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

2270

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

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

AN ACT to amend the labor law, in relation to prevailing wage

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

Section 1. Paragraph b of subdivision 3 of section 220-b of the labor law is amended by adding two new subparagraphs 3 and 4 to read as follows:

(3) IN ADDITION TO ANY PENALTIES OR FINES RENDERED PURSUANT TO THIS ARTICLE, WHEN ANY PERSON OR CORPORATION, OR ANY OFFICER OR SHAREHOLDER WHO OWNS OR CONTROLS AT LEAST TEN PER CENTUM OF THE OUTSTANDING STOCK OF SUCH CORPORATION, HAS:

(I) REFUSED, AFTER TWO WRITTEN REQUESTS, TO ALLOW THE FISCAL OFFICER OR HIS OR HER AGENTS, EXAMINERS OR INSPECTORS TO EXAMINE BOOKS AND RECORDS PURSUANT TO THIS ARTICLE;

(II) FAILED, AFTER TWO WRITTEN REQUESTS, TO RESPOND TO A FORMAL REQUEST TO PRODUCE RECORDS PURSUANT TO THIS ARTICLE;

(III) FAILED TO RESPOND TO A SUBPOENA TO PRODUCE RECORDS PURSUANT TO THIS ARTICLE;

(IV) FAILED TO IMPLEMENT OR COMPLY WITH A SETTLEMENT AND/OR STIPULATION ENTERED PURSUANT TO THIS ARTICLE WITHIN THIRTY DAYS OF THE DATE OF THE SETTLEMENT OR STIPULATION; OR FAILED TO MAKE ANY PAYMENT THEREUNDER WITHIN THIRTY DAYS OF WHEN DUE; OR

(V) FAILED TO COMPLY WITH AN ORDER OF THE FISCAL OFFICER RENDERED PURSUANT TO THIS ARTICLE, WITHIN THIRTY DAYS OF THE FINAL ORDER OR FINAL JUDICIAL DETERMINATION, WHICHEVER IS LATER;

SUCH PERSON, CORPORATION, OFFICER OR SHAREHOLDER SHALL BE INELIGIBLE TO SUBMIT A BID ON OR BE AWARDED ANY PUBLIC WORK CONTRACT WITH THE STATE, ANY MUNICIPAL CORPORATION, PUBLIC BENEFIT CORPORATION OR PUBLIC BODY FOR A PERIOD OF FIVE YEARS FROM THE DATE OF REFUSAL, SETTLEMENT, STIPULATION OR ORDER.

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

LBD05099-01-9

(4) NOTWITHSTANDING ANY LAWS TO THE CONTRARY, WHEN A FINAL DETERMINATION HAS BEEN MADE PURSUANT TO THIS PARAGRAPH, INVOLVING THE WILLFUL FAILURE TO PAY THE PREVAILING RATE OF WAGES OR TO PROVIDE SUPPLEMENTS IN ACCORDANCE WITH THIS ARTICLE, THE FISCAL OFFICER ISSUING THE DETERMINATION, PURSUANT TO RULES OR REGULATIONS PROMULGATED BY THE FISCAL OFFICER, MAY SEEK A DETERMINATION DECLARING SUCH PERSON OR CORPORATION, OR ANY OFFICER OR SHAREHOLDER WHO OWNS OR CONTROLS AT LEAST TEN PER CENTUM OF THE OUTSTANDING STOCK OF SUCH CORPORATION, INELIGIBLE TO SUBMIT A BID ON OR BE AWARDED ANY PUBLIC WORKS CONTRACT WITH THE STATE, ANY MUNICIPAL CORPORATION, PUBLIC BENEFIT CORPORATION OR PUBLIC BODY FOR A PERIOD OF FIVE YEARS FROM THE DATE OF THE DETERMINATION.

S 2. The opening paragraph of subdivision 7 of section 235 of the labor law is designated paragraph a and two new paragraphs b and c are added to read as follows:

B. IN ADDITION TO ANY PENALTIES OR FINES RENDERED PURSUANT TO THIS ARTICLE, WHEN ANY PERSON OR CORPORATION, OR ANY OFFICER OR SHAREHOLDER WHO OWNS OR CONTROLS AT LEAST TEN PER CENTUM OF THE OUTSTANDING STOCK OF SUCH CORPORATION, HAS:

(I) REFUSED, AFTER TWO WRITTEN REQUESTS TO ALLOW THE FISCAL OFFICER OR HIS OR HER AGENTS, EXAMINERS OR INSPECTORS TO EXAMINE BOOKS AND RECORDS PURSUANT TO THIS ARTICLE;

(II) FAILED TO RESPOND TO A FORMAL REQUEST TO PRODUCE RECORDS PURSUANT TO THIS ARTICLE AFTER TWO WRITTEN REQUESTS;

(III) FAILED TO RESPOND TO A SUBPOENA TO PRODUCE RECORDS PURSUANT TO THIS ARTICLE;

(IV) FAILED TO IMPLEMENT OR COMPLY WITH A SETTLEMENT AND/OR STIPULATION ENTERED PURSUANT TO THIS ARTICLE WITHIN THIRTY DAYS OF THE DATE OF THE SETTLEMENT OR STIPULATION; OR FAILED TO MAKE ANY PAYMENT THEREUNDER WITHIN THIRTY DAYS OF WHEN DUE; OR

(V) FAILED TO COMPLY WITH AN ORDER OF THE FISCAL OFFICER RENDERED PURSUANT TO THIS ARTICLE, WITHIN THIRTY DAYS OF THE FINAL ORDER OR FINAL JUDICIAL DETERMINATION, WHICHEVER IS LATER;

SUCH PERSON, CORPORATION, OFFICER OR SHAREHOLDER SHALL BE INELIGIBLE TO SUBMIT A BID ON OR BE AWARDED ANY PUBLIC BUILDING SERVICE WORK WITH THE STATE, ANY MUNICIPAL CORPORATION, PUBLIC BENEFIT CORPORATION OR PUBLIC BODY FOR A PERIOD OF FIVE YEARS FROM THE DATE OF REFUSAL, SETTLEMENT, STIPULATION OR ORDER.

C. NOTWITHSTANDING ANY LAWS TO THE CONTRARY, WHEN A FINAL ORDER HAS BEEN MADE PURSUANT TO THIS SUBDIVISION, INVOLVING THE WILLFUL FAILURE TO PAY THE PREVAILING RATE OF WAGES OR TO PROVIDE SUPPLEMENTS IN ACCORDANCE WITH THIS ARTICLE, THE FISCAL OFFICER, PURSUANT TO RULES OR REGULATIONS PROMULGATED BY THE FISCAL OFFICER, MAY SEEK A DETERMINATION DECLARING SUCH PERSON OR CORPORATION, OR ANY OFFICER OR SHAREHOLDER WHO OWNS OR CONTROLS AT LEAST TEN PER CENTUM OF THE OUTSTANDING STOCK OF SUCH CORPORATION, INELIGIBLE TO SUBMIT A BID ON OR BE AWARDED ANY PUBLIC WORKS CONTRACT WITH THE STATE, ANY MUNICIPAL CORPORATION, PUBLIC BENEFIT CORPORATION OR PUBLIC BODY FOR A PERIOD OF FIVE YEARS FROM THE DATE OF THE DETERMINATION.

S 3. This act shall take effect immediately.