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

2168

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. McENENY, JOHN, CAHILL, FARRELL, HOOPER -- Multi-Sponsored by -- M. of A. ABBATE, BENJAMIN, CLARK, COLTON, ESPAILLAT, GOTTFRIED, GREENE, PERRY, J. RIVERA, N. RIVERA, TOWNS -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to prevailing wage rates for building service employees

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

Section 1. Subdivision 4 of section 231 of the labor law, as added by chapter 777 of the laws of 1971, is amended to read as follows:

4. The public agency, or appropriate officer or agent thereof, whose responsibility it is to prepare or direct the preparation of the plans and specifications for a contract for building service work, shall ascertain from such plans and specifications the classifications of employees to be employed on such work and shall file a list of such classifications with the fiscal officer, together with a statement of the work to be performed. The fiscal officer shall determine the crafts, trades and occupations required for such work and shall make a determination of the wages required to be paid in the locality for each such craft, trade or occupation. A schedule of such wages shall be annexed to and form a part of the specifications for the contract prior to the time of the advertisement for bids on such contract and shall constitute the schedule of wages referred to in subdivision three of this section. SUCH SCHEDULE SHALL REFLECT INCREASES TO BE PAID IN EACH YEAR OF THE SPECIFICATIONS. EACH ADJUSTMENT OF THE PREVAILING WAGE AND BENEFITS BY THE FISCAL OFFICER SHALL BE APPLIED TO ALL EXISTING CONTRACTS.

S 2. Section 233 of the labor law is amended by adding a new subdivision 5 to read as follows:

5. THE RECORDS REQUIRED TO BE MAINTAINED SHALL BE OPEN FOR PUBLIC INSPECTION TO ALL INTERESTED PARTIES AT THE OFFICE OF THE FISCAL OFFICER.

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

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S 3. Section 234 of the labor law is amended by adding a new subdivision 3 to read as follows:

3. THE FISCAL OFFICER SHALL NOT ALLOW A PUBLIC AGENCY TO EXTEND A CONTRACT OR CONTRACT SPECIFICATIONS AT THE END OF THE CONTRACT PERIOD, EXCEPT IN THE CASE OF AN EMERGENCY, AS DETERMINED BY THE FISCAL OFFICER, PROVIDED THE PREVAILING WAGE AND BENEFITS ARE ADJUSTED TO CONFORM TO THE PREVAILING RATES.

S 4. Subdivision 1 of section 235 of the labor law, as added by chapter 777 of the laws of 1971, is amended to read as follows:

1. Whenever the fiscal officer has reason to believe that a service employee has been paid less than the wages stipulated in the contract, or if such contract has no wage schedule attached thereto and the fiscal officer has reason to believe that a service employee has been paid less than the wages prevailing for his OR HER craft, trade or occupation, the fiscal officer may, and upon receipt of a written complaint from an employee employed thereon, shall conduct a special investigation to determine the facts relating thereto. INTERESTED PARTIES, INCLUDING LABOR ORGANIZATIONS, SHALL BE ALLOWED ACCESS TO BUILDING SITES TO INSPECT THE POSTINGS REQUIRED BY LAW AND TO SPEAK TO EMPLOYEES WITHOUT DISRUPTING THEIR WORK AS TO THEIR PAY AND BENEFIT RATES.

S 5. Subdivision 2 of section 238 of the labor law, as added by chapter 777 of the laws of 1971, is amended to read as follows:

2. When a contract for service work contains as part thereof a schedule of wages as provided for in this article, any contractor who, after entering into such contract, and any subcontractor of such contractor who fails to pay to any service employee the wages stipulated in such wage schedule is guilty of a misdemeanor and upon conviction shall be punished for a first offense by a fine of five hundred dollars or by imprisonment for not more than thirty days or by both fine and imprisonment; for a second offense by a fine of one thousand dollars, and in addition thereto the contract on which the violation has occurred shall be forfeited; and no such contractor shall be entitled to receive any sum, nor shall any officer, agent or employee of the contracting public agency pay any such sum or authorize its payment from the funds under his OR HER charge or control to such contractor for work done upon the contract on which the contractor has been convicted of a second offense. IN ADDITION, WHERE ANY CONTRACTOR OR SUBCONTRACTOR IS CONVICTED OF A VIOLATION PURSUANT TO THIS SUBDIVISION, THE COMMISSIONER MAY REVOKE THE RIGHT OF SUCH CONTRACTOR OR SUBCONTRACTOR FROM BIDDING ON PUBLIC WORK PROJECTS FOR A PERIOD TO BE DETERMINED BY THE COMMISSIONER AFTER CONDUCTING A HEARING THEREON. If the contractor or subcontractor is a corporation, any officer of such corporation who knowingly permits the corporation to fail to make such payment shall also be guilty of a misdemeanor and the criminal and civil penalties herein shall attach to such officer upon conviction.

S 6. Subdivision 3 of section 239 of the labor law, as amended by chapter 770 of the laws of 1986, is amended to read as follows:

(3) that there may be deducted from the amount payable to the contractor by the public agency under the contract a penalty of [fifty] TWO HUNDRED dollars for each person for each day during which such person was discriminated against or intimidated in violation of the provisions of the contract;

S 7. This act shall take effect on the sixtieth day after it shall have become a law.