STATE OF NEW YORK

6708

2025-2026 Regular Sessions

IN ASSEMBLY

March 10, 2025

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to prevailing wage requirements applicable to construction projects performed under private contract; and to repeal section 224-c of the labor law, in relation to eliminating the public subsidiary board

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

Section 1. Section 224-a of the labor law, as added by section 1 of part FFF of chapter 58 of the laws of 2020, paragraphs c and d of subdivision 2 as amended and paragraph e of subdivision 2 as added by section 1 of part R and paragraphs f and g of subdivision 3 as amended and paragraph h of subdivision 3 as added by section 2 of part U of chapter 56 of the laws of 2024, and paragraph b of subdivision 4 as amended by section 3 of part AA of chapter 56 of the laws of 2021, is amended to read as follows:

§ 224-a. Prevailing wage requirements applicable to construction projects performed under private contract. 1. Subject to the provisions of this section, each "covered project" as defined in this section shall be subject to prevailing wage requirements in accordance with section two hundred twenty and two hundred twenty-b of this article. A "covered project" shall mean construction work done under contract which is paid for in whole or in part out of public funds as such term is defined in this section where**:**

a. the amount of all such public funds, when aggregated, is at least [~~thirty~~] **twenty** percent of the total construction [~~project~~] costs and where such [~~project~~] costs are over five million dollars [~~except as provided for by section two hundred twenty-four-c of this article~~]**; or**

b. the amount of such public funds received pursuant to paragraph a of subdivision two of this section is at least three million dollars; or

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

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c. the amount of all such public funds, when aggregated, is at least five million dollars.

2. For purposes of this section, "paid for in whole or in part out of public funds" shall mean any of the following:

a. The payment of money, by a public entity, or a third party acting on behalf of and for the benefit of a public entity, directly to or on behalf of the contractor, subcontractor, developer or owner that is not subject to repayment;

b. The savings achieved from fees, rents, interest rates, or other loan costs, or insurance costs that are lower than market rate costs; savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions or tax increment financing; savings from payments in lieu of taxes; and any other savings from reduced, waived, or forgiven costs that would have otherwise been at a higher or market rate but for the involvement of the public entity;

c. Money loaned by the public entity that is to be repaid on a contingent basis;

d. Credits that are applied by the public entity against repayment of obligations to the public entity; or

e. Benefits under section four hundred sixty-seven-m of the real property tax law.

3. For purposes of this section, "paid for in whole or in part out of public funds" shall not include:

a. Benefits under section four hundred twenty-one-a of the real property tax law;

b. [~~Funds that are not provided primarily to promote, incentivize, or ensure that construction work is performed, which would otherwise be captured in subdivision two of this section;~~

~~c.~~] Funds used to incentivize or ensure the development of a comprehensive sewage system, including connection to existing sewer lines or creation of new sewage lines or sewer capacity, provided, however, that such work shall be deemed to be a public work covered under the provisions of this article;

[~~d. tax benefits provided for projects the length or value of which are not able to be calculated at the time the work is to be performed;~~

~~e. tax benefits related to brownfield remediation or brownfield redevelopment pursuant to section twenty-one, twenty-two, one hundred eighty-seven-g or one hundred eighty-seven-h of the tax law, subdivision seventeen or eighteen of section two hundred ten-B of the tax law, subsection (dd) or (ee) of section six hundred six of the tax law, or subdivision (u) or (v) of section fifteen hundred eleven of the tax law;~~

~~f.~~] **c.** funds provided pursuant to subdivision three of section twenty-eight hundred fifty-three of the education law; **and**

[~~g. any other public monies, credits, savings or loans, determined by the public subsidy board created in section two hundred twenty-four-c of this article as exempt from this definition; and~~

~~h.~~] **d.** benefits under section four hundred eighty-five-x of the real property tax law.

4. For purposes of this section "covered project" shall not include any of the following:

a. Construction work on one or two family dwellings where the property is the owner's primary residence, or construction work performed on property where the owner of the property owns no more than four dwelling units;

b. Construction work performed under a contract with a not-for-profit corporation as defined in section one hundred two of the not-for-profit

corporation law, other than a not-for-profit corporation formed exclusively for the purpose of holding title to property and collecting income thereof or any public entity as defined in this section, where the not-for-profit corporation has gross annual revenue and support less than five million dollars;

c. Construction work performed on a multiple residence and/or ancillary amenities or installations that is wholly privately owned in any of the following circumstances [~~except as provided for by section two hundred twenty-four-c of this article~~]:

(i) where no less than twenty-five percent of the residential units are affordable and shall be retained subject to an anticipated regulatory agreement with a local, state, or federal governmental entity, or a not-for-profit entity with an anticipated formal agreement with a local, state, or federal governmental entity for purposes of providing affordable housing in a given locality or region provided that the period of affordability for a residential unit deemed affordable under the provisions of this paragraph shall be for no less than fifteen years from the date of construction; or

(ii) where no less than thirty-five percent of the residential units involves the provision of supportive housing services for vulnerable populations provided that such units are subject to an anticipated regulatory agreement with a local, state, or federal governmental entity[~~; or~~

~~(iii) any newly created programs for affordable or subsidized housing as determined by the public subsidy board established by section two hundred twenty-four-c of this article~~].

d. Construction work performed on a manufactured home park as defined in paragraph three of subdivision a of section two hundred thirty-three of the real property law where the manufactured home park is subject to a regulatory agreement with a local, state, or federal governmental entity for no less than fifteen years;

e. Construction work performed under a pre-hire collective bargaining agreement between an owner or contractor and a bona fide building and construction trade labor organization which has established itself as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform work on such a project, or construction work performed under a [~~labor peace agreement,~~] project labor agreement[~~, or any other construction work performed under an enforceable agreement~~] between an owner or contractor and a bona fide building and construction trade labor organization;

f. [~~Construction work performed on projects funded by section sixteen-n of the urban development corporation act or the downtown revitalization initiative;~~

~~g. Construction work and engineering and consulting services performed in connection with the installation of a renewable energy system, renewable heating or cooling system, or energy storage system, with a capacity equal to or under five megawatts alternating current;~~

~~h. Construction work performed on supermarket retail space built or renovated with tax incentives provided under the food retail expansion to support health (FRESH) program through the New York city industrial development agency;~~

~~i.~~] Construction work performed for interior fit-outs and improvements under ten thousand square feet through small business incubation

programs operated by the New York city economic development corporation; or

[~~j. Construction work on space to be used as a school under sixty thousand square feet, pursuant to a lease from a private owner to the New York city department of education and the school construction authority; or~~

~~k.~~] g. Construction work performed on projects that received tax benefits related to historic rehabilitation pursuant to subdivision twenty-six of section two hundred ten-B of the tax law, subsection (oo) or (pp) of section six hundred six of the tax law, or subdivision (y) of section fifteen hundred eleven of the tax law.

5. For purposes of this section, "public entity" shall include, but shall not be limited to, the state, a local development corporation as defined in subdivision eight of section eighteen hundred one of the public authorities law or section fourteen hundred eleven of the not-for-profit corporation law, a municipal corporation as defined in section one hundred nineteen-n of the general municipal law, an industrial development agency formed pursuant to article eighteen-A of the general municipal law or industrial development authorities formed pursuant to article eight of the public authorities law, and any state, local or interstate or international authorities as defined in section two of the public authorities law; and shall include any trust created by any such entities.

6. [~~For purposes of this section, "construction" means work which shall be as defined by the public subsidy board to require payment of prevailing wage, and which may involve the employment of laborers, workers, or mechanics.~~

~~7.~~] For purposes of this section and section two hundred twenty-four-b of this article, the "fiscal officer" shall be deemed to be the commissioner.

[~~8.~~] 7. The enforcement of any construction work deemed to be a covered project pursuant to this section, and any additional requirements, shall be subject, in addition to this section, [~~only~~] to the requirements of sections two hundred twenty, two hundred twenty-four-b, [~~two hundred twenty-four-c, and~~] two hundred twenty-b, two hundred twenty-i, and two hundred twenty-j of this article and within the jurisdiction of the fiscal officer; provided, however, nothing contained in this section shall be deemed to construe any covered project as otherwise being considered public work pursuant to this article; and further provided:

a. The owner or developer of such covered project shall certify under penalty of perjury [~~within~~] not less than five days [~~of~~] prior to the commencement of construction work whether the project at issue is subject to the provisions of this section through the use of a standard form developed by the fiscal officer.

b. The owners or developers of a property who are undertaking a project under private contract, may seek guidance from the [~~public subsidy board contained in section two hundred twenty-four-c of this article~~] department, and [~~such board~~] the department may [~~render an opinion~~] issue a determination as to whether or not the project is a covered project within the meaning of this article. [~~Any such determination shall not be reviewable by the fiscal officer, nor shall it be reviewable by the department pursuant to section two hundred twenty of this article.~~]

c. The owner or developer of a covered project shall be responsible for retaining original payroll records in accordance with section two

hundred twenty of this article for a period of six years from the conclusion of such work. All payroll records maintained by an owner or developer pursuant to this section shall be subject to inspection on request of the fiscal officer. Such owner or developer may authorize the prime contractor of the construction project to take responsibility for retaining and maintaining payroll records, but will be held jointly and severally liable for any violations of such contractor. All records obtained by the fiscal officer shall be subject to the Freedom of Information Law.

d. **(i)** Each public entity providing any of the public funds listed in subdivision two of this section to an owner, developer, contractor or subcontractor of a project shall [~~**identify**~~] **provide a certification, on a form provided by the department, to both the department and recipient which identifies** the nature and dollar value of such funds and whether any such funds are excluded under subdivision three of this section and shall so notify the recipient of such funds of such determination and of their obligations under paragraph a of this subdivision. **Such certification shall be filed with the department within two days of the date in which the recipient and public entity executed the agreement for the issuance of such public funds. The department shall maintain a list of all certifications received pursuant to this paragraph, which shall be available to the public upon request. The department is authorized to refer any failure by a public entity to comply with this paragraph to the comptroller or attorney general, or both, for further investigation.**

(ii) For public funds that provide the recipient with a future benefit or incentives in future years, the certification provided to the recipient by the public entity shall identify the estimated future value of the funds and the methodology used by the public entity to determine the future value. Such future value shall not be less than any calculations made by the recipient in public or private financing documents related to the project. The department, upon investigation, may reject this estimation and calculate a future value in accordance with subparagraph (iii) of this paragraph.

(iii) Where the public entity fails to provide an estimated future value of funds based on a reasonable methodology, the department shall determine the estimated future value of funds by applying to the present value of the funds an annual growth of not less than two percent and a discounted present value rate of not more than seven percent.

(iv) The department shall issue guidance on this subdivision, including the certification form and future benefit calculations, within thirty days of the effective date of the chapter of the laws of two thousand twenty-five that amended this paragraph.

e. The fiscal officer may issue rules and regulations governing the provisions of this section. Violations of this section shall be grounds for determinations and orders pursuant to section two hundred twenty-b of this article.

[~~**9.**~~] **8.** Each owner and developer subject to the requirements of this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article fifteen-A of the executive law and service-disabled veteran-owned businesses pursuant to article [~~**seventeen-B of the executive law**~~] **three of the veterans' services law**. The department in consultation with the directors of the division of minority and women's business development and of the division of service-disabled veterans' business development shall make training and resources available to assist minority and women-owned business enterprises and service-disabled veteran-owned business enter-

prises on covered projects achieve and maintain compliance with prevailing wage requirements. The department shall make such training and resources available online and shall afford minority and women-owned business enterprises and service-disabled veteran-owned business enterprises an opportunity to submit comments on such training.

[~~10.~~] **9.** a. The fiscal officer shall report to the governor, the temporary president of the senate, and the speaker of the assembly by July first, two thousand twenty-two, and annually thereafter, on the participation of minority and women-owned business enterprises in relation to covered projects and contracts for public work subject to the provisions of this section and section two hundred twenty of this article respectively as well as the diversity practices of contractors and subcontractors employing laborers, workers, and mechanics on such projects.

b. Such reports shall include aggregated data on the utilization and participation of minority and women-owned business enterprises, the employment of minorities and women in construction-related jobs on such projects, and the commitment of contractors and subcontractors on such projects to adopting practices and policies that promote diversity within the workforce. The reports shall also examine the compliance of contractors and subcontractors with other equal employment opportunity requirements and anti-discrimination laws, in addition to any other employment practices deemed pertinent by the commissioner.

c. The fiscal officer may require any owner or developer to disclose information on the participation of minority and women-owned business enterprises and the diversity practices of contractors and subcontractors involved in the performance of any covered project. It shall be the duty of the fiscal officer to consult and to share such information in order to effectuate the requirements of this section.

[~~11. If construction work is not deemed to be a covered project, whether by virtue of an exclusion of such project under subdivision four of this section, or by virtue or not receiving sufficient public money to be deemed "paid for in whole or in part out of public funds", such project shall not be subject to the requirements of sections two hundred twenty and two hundred twenty-b of this article.~~]

§ 2. Section 224-c of the labor law is REPEALED.

§ 3. This act shall take effect immediately.