

2761

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

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.