

November 13, 2014

ASSEMBLY BILL NO. 2388

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 2388 with my recommendations for reconsideration.

This bill addresses the registration requirements of bidders under the Public Works Contractor Registration Act and sets forth criteria designed to ensure that only "responsible bidders" register under that statute. Specifically, the bill requires that the registrant certify that it has any licenses or registrations that might be required for the given work; has not been debarred by a federal or State government agency or authority in the past three years; has not had certain licenses revoked in the past year; and has not been convicted of certain crimes. It also precludes registration when the contractor has repeatedly, knowingly, and willfully violated State wage, benefit, and tax laws on public contracts. These are sensible reforms requiring only technical amendments.

But the bill also proposes other, more drastic reforms that are nowhere mentioned in the bill's title, and which are not a matter of sound policy. First, the bill would amend the Prevailing Wage Act to require that every worker employed in the performance of that contract is an apprentice participating in a registered apprenticeship program or has completed a registered apprenticeship program, unless there is an extra certification stating that every worker is paid not less than the journeyworker's rate. Such apprenticeships generally exist in larger, not smaller, businesses. The bill thus sets up an automatic preference for larger businesses over smaller ones in public contracts. I cannot sign a bill hindering the ability of small businesses to compete in the marketplace.

Second, the bill would expand the scope of the Public Works Contractor Registration Act to include not only "public works," but also any other contract for which the prevailing wage must be paid. However, there are numerous contracts subject to the prevailing wage that are not public works, including private construction receiving certain financial assistance. There is no sound reason to subject private contractors performing private construction to "public works" requirements. Increasing the regulatory burdens on those private contractors would unnecessarily reduce the pool of such contractors and increase the costs of those private contracts.

Finally, the bill would eliminate some of the central safeguards in the local bidding process. Under the Local Public Contracts Law, local entities may not impose qualifications in their bids that would unnecessarily discourage competition, restrict the participation of small businesses, or create undue preferences. This bill, however, provides that nothing in "any other law of this State" shall prevent a local government from setting bid requirements that exceed State standards. This language would potentially supersede the existing public bidding safeguards, thus enabling local governments to create unreasonable and unnecessary restrictions and thereby encouraging collusion, less competition, and excessive contract prices.

Accordingly, I herewith return Assembly Bill No. 2388 and recommend that it be amended as follows:

<u>Page 2, Title, Line 2:</u>	Delete "amending P.L.1963, c.150,"
<u>Page 2, Section 1, Lines 8-41:</u>	Delete in their entirety
<u>Page 2, Section 2, Line 43:</u>	Delete "2." insert "1."
<u>Page 3, Section 2, Line 7:</u>	Delete "or into a contract under which"
<u>Page 3, Section 2, Line 8:</u>	Delete in its entirety

Page 3, Section 2, Line 9: Delete "wage rates set pursuant to that act,"

Page 3, Section 2, Lines 16-23: Delete in their entirety

Page 3, Section 2, Lines 26: Delete "or a contract"

Page 3, Section 2, Line 27: Delete in its entirety

Page 3, Section 2, Line 28: Delete "prevailing wage rates set pursuant to that act,"

Page 4, Section 3, Line 1: Delete "3." and insert "2."

Page 4, Section 3, Line 4: Delete ", or any"

Page 4, Section 3, Lines 5-6: Delete in their entirety

Page 4, Section 3, Line 7: Delete "(C.34:11-56.25 et seq.),"

Page 4, Section 4, Line 24: Delete "4." and insert "3."

Page 5, Section 5, Lines 21-44: Delete in their entirety

Page 5, Section 6, Line 46: Delete "6." and insert "4."

Page 5, Section 6, Line 46: Delete "No" and insert "Notwithstanding section 7 of P.L.1999, c.238 (C.34:11-56.54) a"

Page 5, Section 6, Line 46: After "shall" insert "not"

Page 5, Section 6, Line 48: Delete "most recent"

Page 6, Section 6, Line 1: After "calendar years" insert "prior to the submission for registration, beginning with calendar years"

Page 6, Section 7, Line 7: Delete "7." and insert "5."

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor