

2761

2013-2014 Regular Sessions

I N   S E N A T E

January 23, 2013

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Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and  
when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, the state finance law, the public housing law, the education law, the public authorities law, chapter 892 of the laws of 1971, amending the public authorities law relating to construction by the dormitory authority, and chapter 560 of the laws of 1980, relating to authorizing the city of New York to adopt a waste management law, in relation to project size over which separate contracts on public work are required; and to repeal certain provisions of the general municipal law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivisions 1 and 2 of section 101 of the general municipal law, subdivision 1 as amended by section 1 of part MM of chapter 57  
2 of the laws of 2008 and subdivision 2 as added by chapter 861 of the  
3 laws of 1953, are amended to read as follows:  
4  
5     1. Except as otherwise provided in section two hundred twenty-two of  
6 the labor law, every officer, board or agency of a political subdivision  
7 or of any district therein, charged with the duty of preparing specifications or  
8 awarding or entering into contracts for the erection, construction, reconstruction  
9 or alteration of buildings[, when the entire cost of such public work shall exceed  
10 three million dollars in the counties of the Bronx, Kings, New York, Queens, and  
11 Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk  
12 and Westchester; and five hundred thousand dollars in all other counties  
13 within the state,] shall prepare separate specifications for the following  
14 three subdivisions of the work to be performed:  
15  
16     a. Plumbing and gas fitting;  
17     b. Steam heating, hot water heating, ventilating and air conditioning  
18 apparatus; and  
19     c. Electric wiring and standard illuminating fixtures.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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2. A. Such specifications shall be drawn so as to permit separate and independent bidding upon each of the above three subdivisions of work. All contracts awarded by any political subdivision or by an officer, board or agency thereof, or of any district therein, for the erection, construction, reconstruction or alteration of buildings, or any part thereof, shall award the three subdivisions of the above specified work separately in the manner provided by section one hundred three of this chapter. Nothing in this section shall be construed to prevent any political subdivision from performing any such branches of work by or through their regular employees, or in the case of public institutions, by the inmates thereof.

B. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, WHERE THE ESTIMATED COST OF ANY OF THE THREE SUBDIVISIONS OF WORK TO BE PERFORMED DOES NOT EXCEED TEN PERCENT OF THE APPLICABLE DOLLAR THRESHOLD IN SUBDIVISION FOUR OF THIS SECTION, THE PUBLIC OWNER SHALL NOT BE REQUIRED TO PREPARE SEPARATE SPECIFICATIONS FOR, OR BID SUCH SUBDIVISION OF WORK AS A SEPARATE CONTRACT.

S 2. Subdivisions 3 and 4 of section 101 of the general municipal law are REPEALED and two new subdivisions 3 and 4 are added to read as follows:

3. SPECIFICATIONS FOR PUBLIC WORK PERTAINING TO THE ERECTION, CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS MAY PROVIDE FOR THE ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY OR ALL CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE PERSON, FIRM OR CORPORATION WHICH HAS NOT BEEN AWARDED A CONTRACT FOR ANY OTHER PORTION OF SUCH WORK.

4. THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO PUBLIC WORK AS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION WHEN THE ENTIRE COST OF SUCH WORK EXCEEDS THREE MILLION DOLLARS.

S 3. Paragraph (b) of subdivision 7 of section 120-w of the general municipal law, as amended by section 2 of part MM of chapter 57 of the laws of 2008, is amended to read as follows:

(b) Except as otherwise provided in section two hundred twenty-two of the labor law, when the entire cost of constructing such building shall exceed [three million dollars in the counties of the Bronx, Kings, New York, Queens, and Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk and Westchester; and five hundred thousand dollars in all other counties within the state,] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED ONE OF THIS CHAPTER the project developer shall prepare separate specifications for the following subdivisions of such work, so as to permit separate and independent bidding upon each subdivision:

(i) plumbing and gas fittings;

(ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and

(iii) electric wiring and standard illuminating fixtures.

S 4. Section 135 of the state finance law, as amended by section 3 of part MM of chapter 57 of the laws of 2008, is amended to read as follows:

S 135. Separate specifications for [contract] CERTAIN PUBLIC work for the state. 1. Except as otherwise provided in section two hundred twenty-two of the labor law, every officer, board, department, commission or commissions, charged with the duty of preparing specifications or awarding or entering into contracts for the erection, construction or alteration of buildings, for the state[, when the entire cost of such work shall exceed three million dollars in the counties of the Bronx, Kings,

1 New York, Queens, and Richmond; one million five hundred thousand  
2 dollars in the counties of Nassau, Suffolk and Westchester; and five  
3 hundred thousand dollars in all other counties within the state,] must  
4 have prepared separate specifications for each of the following three  
5 subdivisions of the work to be performed:

6 [1.] (A) Plumbing and gas fitting.

7 [2.] (B) Steam heating, hot water heating, ventilating and air condi-  
8 tioning apparatus.

9 [3.] (C) Electric wiring and standard illuminating fixtures.

10 2. (A) Such specifications must be so drawn as to permit separate and  
11 independent bidding upon each of the above three subdivisions of work.  
12 All contracts hereafter awarded by the state or a department, board,  
13 commissioner or officer thereof, for the erection, construction or  
14 alteration of buildings, or any part thereof, shall award the three  
15 subdivisions of the above specified work separately to responsible and  
16 reliable persons, firms or corporations engaged in these classes of  
17 work. A contract for one or more buildings in any project shall be  
18 awarded to the lowest responsible bidder for all the buildings included  
19 in the specifications.

20 (B) Each bidder on a public work contract, where the preparation of  
21 separate specifications is not required, shall submit with its bid a  
22 separate sealed list that names each subcontractor that the bidder will  
23 use to perform work on the contract, and the agreed-upon amount to be  
24 paid to each, for: [(a)] (1) plumbing and gas fitting, [(b)] (2) steam  
25 heating, hot water heating, ventilating and air conditioning apparatus  
26 and [(c)] (3) electric wiring and standard illuminating fixtures. After  
27 the low bid is announced, the sealed list of subcontractors submitted  
28 with such low bid shall be opened and the names of such subcontractors  
29 shall be announced, and thereafter any change of subcontractor or  
30 agreed-upon amount to be paid to each shall require the approval of the  
31 public owner, upon a showing presented to the public owner of legitimate  
32 construction need for such change, which shall be open to public  
33 inspection. Legitimate construction need shall include, but not be  
34 limited to, a change in project specifications, a change in construction  
35 material costs, a change to subcontractor status as determined pursuant  
36 to paragraph (e) of subdivision two of section two hundred twenty-two of  
37 the labor law, or the subcontractor has become otherwise unwilling,  
38 unable or unavailable to perform the subcontract. The sealed lists of  
39 subcontractors submitted by all other bidders shall be returned to them  
40 unopened after the contract award.

41 (C) Nothing in this section shall be construed to prevent the authori-  
42 ties in charge of any state building, from performing any such branches  
43 of work by or through their regular employees, or in the case of public  
44 institutions, by the inmates thereof.

45 (D) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, WHERE THE ESTI-  
46 MATED COST OF ANY OF THE THREE SUBDIVISIONS OF WORK TO BE PERFORMED DOES  
47 NOT EXCEED TEN PERCENT OF THE APPLICABLE DOLLAR THRESHOLD IN SUBDIVISION  
48 FOUR OF THIS SECTION, THE PUBLIC OWNER SHALL NOT BE REQUIRED TO PREPARE  
49 SEPARATE SPECIFICATIONS FOR, OR BID SUCH SUBDIVISION OF WORK AS A SEPA-  
50 RATE CONTRACT.

51 3. SPECIFICATIONS FOR PUBLIC WORK PERTAINING TO THE ERECTION,  
52 CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS MAY PROVIDE FOR  
53 THE ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY  
54 OR ALL CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE  
55 PERSON, FIRM OR CORPORATION WHICH HAS NOT BEEN AWARDED A CONTRACT FOR  
56 ANY OTHER PORTION OF SUCH WORK.

1 4. THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO PUBLIC WORK AS  
2 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION WHEN THE ENTIRE COST OF  
3 SUCH WORK EXCEEDS THREE MILLION DOLLARS.

4 S 5. Section 151-a of the public housing law, as amended by chapter  
5 572 of the laws of 1964, subdivision 1 as amended and subdivision 2-a as  
6 added by section 4 of part MM of chapter 57 of the laws of 2008, is  
7 amended to read as follows:

8 S 151-a. Separate specifications for certain [subdivisions of work  
9 involved in the construction or alteration of buildings as a part of or  
10 in connection with] PUBLIC WORK INVOLVING housing projects. [1.]  
11 Notwithstanding any inconsistent provision of this chapter or any other  
12 general, special or local law, except as otherwise provided in section  
13 two hundred twenty-two of the labor law, any authority or municipality,  
14 or any officer, board, department, commission or other agency thereof  
15 charged with the duty of preparing specifications or awarding or enter-  
16 ing into contracts involving the erection, construction, reconstruction  
17 or alteration of any building or other appurtenance as a part of or in  
18 connection with a project or any part thereof in any part of the state  
19 under or pursuant to the authority of this chapter[, when the entire  
20 cost of such work shall exceed three million dollars in the counties of  
21 the Bronx, Kings, New York, Queens, and Richmond; one million five  
22 hundred thousand dollars in the counties of Nassau, Suffolk and West-  
23 chester; and five hundred thousand dollars in all other counties within  
24 the state, must have prepared separate specifications for the following  
25 three subdivisions of the work to be performed:

26 a. Plumbing and gas fitting;  
27 b. Steam heating, hot water heating, ventilating and air conditioning  
28 apparatus; and  
29 c. Electric wiring and standard illuminating fixtures.

30 2. Such specifications must be so drawn as to permit separate and  
31 independent bidding upon each of the above three subdivisions of work.  
32 All contracts hereafter awarded by any such authority or municipality,  
33 or any officer, board, department, commission or other agency thereof,  
34 involving the erection, construction, reconstruction or alteration of  
35 any building as a part of or in connection with any project under or  
36 pursuant to this chapter, shall award the three subdivisions of the  
37 above specified work separately to responsible and reliable persons,  
38 firms or corporations engaged in such classes of work.

39 2-a. Each bidder on a public work contract, where the preparation of  
40 separate specifications is not required, shall submit with its bid a  
41 separate sealed list that names each subcontractor that the bidder will  
42 use to perform work on the contract, and the agreed-upon amount to be  
43 paid to each, for: a. plumbing and gas fitting, b. steam heating, hot  
44 water heating, ventilating and air conditioning apparatus and c. elec-  
45 tric wiring and standard illuminating fixtures. After the low bid is  
46 announced, the sealed list of subcontractors submitted with such low bid  
47 shall be opened and the names of such subcontractors shall be announced,  
48 and thereafter any change of subcontractor or agreed-upon amount to be  
49 paid to each shall require the approval of the public owner, upon a  
50 showing presented to the public owner of legitimate construction need  
51 for such change, which shall be open to public inspection. Legitimate  
52 construction need shall include, but not be limited to, a change in  
53 project specifications, a change in construction material costs, a  
54 change to subcontractor status as determined pursuant to paragraph (e)  
55 of subdivision two of section two hundred twenty-two of the labor law,  
56 or the subcontractor has become otherwise unwilling, unable or unavail-

1 able to perform the subcontract. The sealed lists of subcontractors  
2 submitted by all other bidders shall be returned to them unopened after  
3 the contract award.

4 3. Nothing in this section shall be construed to prevent any such  
5 authority or municipality in charge of any such project from performing  
6 any such branches of work by or through their regular employees] SHALL  
7 CONTRACT FOR PUBLIC WORK INVOLVING HOUSING PROJECTS PURSUANT TO SECTION  
8 ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW.

9 S 6. The opening paragraph of subdivision 2 of section 458 of the  
10 education law, as amended by section 5 of part MM of chapter 57 of the  
11 laws of 2008, is amended to read as follows:

12 Except as otherwise provided in section two hundred twenty-two of the  
13 labor law, every contract, lease or other agreement entered into by or  
14 on behalf of the fund for the acquisition, lease, construction, recon-  
15 struction, rehabilitation or improvement of the school portion of the  
16 work in any combined occupancy structure shall contain a provision that,  
17 when the entire cost of any such contemplated construction, recon-  
18 struction, rehabilitation or improvement for the school portion of the  
19 work shall exceed [three million dollars in the counties of the Bronx,  
20 Kings, New York, Queens, and Richmond; one million five hundred thousand  
21 dollars in the counties of Nassau, Suffolk and Westchester; and five  
22 hundred thousand dollars in all other counties within the state,] THE  
23 DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED ONE OF  
24 THE GENERAL MUNICIPAL LAW separate specifications shall be prepared for  
25 the following three subdivisions of the work on the school portion to be  
26 performed:

27 S 7. The opening paragraph of subdivision 2 of section 482 of the  
28 education law, as amended by section 6 of part MM of chapter 57 of the  
29 laws of 2008, is amended to read as follows:

30 Except as otherwise provided in section two hundred twenty-two of the  
31 labor law, every contract, lease or other agreement entered into by or  
32 on behalf of the fund for the acquisition, lease, construction, recon-  
33 struction, rehabilitation or improvement of any combined occupancy  
34 structure shall contain a provision that, when the entire cost of any  
35 such contemplated construction, reconstruction, rehabilitation or  
36 improvement shall exceed [three million dollars in the counties of the  
37 Bronx, Kings, New York, Queens, and Richmond; one million five hundred  
38 thousand dollars in the counties of Nassau, Suffolk and Westchester; and  
39 five hundred thousand dollars in all other counties within the state,]  
40 THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED  
41 ONE OF THE GENERAL MUNICIPAL LAW separate specifications shall be  
42 prepared for the following three subdivisions of the work to be  
43 performed:

44 S 8. Subdivision 2 of section 1045-i of the public authorities law, as  
45 amended by section 7 of part MM of chapter 57 of the laws of 2008, is  
46 amended to read as follows:

47 2. Any such agreements (i) shall describe in sufficient detail for  
48 reasonable identification the particular water project to be financed in  
49 whole or in part by the authority, (ii) shall describe the plan for the  
50 financing of the cost of the construction of such water project, includ-  
51 ing the amount, if any, to be provided by the water board and the source  
52 or sources thereof, (iii) shall set forth the method by which and by  
53 whom and the terms and conditions upon which moneys provided by the  
54 authority shall be disbursed, (iv) may require, in the discretion of the  
55 authority, the payment to the authority of the proceeds of any state and  
56 federal grants available to the water board, (v) shall provide for the

1 establishment of user fees, rates, rents and other charges and the  
2 charging and collection thereof by the water board for the use of, or  
3 services furnished, rendered or made available by such system such as to  
4 provide that such board receive revenues at least sufficient, together  
5 with other revenues of the board, if any, to meet the requirements of  
6 subdivision one of section one thousand forty-five-j of this title,  
7 provided that revenues received by such board shall be deposited in a  
8 special fund established pursuant to this title and disbursed to, and  
9 upon certification of, the authority, (vi) may provide for the transfer  
10 by the city to the water board pursuant to section one thousand forty-  
11 five-h of this title of ownership of the sewerage system or water  
12 system, or both, as the case may be, of which such project will form a  
13 part by the city, (vii) shall provide for the construction and  
14 completion of such water project by the city and for the operation,  
15 maintenance and repair thereof as an integrated part of the system of  
16 which such water project forms a part, subject to such terms and condi-  
17 tions, not inconsistent with this title, which may be in the public  
18 interest and necessary or desirable properly and adequately to secure  
19 the holders of bonds of the authority, provided, however, all contracts  
20 for public work and all purchase contracts shall be awarded by the city  
21 as provided by law for the award of such contracts by the city and that  
22 all contracts for construction shall be let in accordance with the  
23 provisions of state law pertaining to prevailing wages, labor standards  
24 and working hours. Except as otherwise provided in section two hundred  
25 twenty-two of the labor law, when the entire cost of constructing a  
26 building as part of any water project shall exceed [three million  
27 dollars] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE  
28 HUNDRED ONE OF THE GENERAL MUNICIPAL LAW, the city shall prepare sepa-  
29 rate specifications for the following three subdivisions of the work to  
30 be performed: (a) plumbing and gas fitting; (b) steam heating, hot water  
31 heating, ventilating and air conditioning apparatus; and (c) electric  
32 wiring and standard illuminating fixtures, (viii) shall provide for the  
33 discontinuance or disconnection of the supply of water or the provision  
34 of sewerage service, or both, as the case may be, for non-payment of  
35 fees, rates, rents or other charges therefor imposed by the water board,  
36 provided such discontinuance or disconnection of any supply of water or  
37 the provision of sewerage service, or both, as the case may be, shall  
38 not be carried out except in the manner and upon the notice as is  
39 required of a waterworks corporation pursuant to subdivisions three-a,  
40 three-b and three-c of section eighty-nine-b and section one hundred  
41 sixteen of the public service law, and (ix) in the discretion of the  
42 authority, require reports concerning the project from the water board  
43 to the authority and the city.

44 S 9. Subdivision 2 of section 1048-i of the public authorities law, as  
45 amended by section 8 of part MM of chapter 57 of the laws of 2008, is  
46 amended to read as follows:

47 2. Any such agreements (i) shall describe in sufficient detail for  
48 reasonable identification the particular water project to be financed in  
49 whole or in part by the authority, (ii) shall describe the plan for the  
50 financing of the cost of the construction of such water project, includ-  
51 ing the amount, if any, to be provided by the water board and the source  
52 or sources thereof, (iii) shall set forth the method by which and by  
53 whom and the terms and conditions upon which moneys provided by the  
54 authority shall be disbursed, (iv) may require, in the discretion of the  
55 authority, the payment to the authority of the proceeds of any state and  
56 federal grants available to the water board, (v) shall provide for the

1 establishment of user fees, rates, rents and other charges and the  
2 charging and collection thereof by the water board for the use of, or  
3 services furnished, rendered or made available by such system such as to  
4 provide that such board receive revenues at least sufficient, together  
5 with other revenues of the board, if any, to meet the requirements of  
6 subdivision one of section one thousand forty-eight-j of this title,  
7 provided that revenues received by such board shall be deposited in a  
8 special fund established pursuant to this title and disbursed to, and  
9 upon certification of, the authority, (vi) may provide for the transfer  
10 by the city to the water board pursuant to section one thousand forty-  
11 eight-h of this title of ownership of the water system of which such  
12 project will form a part, (vii) shall provide for the construction and  
13 completion of such water project by the city and for the operation,  
14 maintenance and repair thereof as an integrated part of the system of  
15 which such water project forms a part, subject to such terms and condi-  
16 tions, not inconsistent with this title, which may be in the public  
17 interest and necessary or desirable properly and adequately to secure  
18 the holders of bonds of the authority, provided, however, all contracts  
19 for public work and all purchase contracts shall be awarded by the city  
20 as provided by law for the award of such contracts by the city and that  
21 all contracts for construction shall be let in accordance with the  
22 provisions of state law pertaining to prevailing wages, labor standards  
23 and working hours. Except as otherwise provided in section two hundred  
24 twenty-two of the labor law, when the entire cost of constructing a  
25 building as part of any water project shall exceed [five hundred thou-  
26 sand dollars] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION  
27 ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW, the city shall prepare  
28 separate specifications for the following three subdivisions of the work  
29 to be performed: (a) plumbing and gas fitting; (b) steam heating, hot  
30 water heating, ventilating and air conditioning apparatus; and (c) elec-  
31 tric wiring and standard illuminating fixtures, (viii) shall provide for  
32 the discontinuance or disconnection of the supply of water for non-pay-  
33 ment of fees, rates, rents or other charges therefor imposed by the  
34 water board, provided such discontinuance or disconnection of any supply  
35 of water shall not be carried out except in the manner and upon the  
36 notice as is required of a waterworks corporation pursuant to subdivi-  
37 sions three-a, three-b and three-c of section eighty-nine-b and section  
38 one hundred sixteen of the public service law, and (ix) in the  
39 discretion of the authority, require reports concerning the project from  
40 the water board to the authority and the city.

41 S 10. The opening paragraph of section 9 of chapter 892 of the laws of  
42 1971, amending the public authorities law relating to construction by  
43 the dormitory authority, as amended by section 14 of part MM of chapter  
44 57 of the laws of 2008, is amended to read as follows:

45 Except as otherwise provided in section 222 of the labor law, the  
46 dormitory authority in awarding or entering into contracts for the  
47 erection, construction, reconstruction or alteration of buildings,  
48 pursuant to the provisions added by this act, when the entire cost of  
49 such work shall exceed [three million dollars in the counties of the  
50 Bronx, Kings, New York, Queens, and Richmond; one million five hundred  
51 thousand dollars in the counties of Nassau, Suffolk and Westchester; and  
52 five hundred thousand dollars in all other counties within the state]  
53 THE DOLLAR LIMITS PROVIDED IN SUBDIVISION 4 OF SECTION 135 OF THE STATE  
54 FINANCE LAW, shall prepare separate specifications for the following  
55 three subdivisions of the work to be performed:

1 S 11. The opening paragraph of subdivision (c) of section 4 of chapter  
2 560 of the laws of 1980 relating to authorizing the city of New York to  
3 adopt a waste management law, as amended by section 13 of part MM of  
4 chapter 57 of the laws of 2008, is amended to read as follows:  
5 Except as otherwise provided in section 222 of the labor law, every  
6 contract, lease or other agreement entered into, pursuant to this  
7 section, by the city of New York for construction, reconstruction, reha-  
8 bilitation or improvement of buildings for a solid waste recovery and  
9 management facility shall contain a provision that, when the entire cost  
10 of such work shall exceed [three million dollars] THE DOLLAR LIMITS  
11 PROVIDED IN SUBDIVISION 4 OF SECTION 101 OF THE GENERAL MUNICIPAL LAW,  
12 separate specifications shall be prepared for the following three subdi-  
13 visions of work:  
14 S 12. This act shall take effect immediately and shall apply to all  
15 subject contracts bid on and after January first next succeeding such  
16 effective date.