S T A T E O F N E W Y O R K

3361

2013-2014 Regular Sessions

I N S E N A T E

February 1, 2013

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law and the general municipal law, in relation to ensuring consistency with the federal Davis Bacon Act for calculation of payments for supplements and reciprocity of debarments

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

Section 1. Section 220 of the labor law is amended by adding a new subdivision 3-f to read as follows:

3-F. IN ORDER TO PREVENT EMPLOYERS FROM USING PUBLIC WORK, AS DEFINED IN THIS ARTICLE, AS A DISPROPORTIONATE OR EXCLUSIVE SOURCE OF FUNDING FOR BENEFITS THAT ARE IN FACT CONTINUOUS IN NATURE AND ARE PART OF THE REGULAR COMPENSATION FOR ALL EMPLOYEE WORK WHETHER PUBLIC OR PRIVATE, THE COMMISSIONER SHALL DIRECT THAT THE PROPER PAYMENT OF SUPPLEMENTS SHALL BE CALCULATED BY EMPLOYING THE ANNUALIZATION METHODOLOGY UTILIZED BY THE UNITED STATES DEPARTMENT OF LABOR IN CALCULATIONS UNDER THE DAVIS BACON ACT OF 1931, AS AMENDED, 40 USC. S 276(A)-276-A-7.

S 2. Paragraph b of subdivision 3 of section 220-b of the labor law is amended by adding a new subparagraph 3 to read as follows:

(3) WHEN ANY CONTRACTOR OR SUBCONTRACTOR IS DEBARRED FOR VIOLATIONS OF THE DAVIS BACON ACT PURSUANT TO 40 U.S.C. 3144 AND 29 C.F.R. 5.12, SUCH CONTRACTOR OR SUBCONTRACTOR, AND ANY FIRM, CORPORATION, PARTNERSHIP OR ASSOCIATION IN WHICH THE PERSON OR ENTITY OWNS OR CONTROLS AT LEAST FIFTY-ONE PER CENTUM, SHALL BE INELIGIBLE TO BE AWARDED ANY PUBLIC WORKS CONTRACT WITH THE STATE, ANY MUNICIPAL CORPORATION, PUBLIC BENEFIT CORPORATION OR PUBLIC BODY FOR A PERIOD NOT TO EXCEED THE PERIOD OF DEBARMENT DETERMINED OR DECIDED PURSUANT TO SUCH ACT. THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO THE PERSON OR ENTITY IMMEDIATELY OF SUCH INELIGIBILITY PURSUANT TO THIS SUBPARAGRAPH AND SUCH PERSON OR ENTITY SHALL BE AFFORDED THE OPPORTUNITY TO BE HEARD BY THE DEPARTMENT WITHIN THIRTY CALENDAR DAYS OF THE DEPARTMENT'S WRITTEN NOTICE.

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

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S 3. Section 103 of the general municipal law is amended by adding a new subdivision 1-c to read as follows:

1-C. IN DETERMINING THE LOWEST RESPONSIBLE BIDDER, THE OFFICER, BOARD OR AGENCY OF ANY POLITICAL SUBDIVISION OR OF ANY DISTRICT THEREIN CHARGED WITH AWARDING OF CONTRACTS, SHALL CONSIDER WHETHER OR NOT THE BIDDER, OR A PERSON OR ENTITY WITH AN INTEREST OF AT LEAST FIFTY-ONE PER CENTUM IN THE BIDDER, IS DEBARRED PURSUANT TO PARAGRAPH B OF SUBDIVISION THREE OF SECTION TWO HUNDRED TWENTY-B OF THE LABOR LAW, IN MAKING SUCH DETERMINATION OF AWARD.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to all contracts and agreements entered into on and after such date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.