56.25 et seq.) and other applicable laws]
24 ²[plus ten percent of the value of the portion of the contract awarded
25 to the defendant] ¹and may, if sought by the plaintiff, include profits
26 that the court determines the plaintiff would have made if the plaintiff
27 had been awarded the contract and complied with P.L.1963, c.150
28 (C.34:11-56.25 et seq.) and other applicable laws².

29 ¹[e.] d.¹ If the court determines that the defendant did not, in
30 connection with work performed pursuant to the contract, violate the
31 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) or fail to pay
32 any contribution, tax, assessment or benefit required by other
33 applicable law, the court shall order the plaintiff to pay the ³costs and³
34 reasonable attorney's fees of the defendant. ³Nothing herein shall
35 preclude a defendant who is found to have committed minor record
36 keeping mistakes, minor computational errors or other minor mistakes
37 from being awarded relief pursuant to section 1 of P.L.1988, c.46
38 (C.2A:15-59.1).³

39 ¹[f.] e.¹ As used in this section:

40 "Person" means any individual, corporation, company, partnership,
41 firm, association or business;

42 "Contractor" means a person who is directly awarded a contract for
43 a public work by a public body; and

44 "Subcontractor" means any subcontractor or lower tier
45 subcontractor of a contractor.

1 2. This act shall take effect immediately.

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6 Concerns certain projects.

1 failed to pay any contribution, tax, assessment or benefit required by
2 any other applicable law in connection with work performed pursuant
3 to the contract.

4 c. A plaintiff may designate an agent or representative to maintain
5 the action for and on behalf of all other plaintiffs who are similarly
6 situated. In any action involving two or more plaintiffs, each plaintiff
7 shall recover the entire amount of damages sustained by that plaintiff,
8 as determined by the court, or if the court finds the noncompliance to
9 be intentional, each plaintiff shall recover three times the entire amount
10 of damages sustained by that plaintiff.

11 d. For the purposes of this section, the damages sustained by a
12 plaintiff shall include the plaintiff's costs of preparing and submitting
13 the bid and may, if sought by the plaintiff, include profits that the court
14 determines the plaintiff would have made if the plaintiff had been
15 awarded the contract and complied with the P.L.1963, c.150
16 (C.34:11-56.25 et seq.) and other applicable laws.

17 e. If the court determines that the defendant did not, in connection
18 with work performed pursuant to the contract, violate the provisions
19 of P.L.1963, c.150 (C.34:11-56.25 et seq.) or fail to pay any
20 contribution, tax, assessment or benefit required by other applicable
21 law, the court shall order the plaintiff to pay the reasonable attorney's
22 fees of the defendant.

23 f. As used in this section:

24 "Person" means any individual, corporation, company, partnership,
25 firm, association or business;

26 "Contractor" means a person who is directly awarded a contract for
27 a public work by a public body; and

28 "Subcontractor" means any subcontractor or lower tier
29 subcontractor of a contractor.

30

31 2. This act shall take effect immediately.

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STATEMENT

35

36 This bill permits any contractor who unsuccessfully bids for a public
37 works contract to bring a court action as a plaintiff against the bidder
38 who won the bid or the winning bidder's subcontractors based on
39 violations of the "New Jersey Prevailing Wage Act," P.L.1963, c.150
40 (C.34:11-56.25 et seq.) or other applicable laws requiring payments in
41 connection with the contract.

42 If the court finds that the winning bidder or a subcontractor of that
43 bidder violated the laws and that the sum of the winning bid plus any
44 additional payments that the violator or violators would have paid to
45 be in full compliance with the laws is greater than the plaintiff's bid,
46 the court is required to order the violator or violators to pay the

1 reasonable attorney's fees of the plaintiff and the damages sustained by
2 the plaintiff or triple damages, if the violation was intentional.

3 The action may be joined by similarly situated plaintiffs, each of
4 whom is entitled to full damages or triple damages, if the violation is
5 intentional. Damages include the plaintiff's costs of bidding and may,
6 if sought by the plaintiff, include profits that the plaintiff would have
7 made if the plaintiff had won the bid.

8 If the court determines that there was no violation, the plaintiff is
9 required to pay the reasonable attorney's fees of the defendant.

10 The purpose of this bill is to give recourse for conscientious,
11 law-abiding building contractors who are often underbid by
12 unscrupulous competitors who fail to pay the wages, benefits or taxes
13 required by law and undermine the health, safety and training
14 standards needed to sustain appropriate quality levels in public works.
15 The bill empowers the private sector to help ensure that required
16 wages are paid in full, along with the associated unemployment
17 insurance contributions, taxes and health benefits, therefore reducing
18 State costs caused by uncompensated health care, lost taxes and
19 contributions and substandard construction practices.

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24 _____
Concerns certain projects.

STATEMENT TO
[Second Reprint]
SENATE, No. 436

with Assembly Floor Amendments
(Proposed By Assemblyman DiGAETANO)

ADOPTED: JUNE 24, 1996

These Assembly amendments provide that a defendant shall not be required to make payments for a violation subject to the bill if the court finds that the violation was caused by minor record keeping mistakes or computational errors or other minor mistakes. This differs from the bill without these amendments because it permits the court to consider minor mistakes other than minor record keeping mistakes and minor computational mistakes and it creates a rebuttable presumption that the mistakes or errors are not minor if there have been more than two violations by the defendant.

The amendments provide that if a contract is awarded on a basis other than or in addition to the lowest bid, a losing bidder whose bid is the highest in rank other than the winning bidder may have standing to be a plaintiff.

The amendments prevent a plaintiff from choosing any representative to maintain an action under the bill who does not have a direct interest in the action. To achieve this, the amendments require that a representative may maintain an action for the plaintiff only if the violation has an adverse effect on the representative or, if the representative is an organization, members of the organization. The amendments provide that if the plaintiff prevails, the representative is entitled to reimbursement for costs and reasonable attorney's fees and other expenses, but not to a financial interest in the damages awarded.

Finally, the amendments provide a mechanism for a losing bidder other than the second runner-up bidder to bring an action under the bill if no bidder of higher rank is interested in bringing an action.

As amended, this bill is identical to Assembly Bill No. 1404 [3R].

STATEMENT TO
[First Reprint]
SENATE, No. 436

with Senate Floor Amendments
(Proposed By Senator SINAGRA)

ADOPTED: MARCH 21, 1996

These Senate amendments modify the bill's provisions regarding the damages and other payments that can be recovered by a contractor who loses a bid on a public works contract (the "plaintiff") because the winning bidder (the "defendant") violated the prevailing wage law or failed to make other required payments.

The amendments provide that the defendant is not required to make any payments to the plaintiff if it is found that the violation or failure to pay was caused by minor record keeping mistakes or minor computational errors.

The amendments also provide that payments are not required unless it is found that the plaintiff was a responsible bidder for the contract.

Finally, the amendments eliminate the bill's previous provisions that the damages awarded to a plaintiff be the plaintiff's costs of preparing and submitting a bid plus 10% of the value of the portion of a contract which is awarded to the defendant. The bill instead provides that the damages include the costs of preparing and submitting the bid and, if sought by the plaintiff, the value of the profits that the plaintiff would have made if the plaintiff had been awarded the contract.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 436

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 1996

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 436.

This bill, as amended by the committee, permits any contractor who unsuccessfully bids for a public works contract and whose bid is the lowest bid other than the winning bid, to bring a court action as a plaintiff against the bidder who won the bid or the winning bidder's subcontractors (defendant) based on violations of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), or failure to pay any contribution, tax, assessment or benefit required by any other applicable law.

If the court finds that the winning bidder or a subcontractor of that bidder violated that law or failed to make any of those payments and the sum of the winning bid plus any additional payments that the violator would have paid to be in full compliance with those laws is greater than such unsuccessful bidder's bid, the court is required to order the violator or violators to pay the reasonable attorney's fees of such unsuccessful bidder and the damages sustained by him or triple damages, if the violation was intentional. Damages include the cost of preparing a bid plus 10% of the value of the portion of the contract awarded to the defendant.

If the court determines that there was no violation, the plaintiff is required to pay the reasonable attorney's fees of the defendant.

The committee amendments: provide that only the unsuccessful bidder whose bid was the lowest bid other than the winning bid may bring an action under the bill; eliminate the provisions of the bill permitting multiple plaintiffs; and provide that the damages sustained by a plaintiff are equal to the plaintiff's cost of preparing the bid plus 10% of the value of the portion of the contract awarded to the defendant.

As reported by the committee, this bill is identical to Assembly, No. 1404 (1R).

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

TRENTON, NJ 08625

CONTACT: Becky Taylor
(609)777-2600

RELEASE: Thurs., July 18, 1996

Gov. Christie Whitman today signed into law the Conscientious Contracting Act of 1996 during a meeting of the leaders of the Building and Construction Trade Unions in Jamesburg.

“The vast majority of New Jersey business people are fair and honest, and when they compete for government business, they play by the rules,” said Gov. Whitman. “But those who bend the rules cheat their government, cheat other contractors and their workers, and ultimately they cheat the taxpayers. This legislation will prevent unjust contracting practices and ensure fairness in public contracting across the board.”

The legislation permits a contractor who bids unsuccessfully for a public contract to bring a court action as a plaintiff against the winning bidder if that bidder violates the New Jersey Prevailing Wage Act or other applicable laws requiring payments in connection with the contract. The damages which may be awarded are plaintiff's cost of preparing and submitting the bid, plaintiff's attorney fees, and profits that the court determines plaintiff would have made if plaintiff had been awarded the contract. If the court determines that there was no violation, the plaintiff must pay the defendant's attorney fees.

To be successful, the plaintiff must show that the sum of the winning bid, plus any additional payments that the violator should have paid to be in compliance with the law, is greater than the plaintiff's bid. The plaintiff may recover triple damages if the violation is proven to be intentional. Damages shall not be awarded if the court finds that the violation was caused by minor record keeping or computational errors.

The legislation, **S-436/A-1404**, was sponsored by Senators Jack Sinagra (R-Middlesex) and Andrew Ciesla (R-Monmouth/Ocean) and Assemblymen Patrick Roma (R-Bergen) and Paul DiGaetano (R-Bergen/Essex/Passaic).