

STATE OF NEW YORK

8833

IN SENATE

January 8, 2026

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

AN ACT to amend the labor law, in relation to certain off-site custom fabrication public works projects and the payment of prevailing wage

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

1 Section 1. Paragraph (f) of subdivision 3 of section 220 of the labor
2 law, as added by a chapter of the laws of 2025 amending the labor law
3 relating to inclusion of certain off-site custom fabrication as public
4 work for the purposes of payment of prevailing wage, as proposed in
5 legislative bills numbers S. 2536-A and A. 2747-A, is amended to read as
6 follows:

7 (f) (i) For the purposes of this subdivision contractors or subcon-
8 tractors engaged in custom fabrication shall not be regarded as material
9 suppliers. For the purposes of this subdivision, a legal day's work for
10 which the prevailing rate of wages for the New York county in which the
11 public works project is situated shall be paid to laborers, workers and
12 mechanics shall include custom fabrication regardless of whether the
13 custom fabrication occurs on-site, off-site, or in another jurisdiction
14 [~~outside the state where the custom fabrication constitutes a signif-~~
15 ~~icant portion of the building or work, it]~~ and such pay shall be a
16 condition of the contract concerning all such custom fabrication work
17 [~~that~~] involving the contractor or employer awarded the public work
18 contract, except where the project includes federal funding that trig-
19 gers federal rules for wage requirements, and any subcontractor thereto
20 shall pay the on-site prevailing wage required for workers at the site
21 of the public work project to those workers performing the custom fabri-
22 cation.

23 (ii) To perform a public works contract each contractor or subcontrac-
24 tor who employs workers [~~off-site~~] for [~~the~~] custom fabrication work
25 related to a public work project shall maintain certified payrolls [~~for~~
26 ~~those workers and provide such payrolls, with original certifications,~~
27 ~~to the department at least annually and upon request,~~] and shall comply

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

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1 with ~~[section]~~ sections two hundred twenty-i and two hundred twenty-j of
2 this article~~[, as applicable]~~.

3 (iii) For the purposes of this subdivision the term "custom fabri-
4 cation" shall include~~[, but not be limited to,]~~ the fabrication of exte-
5 rior or interior wall panel systems, woodwork, electrical, plumbing,
6 heating, cooling, ventilation or exhaust duct systems, rebar cages, and
7 mechanical insulation solely and specifically designed and engineered
8 for ~~[installation in the construction, repair or renovation of a build-
9 ing which is the subject of a contract to which the state, a department
10 of the state, a board or officer in the state, a municipal corporation,
11 a public benefit corporation or a commission appointed pursuant to law
12 is a party. For the purposes of this subdivision, a "significant
13 portion of building or work" means that portions or modules of the
14 building or work, as opposed to smaller prefabricated components, are
15 delivered to the place where the building or work will remain, with
16 minimal construction work remaining other than the installation and/or
17 assembly of the portions or modules]~~ a specified public work project.
18 The term "custom fabrication" does not include components, portions,
19 modules, or materials that are otherwise stocked or readily available
20 absent a specified public work project.

21 ~~[(ii)]~~ (iv) The provisions of this paragraph shall not include any
22 highway, structure, vehicle or watercraft used to support transporting
23 persons; the foregoing notwithstanding, this paragraph shall include
24 electrical, plumbing, heating, cooling, ventilation or mechanical insu-
25 lation work in rest areas, transit stations or depots.

26 (v) Nothing in this paragraph shall be construed to apply the require-
27 ments set forth in section two hundred twenty-four-a of this article to
28 any custom fabrication associated with the creation or rehabilitation of
29 any residential dwelling units or manufactured home parks that are
30 exempted from the definition of "covered projects" as set forth in
31 section two hundred twenty four-a of this article.

32 (vi) The contractor awarded a public work contract, or a subcontractor
33 thereto, shall be required to report to the department of jurisdiction
34 the intent to utilize custom fabrication in a form and manner prescribed
35 by the fiscal officer. Such reports shall identify the public work
36 contract, the name and location of the custom fabrication entity, and
37 description of the custom fabrication work. The contractor awarded a
38 public work contract, or subcontractor thereto, shall notify any addi-
39 tional party contracted with for custom fabrication that the contract is
40 subject to this subdivision. The department of jurisdiction, as defined
41 in subdivision three-a of this section and including any entity to whom
42 such department of jurisdiction delegates their authority, shall be
43 required to report to the fiscal officer the intention to contract for
44 custom~~[, off-site]~~ fabrication ~~[of any materials on all contracts,~~
45 ~~regardless of the amount, which may include the employment of laborers,~~
46 ~~workers or mechanics in the application to the fiscal officer for the~~
47 ~~approval of such contract. The department of jurisdiction's report shall~~
48 ~~state the name and address of the off site, custom fabricator, identify~~
49 ~~the custom materials that are being fabricated off site and the quantity~~
50 ~~thereof, the estimated and actual cost of the off-site fabrication, and~~
51 ~~the estimated number of workers employed to complete the custom fabri-~~
52 ~~cation at the off site location]~~ in a form and manner prescribed by the
53 fiscal officer. Such reports shall identify the public work contract,
54 the name and location of the custom fabrication entity, and description
55 of the custom fabrication work. Reports submitted to the fiscal officer

1 shall be subject to disclosure pursuant to article six of the public
2 officers law.

3 § 2. Severability. If any clause, sentence, paragraph, subdivision,
4 section, or part of this act shall be adjudged by any court of competent
5 jurisdiction to be invalid, such judgment shall not affect, impair, or
6 invalidate the remainder thereof, but shall be confined in its operation
7 to the clause, sentence, paragraph, subdivision, section, or part there-
8 of directly involved in the controversy in which such judgment shall
9 have been rendered.

10 § 3. This act shall take effect on the same date and in the same
11 manner as a chapter of the laws of 2025 amending the labor law relating
12 to inclusion of certain off-site custom fabrication as public work for
13 the purposes of payment of prevailing wage, as proposed in legislative
14 bills numbers S. 2536-A and A. 2747-A, takes effect.