

STATE OF NEW YORK

5475

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sens. JACKSON, HINCHEY -- read twice and ordered printed,
and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds and
2 declares that the prevailing wage law was established to provide fair
3 and equitable working conditions, wages and supplementary benefits for
4 persons employed on public works construction projects.

5 The legislature further finds and declares that there are growing
6 number of instances where materials are fabricated off the public work
7 job site either to meet the unique specifications of the project subject
8 to a public work contract or for the contractor's convenience.

9 The legislature further finds and declares that in many instances the
10 prevailing wage is not paid to persons involved in off-site fabrication
11 of materials which are used specifically for public works projects.

12 It is the intent of the legislature that construction and fabrication
13 done off the public work site for specific use only in public work
14 projects be compensated at the prevailing wage rate.

15 § 2. Subdivision 3 of section 220 of the labor law is amended by
16 adding a new paragraph (f) to read as follows:

17 (f) For the purposes of this subdivision contractors or subcontractors
18 engaged in custom fabrication shall not be regarded as material suppli-
19 ers. For the purposes of this subdivision, a legal day's work for which
20 the prevailing rate of wages shall be paid to laborers, workers and
21 mechanics shall include custom fabrication whether or not the custom
22 fabrication is done on the public work site. It shall be a condition of
23 the contract concerning such off-site custom fabrication work that the
24 contractor or employer awarded the public work contract shall covenant

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

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1 to pay the on-site prevailing wage of the public work project. Each
2 contractor who employs workers off-site on a public work project shall
3 maintain certified payrolls and provide such payrolls, with original
4 certifications, to the contracting agency at least once every thirty
5 days. For the purposes of this subdivision the term "custom fabri-
6 cation" shall include, but not be limited to, the fabrication of exteri-
7 or or interior wall panel systems, the fabrication of woodwork, cases,
8 cabinets or counters and the fabrication of electrical, plumbing, heat-
9 ing, cooling, ventilation or exhaust duct systems, and mechanical insu-
10 lation solely and specifically designed and engineered for installation
11 in the construction, repair or renovation of a building which is the
12 subject of a contract to which the state, a municipal corporation, a
13 public benefit corporation or a commission appointed pursuant to law is
14 a party.

15 § 3. This act shall take effect on the sixtieth day after it shall
16 have become a law and shall apply only to those contracts put out to bid
17 on or after such effective date.