



LABOR & EMPLOYMENT DEPARTMENT

ALERT

NJ SEEKS TO ENACT LAW REQUIRING EMPLOYERS THAT PERFORM “PUBLIC WORK” TO PARTICIPATE IN APPRENTICESHIP PROGRAMS

By John D. Horowitz

Over the past few years, the New Jersey State Legislature has passed several pieces of legislation imposing new restrictions on contractors who want to perform construction work on state-funded projects. The legislation has included stiff penalties for contractors who do not comply with those laws, and the list of contractors that have been debarred from performing public work continues to grow. Unfortunately, New Jersey is currently considering another bill that could have the effect of requiring contractors to use union labor on **all** public work projects.

On November 30, 2009, Assemblyman Wayne P. DeAngelo introduced a bill that would require contractors (and subcontractors) that register to contract for public work to certify that they participate in a **Class A Apprenticeship Program** for each separate trade or classification in which they employ craft employees. The bill defines a Class A Apprenticeship Program as “an apprenticeship program which is registered with and approved by the United States Department of Labor or a state apprenticeship agency and which meets not less than **two** of the following requirements: (1) has active, employed, registered apprentices; or (2) has graduated apprentices to journeyman status during a majority of the years that the program has been in operation; or (3) has graduated apprentices to journeyman status during three of the immediately preceding five years.”

Passing the point that contractors must satisfy yet another requirement when bidding to work on public projects, the likely end result of the new legislation will be that nonunion contractors will have to use union labor when performing public work. Indeed, given the absence of Class A Apprenticeship Programs at the local pharmacy, nonunion contractors are probably going to have to sign collective bargaining agreements with the building trade unions, since those unions are virtually the only entities that administer apprenticeship programs.

Put differently, the legislation is going to function as a de facto mandate that all construction work on public projects be performed under a project labor agreement – i.e., an agreement that requires all contractors on a particular project to use union labor. Clearly, this new legislation, if passed, will have serious repercussions for nonunion contractors who bid on public work. While the State Legislature is considering certain amendments to the bill (such as requiring the apprenticeship program to meet only one of the three criteria above), nonunion contractors should closely monitor the status of this legislation.

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