

# 34:11-56.26

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 68  
**NJSA:** 34:11-56.26    (Requires prevailing wages to be paid for construction work on State-owned properties)  
**BILL NO:** A3890            (Substituted for S2457)

**SPONSOR(S)** Egan and Others

**DATE INTRODUCED:** January 9, 2007

**COMMITTEE:**            **ASSEMBLY:** Labor

**SENATE:**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** February 22, 2007

**SENATE:** March 12, 2007

**DATE OF APPROVAL:** April 26, 2007

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

### A3890

[SPONSOR'S STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL NOTE:** No

### S2457

[SPONSOR'S STATEMENT:](#) (Begins on page 6 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"A fair wage for workers," The Record, 4-27-07, p.A04

"State requires prevailing wages on public construction projects," Courier News, 4-27-07, p.A-3

"New Jersey requires prevailing wages on public construction," The Trentonian, 4-27-07, p.10

"Law requires prevailing wages on public construction sites," Burlington County Times, 4-27-07, p.B-1

"Law will boost pay for construction," The Philadelphia Inquirer, 4-27-07, p.B2

"N.J. requires prevailing wages on public construction," The Times, 4-27-07, p.B5

"Laws extend prevailing wages for workers on public property," Home News Tribune, 4-27-07, p.A3

"Union pay extended in 2 new laws," Asbury Park Press, 4-27-07, p.B4

"Codey signs extension of fair pay laws," Courier-Post, 4-27-07, p.5B

P.L. 2007, CHAPTER 68, *approved April 26, 2007*  
Assembly, No. 3890

1 AN ACT requiring prevailing wages be paid for construction work  
2 on State-owned properties and amending P.L.1963, c.150.

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.1963, c.150 (C.34:11-56.26) is amended to  
8 read as follows:

9 2. "Department" means the Department of Labor and Workforce  
10 Development of the State of New Jersey.

11 (2) "Locality" means any political subdivision of the State,  
12 combination of the same or parts thereof, or any geographical area  
13 or areas classified, designated and fixed by the commissioner from  
14 time to time, provided that in determining the "locality" the  
15 commissioner shall be guided by the boundary lines of political  
16 subdivisions or parts thereof, or by a consideration of the areas with  
17 respect to which it has been the practice of employers of particular  
18 crafts or trades to engage in collective bargaining with the  
19 representatives of workers in such craft or trade.

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

23 (4) "Public body" means the State of New Jersey, any of its  
24 political subdivisions, any authority created by the Legislature of  
25 the State of New Jersey and any instrumentality or agency of the  
26 State of New Jersey or of any of its political subdivisions.

27 (5) "Public work" means construction, reconstruction,  
28 demolition, alteration, custom fabrication, or repair work, or  
29 maintenance work, including painting and decorating, done under  
30 contract and paid for in whole or in part out of the funds of a public  
31 body, except work performed under a rehabilitation program.  
32 "Public work" shall also mean construction, reconstruction,  
33 demolition, alteration, custom fabrication, or repair work, done on  
34 any property or premises, whether or not the work is paid for from  
35 public funds, if, at the time of the entering into of the contract the  
36 property or premises is owned by the public body or:

37 (a) Not less than 55% of the property or premises is leased by a  
38 public body, or is subject to an agreement to be subsequently leased  
39 by the public body; and

40 (b) The portion of the property or premises that is leased or  
41 subject to an agreement to be subsequently leased by the public  
42 body measures more than 20,000 square feet.

43 (6) "Commissioner" means the Commissioner of Labor and  
44 Workforce Development or his duly authorized representatives.

**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 (7) "Workman" or "worker" includes laborer, mechanic, skilled  
2 or semi-skilled, laborer and apprentices or helpers employed by any  
3 contractor or subcontractor and engaged in the performance of  
4 services directly upon a public work, regardless of whether their  
5 work becomes a component part thereof, but does not include  
6 material suppliers or their employees who do not perform services  
7 at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25  
8 et seq.), contractors or subcontractors engaged in custom  
9 fabrication shall not be regarded as material suppliers.

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

14 (9) "Prevailing wage" means the wage rate paid by virtue of  
15 collective bargaining agreements by employers employing a  
16 majority of workers of that craft or trade subject to said collective  
17 bargaining agreements, in the locality in which the public work is  
18 done.

19 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-  
20 56.25 et seq.) and the rules and regulations issued hereunder.

21 (11) "Prevailing wage contract threshold amount" means:

22 (a) In the case of any public work paid for in whole or in part  
23 out of the funds of a municipality in the State of New Jersey or  
24 done on property or premises owned by a public body or leased or  
25 to be leased by the municipality, the dollar amount established for  
26 the then current calendar year by the commissioner through rules  
27 and regulations promulgated pursuant to the "Administrative  
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which  
29 amount shall be equal to \$9,850 on July 1, 1994 and which amount  
30 shall be adjusted on July 1 every five calendar years thereafter in  
31 direct proportion to the rise or fall in the average of the Consumer  
32 Price Indices for Urban Wage Earners and Clerical Workers for the  
33 New York metropolitan and the Philadelphia metropolitan regions  
34 as reported by the United States Department of Labor during the  
35 last full calendar year preceding the date upon which the adjustment  
36 is made; and

37 (b) In the case of any public work other than a public work  
38 described in paragraph (a) of this subsection, an amount equal to  
39 \$2,000.

40 (12) "Custom fabrication" means the fabrication of plumbing,  
41 heating, cooling, ventilation or exhaust duct systems, and  
42 mechanical insulation.

43 (cf: P.L.2004, c.101)

44

45 2. Section 3 of P.L.1963, c.150 (C.34:11-56.27) is amended to  
46 read as follows:

47 3. Every contract in excess of the prevailing wage contract  
48 threshold amount for any public work to which any public body is a

1 party or for public work to be done on property or premises owned  
2 by a public body or leased or to be leased by a public body shall  
3 contain a provision stating the prevailing wage rate which can be  
4 paid (as shall be designated by the commissioner) to the workers  
5 employed in the performance of the contract and the contract shall  
6 contain a stipulation that such workers shall be paid not less than  
7 such prevailing wage rate. Such contract shall also contain a  
8 provision that in the event it is found that any worker, employed by  
9 the contractor or any subcontractor covered by said contract, has  
10 been paid a rate of wages less than the prevailing wage required to  
11 be paid by such contract, the public body, the lessee to whom the  
12 public body is leasing a property or premises or the lessor from  
13 whom the public body is leasing or will be leasing a property or  
14 premises may terminate the contractor's or subcontractor's right to  
15 proceed with the work, or such part of the work as to which there  
16 has been a failure to pay required wages and to prosecute the work  
17 to completion or otherwise. The contractor and his sureties shall be  
18 liable for any excess costs occasioned thereby to the public body,  
19 any lessee to whom the public body is leasing a property or  
20 premises or any lessor **【for any excess costs occasioned thereby】**  
21 from whom the public body is leasing or will be leasing a property  
22 or premises.

23 (cf: P.L.1995, c.259, s.14.)

24

25 3. Section 4 of P.L.1963, c.150 (C.34:11-56.28) is amended to  
26 read as follows:

27 4. The public body **【or】** any lessee to whom the public body is  
28 leasing a property or premises and any lessor from whom the public  
29 body is leasing or will be leasing a property or premises awarding  
30 any contract for public work or otherwise undertaking any public  
31 work shall ascertain from the commissioner the prevailing wage  
32 rate in the locality in which the public work is to be performed for  
33 each craft or trade needed to perform the contract and shall specify  
34 in the contract itself what the prevailing wage rate in the locality is  
35 for each craft or trade or classification of all **【workmen】** workers  
36 needed to perform the contract during the anticipated term thereof.  
37 Nothing in this act however shall prohibit the payment of more than  
38 the prevailing wage rate to any **【workmen】** worker employed on a  
39 public work.

40 (cf: P.L.1990, c.27, s.3)

41

42 4. Section 9 of P.L.1963, c.150 (C.34:11-56.33) is amended to  
43 read as follows:

44 9. (a) Before final payment is made by or on behalf of any  
45 public body or before **【the】** any lessee to whom the public body is  
46 leasing a property or premises or any lessor from whom the public  
47 body is leasing or will be leasing a property or premises makes such

1 payment, of any sum or sums due on a public work, it shall be the  
2 duty of the treasurer of the public body or other officer or person  
3 charged with the custody and disbursement of the funds of the  
4 public body, the lessee to whom the public body is leasing a  
5 property or premises or the lessor from whom the public body is  
6 leasing or will be leasing a property or premises, as the case may  
7 be, to require the contractor and subcontractor to file written  
8 statements with the public body in a form satisfactory to the  
9 commissioner certifying to the amounts then due and owing from  
10 such contractor and subcontractor filing such statement to any and  
11 all **[workmen]** worker for wages due on account of the public  
12 work, setting forth therein the names of the persons whose wages  
13 are unpaid and the amount due to each respectively, which  
14 statement shall be verified by the oath of the contractor or  
15 subcontractor, as the case may be, that he has read such statement  
16 subscribed by him, knows the contents thereof, and that the same is  
17 true of his own knowledge; provided, however, that nothing herein  
18 shall impair the right of a contractor to receive final payment  
19 because of the failure of any subcontractor to comply with  
20 provisions of this act.

21 (b) In case any **[workman]** worker shall have filed a protest in  
22 writing within three months from the date of the occurrence of the  
23 incident complained of with the commissioner, objecting to the  
24 payment to any contractor to the extent of the amount or amounts  
25 due or to become due to the **[said workman]** worker for wages for  
26 work performed on a public work, the commissioner may direct the  
27 fiscal or financial officer of the public body or other person charged  
28 with the custody and disbursements of the funds of the public body,  
29 the lessee to whom the public body is leasing a property or premises  
30 or the lessor from whom the public body is leasing or will be  
31 leasing a property or premises, as the case may be, to deduct from  
32 the whole amount of any payment, the sum or sums admitted by any  
33 contractor in such statement or statements so filed to be due and  
34 owing by him on account of wages earned on such public work.

35 Such fiscal or financial officer, the lessee to whom the public  
36 body is leasing a property or premises or the lessor from whom the  
37 public body is leasing or will be leasing a property or premises,  
38 shall withhold the amount so deducted for the benefit of the  
39 **[workman]** worker whose wages are unpaid as shown by the  
40 verified statement filed by such contractor, and shall pay directly to  
41 any **[workman]** worker the amount shown by such statement to be  
42 due to him for such wages. Such payment shall thereby discharge  
43 the obligation of the contractor to the person receiving such  
44 payment to the extent of the amount thereof.

45 (cf.: P.L.1990, c.27, s.5)

1       5. Section 10 of P.L.1963, c.150 (C.34:11-56.34) is amended to  
2 read as follows:

3       10. (a) The fiscal or financial officer **【or】** of any public body,  
4 the lessee to whom the public body is leasing a property or premises  
5 or the lessor from whom the public body is leasing or will be  
6 leasing a property or premises, having public work performed under  
7 which any **【workman】** worker shall have been paid less than the  
8 prevailing wage shall forthwith notify the commissioner in writing  
9 of the name of the person or firm failing to pay the prevailing  
10 wages.

11       (b) Any **【workman】** worker may within two years from the date  
12 of the occurrence of the incident complained of file a protest in  
13 writing with the commissioner objecting to the amount of wages  
14 paid for service performed by him on a public work as being less  
15 than the prevailing wages for such services.

16       (c) It shall not constitute a failure to pay the prevailing wage  
17 rates for the work of a particular craft or classification where the  
18 prevailing wage rate determined for a specific craft or classification  
19 has been paid and thereafter one or more craft unions contend that  
20 the work should have been assigned to their members instead of the  
21 members of the specific craft to whom it was assigned or by whom  
22 it was performed.

23 (cf: P.L. 1990, c.27, s.6)

24

25       6. This act shall take effect immediately.

26

27

28

#### STATEMENT

29

30       This bill requires that the prevailing wage be paid under any  
31 contracts for construction on property owned by the State or any  
32 other public body, if the contract exceeds the prevailing wage  
33 threshold amount.

34

35

36

37

38       \_\_\_\_\_  
39       Requires prevailing wages to be paid for construction work on  
State-owned properties.

# ASSEMBLY, No. 3890

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 9, 2007

**Sponsored by:**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblyman JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

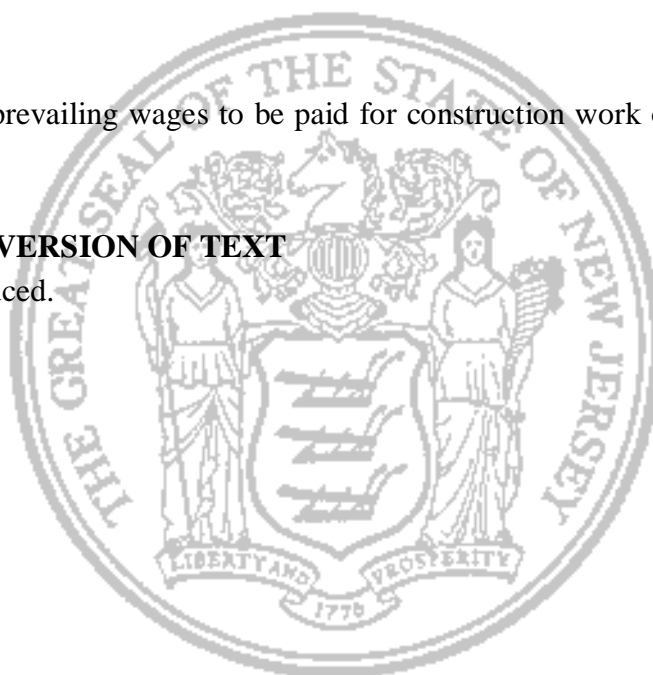
**Assemblymen Gordon, Panter, Connors and Assemblywoman Lampitt**

**SYNOPSIS**

Requires prevailing wages to be paid for construction work on State-owned properties.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/23/2007)



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2 on State-owned properties and amending P.L.1963, c.150.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
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15 commissioner shall be guided by the boundary lines of political  
16 subdivisions or parts thereof, or by a consideration of the areas with  
17 respect to which it has been the practice of employers of particular  
18 crafts or trades to engage in collective bargaining with the  
19 representatives of workers in such craft or trade.

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

23 (4) "Public body" means the State of New Jersey, any of its  
24 political subdivisions, any authority created by the Legislature of  
25 the State of New Jersey and any instrumentality or agency of the  
26 State of New Jersey or of any of its political subdivisions.

27 (5) "Public work" means construction, reconstruction,  
28 demolition, alteration, custom fabrication, or repair work, or  
29 maintenance work, including painting and decorating, done under  
30 contract and paid for in whole or in part out of the funds of a public  
31 body, except work performed under a rehabilitation program.  
32 "Public work" shall also mean construction, reconstruction,  
33 demolition, alteration, custom fabrication, or repair work, done on  
34 any property or premises, whether or not the work is paid for from  
35 public funds, if, at the time of the entering into of the contract the  
36 property or premises is owned by the public body or:

37 (a) Not less than 55% of the property or premises is leased by a  
38 public body, or is subject to an agreement to be subsequently leased  
39 by the public body; and

40 (b) The portion of the property or premises that is leased or  
41 subject to an agreement to be subsequently leased by the public  
42 body measures more than 20,000 square feet.

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44 Workforce Development or his duly authorized representatives.

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**Matter underlined thus is new matter.**

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3 contractor or subcontractor and engaged in the performance of  
4 services directly upon a public work, regardless of whether their  
5 work becomes a component part thereof, but does not include  
6 material suppliers or their employees who do not perform services  
7 at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25  
8 et seq.), contractors or subcontractors engaged in custom  
9 fabrication shall not be regarded as material suppliers.

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

14 (9) "Prevailing wage" means the wage rate paid by virtue of  
15 collective bargaining agreements by employers employing a  
16 majority of workers of that craft or trade subject to said collective  
17 bargaining agreements, in the locality in which the public work is  
18 done.

19 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-  
20 56.25 et seq.) and the rules and regulations issued hereunder.

21 (11) "Prevailing wage contract threshold amount" means:

22 (a) In the case of any public work paid for in whole or in part  
23 out of the funds of a municipality in the State of New Jersey or  
24 done on property or premises owned by a public body or leased or  
25 to be leased by the municipality, the dollar amount established for  
26 the then current calendar year by the commissioner through rules  
27 and regulations promulgated pursuant to the "Administrative  
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which  
29 amount shall be equal to \$9,850 on July 1, 1994 and which amount  
30 shall be adjusted on July 1 every five calendar years thereafter in  
31 direct proportion to the rise or fall in the average of the Consumer  
32 Price Indices for Urban Wage Earners and Clerical Workers for the  
33 New York metropolitan and the Philadelphia metropolitan regions  
34 as reported by the United States Department of Labor during the  
35 last full calendar year preceding the date upon which the adjustment  
36 is made; and

37 (b) In the case of any public work other than a public work  
38 described in paragraph (a) of this subsection, an amount equal to  
39 \$2,000.

40 (12) "Custom fabrication" means the fabrication of plumbing,  
41 heating, cooling, ventilation or exhaust duct systems, and  
42 mechanical insulation.

43 (cf: P.L.2004, c.101)

44

45 2. Section 3 of P.L.1963, c.150 (C.34:11-56.27) is amended to  
46 read as follows:

47 3. Every contract in excess of the prevailing wage contract  
48 threshold amount for any public work to which any public body is a

1 party or for public work to be done on property or premises owned  
2 by a public body or leased or to be leased by a public body shall  
3 contain a provision stating the prevailing wage rate which can be  
4 paid (as shall be designated by the commissioner) to the workers  
5 employed in the performance of the contract and the contract shall  
6 contain a stipulation that such workers shall be paid not less than  
7 such prevailing wage rate. Such contract shall also contain a  
8 provision that in the event it is found that any worker, employed by  
9 the contractor or any subcontractor covered by said contract, has  
10 been paid a rate of wages less than the prevailing wage required to  
11 be paid by such contract, the public body, the lessee to whom the  
12 public body is leasing a property or premises or the lessor from  
13 whom the public body is leasing or will be leasing a property or  
14 premises may terminate the contractor's or subcontractor's right to  
15 proceed with the work, or such part of the work as to which there  
16 has been a failure to pay required wages and to prosecute the work  
17 to completion or otherwise. The contractor and his sureties shall be  
18 liable for any excess costs occasioned thereby to the public body,  
19 any lessee to whom the public body is leasing a property or  
20 premises or any lessor **【for any excess costs occasioned thereby】**  
21 from whom the public body is leasing or will be leasing a property  
22 or premises.

23 (cf: P.L.1995, c.259, s.14.)

24

25 3. Section 4 of P.L.1963, c.150 (C.34:11-56.28) is amended to  
26 read as follows:

27 4. The public body **【or】** any lessee to whom the public body is  
28 leasing a property or premises and any lessor from whom the public  
29 body is leasing or will be leasing a property or premises awarding  
30 any contract for public work or otherwise undertaking any public  
31 work shall ascertain from the commissioner the prevailing wage  
32 rate in the locality in which the public work is to be performed for  
33 each craft or trade needed to perform the contract and shall specify  
34 in the contract itself what the prevailing wage rate in the locality is  
35 for each craft or trade or classification of all **【workmen】** workers  
36 needed to perform the contract during the anticipated term thereof.  
37 Nothing in this act however shall prohibit the payment of more than  
38 the prevailing wage rate to any **【workmen】** worker employed on a  
39 public work.

40 (cf: P.L.1990, c.27, s.3)

41

42 4. Section 9 of P.L.1963, c.150 (C.34:11-56.33) is amended to  
43 read as follows:

44 9. (a) Before final payment is made by or on behalf of any  
45 public body or before **【the】** any lessee to whom the public body is  
46 leasing a property or premises or any lessor from whom the public  
47 body is leasing or will be leasing a property or premises makes such

1 payment, of any sum or sums due on a public work, it shall be the  
2 duty of the treasurer of the public body or other officer or person  
3 charged with the custody and disbursement of the funds of the  
4 public body, the lessee to whom the public body is leasing a  
5 property or premises or the lessor from whom the public body is  
6 leasing or will be leasing a property or premises, as the case may  
7 be, to require the contractor and subcontractor to file written  
8 statements with the public body in a form satisfactory to the  
9 commissioner certifying to the amounts then due and owing from  
10 such contractor and subcontractor filing such statement to any and  
11 all **[workmen]** worker for wages due on account of the public  
12 work, setting forth therein the names of the persons whose wages  
13 are unpaid and the amount due to each respectively, which  
14 statement shall be verified by the oath of the contractor or  
15 subcontractor, as the case may be, that he has read such statement  
16 subscribed by him, knows the contents thereof, and that the same is  
17 true of his own knowledge; provided, however, that nothing herein  
18 shall impair the right of a contractor to receive final payment  
19 because of the failure of any subcontractor to comply with  
20 provisions of this act.

21 (b) In case any **[workman]** worker shall have filed a protest in  
22 writing within three months from the date of the occurrence of the  
23 incident complained of with the commissioner, objecting to the  
24 payment to any contractor to the extent of the amount or amounts  
25 due or to become due to the **[said workman]** worker for wages for  
26 work performed on a public work, the commissioner may direct the  
27 fiscal or financial officer of the public body or other person charged  
28 with the custody and disbursements of the funds of the public body,  
29 the lessee to whom the public body is leasing a property or premises  
30 or the lessor from whom the public body is leasing or will be  
31 leasing a property or premises, as the case may be, to deduct from  
32 the whole amount of any payment, the sum or sums admitted by any  
33 contractor in such statement or statements so filed to be due and  
34 owing by him on account of wages earned on such public work.

35 Such fiscal or financial officer, the lessee to whom the public  
36 body is leasing a property or premises or the lessor from whom the  
37 public body is leasing or will be leasing a property or premises,  
38 shall withhold the amount so deducted for the benefit of the  
39 **[workman]** worker whose wages are unpaid as shown by the  
40 verified statement filed by such contractor, and shall pay directly to  
41 any **[workman]** worker the amount shown by such statement to be  
42 due to him for such wages. Such payment shall thereby discharge  
43 the obligation of the contractor to the person receiving such  
44 payment to the extent of the amount thereof.

45 (cf.: P.L.1990, c.27, s.5)

1       5. Section 10 of P.L.1963, c.150 (C.34:11-56.34) is amended to  
2 read as follows:

3       10. (a) The fiscal or financial officer **【or】** of any public body,  
4 the lessee to whom the public body is leasing a property or premises  
5 or the lessor from whom the public body is leasing or will be  
6 leasing a property or premises, having public work performed under  
7 which any **【workman】** worker shall have been paid less than the  
8 prevailing wage shall forthwith notify the commissioner in writing  
9 of the name of the person or firm failing to pay the prevailing  
10 wages.

11       (b) Any **【workman】** worker may within two years from the date  
12 of the occurrence of the incident complained of file a protest in  
13 writing with the commissioner objecting to the amount of wages  
14 paid for service performed by him on a public work as being less  
15 than the prevailing wages for such services.

16       (c) It shall not constitute a failure to pay the prevailing wage  
17 rates for the work of a particular craft or classification where the  
18 prevailing wage rate determined for a specific craft or classification  
19 has been paid and thereafter one or more craft unions contend that  
20 the work should have been assigned to their members instead of the  
21 members of the specific craft to whom it was assigned or by whom  
22 it was performed.

23 (cf: P.L. 1990, c.27, s.6)

24

25       6. This act shall take effect immediately.

26

27

28

STATEMENT

29

30       This bill requires that the prevailing wage be paid under any  
31 contracts for construction on property owned by the State or any  
32 other public body, if the contract exceeds the prevailing wage  
33 threshold amount.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3890**

**STATE OF NEW JERSEY**

DATED: JANUARY 22, 2007

The Assembly Labor Committee reports favorably Assembly Bill No. 3890.

This bill requires that the prevailing wage be paid under any contract for construction or renovation work on property owned by any public body, including the State, even if the property owned by the public body is leased by the public body to a private entity and it is the private entity, not the public body, which enters into the contract.

**SENATE, No. 2457**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED JANUARY 9, 2007

**Sponsored by:**

**Senator JOSEPH V. DORIA, JR.**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senators Karcher and Rice**

**SYNOPSIS**

Requires prevailing wages to be paid for construction work on State-owned properties.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/13/2007)**

1 AN ACT requiring prevailing wages be paid for construction work  
2 on State-owned properties and amending P.L.1963, c.150.

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.1963, c.150 (C.34:11-56.26) is amended to  
8 read as follows:

9 2. As used in this act:

10 (1) "Department" means the Department of Labor and  
11 Workforce Development of the State of New Jersey.

12 (2) "Locality" means any political subdivision of the State,  
13 combination of the same or parts thereof, or any geographical area  
14 or areas classified, designated and fixed by the commissioner from  
15 time to time, provided that in determining the "locality" the  
16 commissioner shall be guided by the boundary lines of political  
17 subdivisions or parts thereof, or by a consideration of the areas with  
18 respect to which it has been the practice of employers of particular  
19 crafts or trades to engage in collective bargaining with the  
20 representatives of workers in such craft or trade.

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

24 (4) "Public body" means the State of New Jersey, any of its  
25 political subdivisions, any authority created by the Legislature of  
26 the State of New Jersey and any instrumentality or agency of the  
27 State of New Jersey or of any of its political subdivisions.

28 (5) "Public work" means construction, reconstruction,  
29 demolition, alteration, custom fabrication, or repair work, or  
30 maintenance work, including painting and decorating, done under  
31 contract and paid for in whole or in part out of the funds of a public  
32 body, except work performed under a rehabilitation program.  
33 "Public work" shall also mean construction, reconstruction,  
34 demolition, alteration, custom fabrication, or repair work, done on  
35 any property or premises, whether or not the work is paid for from  
36 public funds, if, at the time of the entering into of the contract the  
37 property or premises is owned by the public body or:

38 (a) Not less than 55% of the property or premises is leased by a  
39 public body, or is subject to an agreement to be subsequently leased  
40 by the public body; and

41 (b) The portion of the property or premises that is leased or  
42 subject to an agreement to be subsequently leased by the public  
43 body measures more than 20,000 square feet.

44 (6) "Commissioner" means the Commissioner of Labor and  
45 Workforce Development or his duly authorized representatives.

**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 (7) "Workman" or "worker" includes laborer, mechanic, skilled  
2 or semi-skilled, laborer and apprentices or helpers employed by any  
3 contractor or subcontractor and engaged in the performance of  
4 services directly upon a public work, regardless of whether their  
5 work becomes a component part thereof, but does not include  
6 material suppliers or their employees who do not perform services  
7 at the job site. For the purpose of P.L.1963, c.150 (C.34:11-56.25  
8 et seq.), contractors or subcontractors engaged in custom  
9 fabrication shall not be regarded as material suppliers.

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

14 (9) "Prevailing wage" means the wage rate paid by virtue of  
15 collective bargaining agreements by employers employing a  
16 majority of workers of that craft or trade subject to said collective  
17 bargaining agreements, in the locality in which the public work is  
18 done.

19 (10) "Act" means the provisions of P.L.1963, c.150 (C.34:11-  
20 56.25 et seq.) and the rules and regulations issued hereunder.

21 (11) "Prevailing wage contract threshold amount" means:

22 (a) In the case of any public work paid for in whole or in part  
23 out of the funds of a municipality in the State of New Jersey or  
24 done on property or premises owned by a public body or leased or  
25 to be leased by the municipality, the dollar amount established for  
26 the then current calendar year by the commissioner through rules  
27 and regulations promulgated pursuant to the "Administrative  
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which  
29 amount shall be equal to \$9,850 on July 1, 1994 and which amount  
30 shall be adjusted on July 1 every five calendar years thereafter in  
31 direct proportion to the rise or fall in the average of the Consumer  
32 Price Indices for Urban Wage Earners and Clerical Workers for the  
33 New York metropolitan and the Philadelphia metropolitan regions  
34 as reported by the United States Department of Labor during the  
35 last full calendar year preceding the date upon which the adjustment  
36 is made; and

37 (b) In the case of any public work other than a public work  
38 described in paragraph (a) of this subsection, an amount equal to  
39 \$2,000.

40 (12) "Custom fabrication" means the fabrication of plumbing,  
41 heating, cooling, ventilation or exhaust duct systems, and  
42 mechanical insulation.

43 (cf: P.L.2004, c.101)

44

45 2. Section 3 of P.L.1963, c.150 (C.34:11-56.27) is amended to  
46 read as follows:

47 3. Every contract in excess of the prevailing wage contract  
48 threshold amount for any public work to which any public body is a

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1 party or for public work to be done on property or premises owned  
2 by a public body or leased or to be leased by a public body shall  
3 contain a provision stating the prevailing wage rate which can be  
4 paid (as shall be designated by the commissioner) to the workers  
5 employed in the performance of the contract and the contract shall  
6 contain a stipulation that such workers shall be paid not less than  
7 such prevailing wage rate. Such contract shall also contain a  
8 provision that in the event it is found that any worker, employed by  
9 the contractor or any subcontractor covered by said contract, has  
10 been paid a rate of wages less than the prevailing wage required to  
11 be paid by such contract, the public body, the lessee to whom the  
12 public body is leasing a property or premises or the lessor from  
13 whom the public body is leasing or will be leasing a property or  
14 premises may terminate the contractor's or subcontractor's right to  
15 proceed with the work, or such part of the work as to which there  
16 has been a failure to pay required wages and to prosecute the work  
17 to completion or otherwise. The contractor and his sureties shall be  
18 liable for any excess costs occasioned thereby to the public body,  
19 any lessee to whom the public body is leasing a property or  
20 premises or any lessor **【for any excess costs occasioned thereby】**  
21 from whom the public body is leasing or will be leasing a property  
22 or premises.

23 (cf: P.L.1995, c.259, s.14.)

24

25 3. Section 4 of P.L.1963, c.150 (C.34:11-56.28) is amended to  
26 read as follows:

27 4. The public body **【or】** any lessee to whom the public body is  
28 leasing a property or premises and any lessor from whom the public  
29 body is leasing or will be leasing a property or premises awarding  
30 any contract for public work or otherwise undertaking any public  
31 work shall ascertain from the commissioner the prevailing wage  
32 rate in the locality in which the public work is to be performed for  
33 each craft or trade needed to perform the contract and shall specify  
34 in the contract itself what the prevailing wage rate in the locality is  
35 for each craft or trade or classification of all **【workmen】** workers  
36 needed to perform the contract during the anticipated term thereof.  
37 Nothing in this act however shall prohibit the payment of more than  
38 the prevailing wage rate to any **【workmen】** worker employed on a  
39 public work.

40 (cf: P.L.1990, c.27, s.3)

41

42 4. Section 9 of P.L.1963, c.150 (C.34:11-56.33) is amended to  
43 read as follows:

44 9. (a) Before final payment is made by or on behalf of any  
45 public body or before **【the】** any lessee to whom the public body is  
46 leasing a property or premises or any lessor from whom the public  
47 body is leasing or will be leasing a property or premises makes such

1 payment, of any sum or sums due on a public work, it shall be the  
2 duty of the treasurer of the public body or other officer or person  
3 charged with the custody and disbursement of the funds of the  
4 public body, the lessee to whom the public body is leasing a  
5 property or premises or the lessor from whom the public body is  
6 leasing or will be leasing a property or premises, as the case may  
7 be, to require the contractor and subcontractor to file written  
8 statements with the public body in a form satisfactory to the  
9 commissioner certifying to the amounts then due and owing from  
10 such contractor and subcontractor filing such statement to any and  
11 all **[workmen]** worker for wages due on account of the public  
12 work, setting forth therein the names of the persons whose wages  
13 are unpaid and the amount due to each respectively, which  
14 statement shall be verified by the oath of the contractor or  
15 subcontractor, as the case may be, that he has read such statement  
16 subscribed by him, knows the contents thereof, and that the same is  
17 true of his own knowledge; provided, however, that nothing herein  
18 shall impair the right of a contractor to receive final payment  
19 because of the failure of any subcontractor to comply with  
20 provisions of this act.

21 (b) In case any **[workman]** worker shall have filed a protest in  
22 writing within three months from the date of the occurrence of the  
23 incident complained of with the commissioner, objecting to the  
24 payment to any contractor to the extent of the amount or amounts  
25 due or to become due to the **[said workman]** worker for wages for  
26 work performed on a public work, the commissioner may direct the  
27 fiscal or financial officer of the public body or other person charged  
28 with the custody and disbursements of the funds of the public body,  
29 the lessee to whom the public body is leasing a property or premises  
30 or the lessor from whom the public body is leasing or will be  
31 leasing a property or premises, as the case may be, to deduct from  
32 the whole amount of any payment, the sum or sums admitted by any  
33 contractor in such statement or statements so filed to be due and  
34 owing by him on account of wages earned on such public work.

35 Such fiscal or financial officer, the lessee to whom the public  
36 body is leasing a property or premises or the lessor from whom the  
37 public body is leasing or will be leasing a property or premises,  
38 shall withhold the amount so deducted for the benefit of the  
39 **[workman]** worker whose wages are unpaid as shown by the  
40 verified statement filed by such contractor, and shall pay directly to  
41 any **[workman]** worker the amount shown by such statement to be  
42 due to him for such wages. Such payment shall thereby discharge  
43 the obligation of the contractor to the person receiving such  
44 payment to the extent of the amount thereof.  
45 (cf.: P.L.1990, c.27, s.5)

1       5. Section 10 of P.L.1963, c.150 (C.34:11-56.34) is amended to  
2 read as follows:

3       10. (a) The fiscal or financial officer **【or】** of any public body,  
4 the lessee to whom the public body is leasing a property or premises  
5 or the lessor from whom the public body is leasing or will be  
6 leasing a property or premises, having public work performed under  
7 which any **【workman】** worker shall have been paid less than the  
8 prevailing wage shall forthwith notify the commissioner in writing  
9 of the name of the person or firm failing to pay the prevailing  
10 wages.

11       (b) Any **【workman】** worker may within two years from the date  
12 of the occurrence of the incident complained of file a protest in  
13 writing with the commissioner objecting to the amount of wages  
14 paid for service performed by him on a public work as being less  
15 than the prevailing wages for such services.

16       (c) It shall not constitute a failure to pay the prevailing wage  
17 rates for the work of a particular craft or classification where the  
18 prevailing wage rate determined for a specific craft or classification  
19 has been paid and thereafter one or more craft unions contend that  
20 the work should have been assigned to their members instead of the  
21 members of the specific craft to whom it was assigned or by whom  
22 it was performed.

23 (cf: P.L. 1990, c.27, s.6)

24

25       6. This act shall take effect immediately.

26

27

28

STATEMENT

29

30       This bill requires that the prevailing wage be paid under any  
31 contracts for construction on property owned by the State or any  
32 other public body, if the contract exceeds the prevailing wage  
33 threshold amount.

SENATE LABOR COMMITTEE

STATEMENT TO

**SENATE, No. 2457**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 5, 2007

The Senate Labor Committee reports favorably Senate Bill No.2457.

This bill requires that the prevailing wage be paid under any contract for construction or renovation work on property owned by any public body, including the State, even if the property owned by the public body is leased by the public body to a private entity and it is the private entity, not the public body, which enters into the contract.

## **Apr-26-07 Acting Governor Signs Legislation Closing Prevailing Wage Loop Holes**

**FOR IMMEDIATE RELEASE:**  
April 26, 2007

**FOR MORE INFORMATION:**  
Press Office - 609-777-2600

### **ACTING GOVERNOR SIGNS LEGISLATION CLOSING P REVAILING WAGE LOOP HOLES**

**TRENTON** – On behalf of the Corzine Administration, Acting Governor Richard J. Codey today signed two pieces of legislation closing loopholes in New Jersey 's prevailing wage laws.

"This legislation builds on the tremendous progress we've made with our prevailing wage laws," said Acting Governor Codey. "It closes the loopholes that have allowed a few contractors to shortchange New Jersey 's working families, preserves a level playing field, and helps ensure that people who work hard and play by the rules have a fair chance to earn a living and support a family."

"This legislation strengthens our Prevailing Wage Act and provides the Department of Labor and Workforce Development with stronger tools to protect the wages of the men and women who build our vital infrastructure – roads, bridges, health care facilities, schools and other crucial structures," said Labor Commissioner David J. Socolow.

Under A3890/S2457, construction work on publicly-owned property is now subject to the P revailing Wage law, even when the property is leased to a private business and the private business contracts for the construction work.

The second piece of legislation, A3889/S2458 gives the Department new tools to more effectively enforce the P revailing Wage Act. This legislation makes it harder for debarred contractors to reconstitute their businesses under a new name to continue to bid on publicly funded construction projects. A debarred company is not eligible to bid on these contracts during the three-year term of their debarment.

The new law also empowers the Department to immediately suspend the registration of a contractor that faces revocation of that registration for serious

violations or a pattern of violations of the Prevailing Wage law. The registration will remain suspended until the case for revocation is decided.

"Now, we have one more assurance that workers will receive a living wage for their families," said Senator Joseph V. Doria, (D-Hudson). "This law takes out any ambiguity that contractors may use to sidestep our prevailing wage law."

"We need to do all that we can to help working families," said Assemblyman Joseph V. Egan (D-Middlesex). "The financial protections that unions have earned for hard-working men and women must not be eroded."

"Making sure contractors and subcontractors are paying a prevailing wage is only fair," said Jeff Van Drew (D-Cape May/Atlantic/Cumberland). "These measures close loopholes that would have allowed contractors or subcontractors to circumvent the state's prevailing wage protections."

A3890/S2457 was sponsored in the Assembly by Assemblypersons Joseph V. Egan (D-Middlesex, Somerset), Jeff Van Drew (D-Cape May, Atlantic, Cumberland), Paul D. Moriarty (D-Camden, Gloucester), Valerie Vainieri Huttel (D-Bergen), and Linda R. Greenstein (D-Mercer, Middlesex) It was sponsored in the Senate by Senator Joseph V. Doria (D-Hudson).

A3889/S2458 was sponsored in the Assembly by Assemblypersons Joseph V. Egan (D-Middlesex, Somerset), Jeff Van Drew (D-Cape May, Atlantic, Cumberland), Frederick Scalera (D-Bergen, Essex, Passaic), Neil M. Cohen (D-Union), and Linda R. Greenstein (D-Mercer, Middlesex). It was sponsored in the Senate by Senators Fred H. Madden, Jr. (D-Camden, Gloucester) and Ellen Karcher, (D-Monmouth).