

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

4342--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. SCHIMMINGER, WEISENBERG, HOYT, KOON -- Multi-Sponsored by -- M. of A. MCENENY -- read once and referred to the Committee on Local Governments -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, the state finance law, the public housing law, the education law, the public authorities law, chapter 892 of the laws of 1971, amending the public authorities law relating to construction by the dormitory authority, and chapter 560 of the laws of 1980, relating to authorizing the city of New York to adopt a waste management law, in relation to project size over which separate contracts on public work are required; and to repeal certain provisions of the general municipal law relating thereto

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

1 Section 1. Subdivisions 1 and 2 of section 101 of the general municipi-
2 pal law, subdivision 1 as amended by section 1 of part MM of chapter 57
3 of the laws of 2008 and subdivision 2 as added by chapter 861 of the
4 laws of 1953, are amended to read as follows:
5 1. Except as otherwise provided in section two hundred twenty-two of
6 the labor law, every officer, board or agency of a political subdivision
7 or of any district therein, charged with the duty of preparing specifi-
8 cations or awarding or entering into contracts for the erection,
9 construction, reconstruction or alteration of buildings[, when the
10 entire cost of such public work shall exceed three million dollars in
11 the counties of the Bronx, Kings, New York, Queens, and Richmond; one
12 million five hundred thousand dollars in the counties of Nassau, Suffolk
13 and Westchester; and five hundred thousand dollars in all other counties
14 within the state,] shall prepare separate specifications for the follow-
15 ing three subdivisions of the work to be performed:
16 a. Plumbing and gas fitting;

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

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1 b. Steam heating, hot water heating, ventilating and air conditioning
2 apparatus; and

3 c. Electric wiring and standard illuminating fixtures.

4 2. A. Such specifications shall be drawn so as to permit separate and
5 independent bidding upon each of the above three subdivisions of work.
6 All contracts awarded by any political subdivision or by an officer,
7 board or agency thereof, or of any district therein, for the erection,
8 construction, reconstruction or alteration of buildings, or any part
9 thereof, shall award the three subdivisions of the above specified work
10 separately in the manner provided by section one hundred three of this
11 chapter. Nothing in this section shall be construed to prevent any poli-
12 tical subdivision from performing any such branches of work by or
13 through their regular employees, or in the case of public institutions,
14 by the inmates thereof.

15 B. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, WHERE THE ESTIMATED
16 COST OF ANY OF THE THREE SUBDIVISIONS OF WORK TO BE PERFORMED DOES NOT
17 EXCEED TEN PERCENT OF THE APPLICABLE DOLLAR THRESHOLD IN SUBDIVISION
18 FOUR OF THIS SECTION, THE PUBLIC OWNER SHALL NOT BE REQUIRED TO PREPARE
19 SEPARATE SPECIFICATIONS FOR, OR BID SUCH SUBDIVISION OF WORK AS A SEPA-
20 RATE CONTRACT.

21 S 2. Subdivisions 3 and 4 of section 101 of the general municipal law
22 are REPEALED and two new subdivisions 3 and 4 are added to read as
23 follows:

24 3. SPECIFICATIONS FOR PUBLIC WORK PERTAINING TO THE ERECTION,
25 CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS MAY PROVIDE FOR
26 THE ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY
27 OR ALL CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE
28 PERSON, FIRM OR CORPORATION WHICH HAS NOT BEEN AWARDED A CONTRACT FOR
29 ANY OTHER PORTION OF SUCH WORK.

30 4. THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO PUBLIC WORK AS
31 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION WHEN THE ENTIRE COST OF
32 SUCH WORK EXCEEDS THREE MILLION DOLLARS.

33 S 3. Paragraph (b) of subdivision 7 of section 120-w of the general
34 municipal law, as amended by section 2 of part MM of chapter 57 of the
35 laws of 2008, is amended to read as follows:

36 (b) Except as otherwise provided in section two hundred twenty-two of
37 the labor law, when the entire cost of constructing such building shall
38 exceed [three million dollars in the counties of the Bronx, Kings, New
39 York, Queens, and Richmond; one million five hundred thousand dollars in
40 the counties of Nassau, Suffolk and Westchester; and five hundred thou-
41 sand dollars in all other counties within the state,] THE DOLLAR LIMITS
42 PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED ONE OF THIS CHAPTER
43 the project developer shall prepare separate specifications for the
44 following subdivisions of such work, so as to permit separate and inde-
45 pendent bidding upon each subdivision:

46 (i) plumbing and gas fittings;

47 (ii) steam heating, hot water heating, ventilating and air condition-
48 ing apparatus; and

49 (iii) electric wiring and standard illuminating fixtures.

50 S 4. Section 135 of the state finance law, as amended by section 3 of
51 part MM of chapter 57 of the laws of 2008, is amended to read as
52 follows:

53 S 135. Separate specifications for [contract] CERTAIN PUBLIC work for
54 the state. 1. Except as otherwise provided in section two hundred twen-
55 ty-two of the labor law, every officer, board, department, commission or
56 commissions, charged with the duty of preparing specifications or award-

1 ing or entering into contracts for the erection, construction or alter-
2 ation of buildings, for the state[, when the entire cost of such work
3 shall exceed three million dollars in the counties of the Bronx, Kings,
4 New York, Queens, and Richmond; one million five hundred thousand
5 dollars in the counties of Nassau, Suffolk and Westchester; and five
6 hundred thousand dollars in all other counties within the state,] must
7 have prepared separate specifications for each of the following three
8 subdivisions of the work to be performed:

9 [1.] (A) Plumbing and gas fitting.

10 [2.] (B) Steam heating, hot water heating, ventilating and air condi-
11 tioning apparatus.

12 [3.] (C) Electric wiring and standard illuminating fixtures.

13 2. (A) Such specifications must be so drawn as to permit separate and
14 independent bidding upon each of the above three subdivisions of work.
15 All contracts hereafter awarded by the state or a department, board,
16 commissioner or officer thereof, for the erection, construction or
17 alteration of buildings, or any part thereof, shall award the three
18 subdivisions of the above specified work separately to responsible and
19 reliable persons, firms or corporations engaged in these classes of
20 work. A contract for one or more buildings in any project shall be
21 awarded to the lowest responsible bidder for all the buildings included
22 in the specifications.

23 (B) Each bidder on a public work contract, where the preparation of
24 separate specifications is not required, shall submit with its bid a
25 separate sealed list that names each subcontractor that the bidder will
26 use to perform work on the contract, and the agreed-upon amount to be
27 paid to each, for: [(a)] (1) plumbing and gas fitting, [(b)] (2) steam
28 heating, hot water heating, ventilating and air conditioning apparatus
29 and [(c)] (3) electric wiring and standard illuminating fixtures. After
30 the low bid is announced, the sealed list of subcontractors submitted
31 with such low bid shall be opened and the names of such subcontractors
32 shall be announced, and thereafter any change of subcontractor or
33 agreed-upon amount to be paid to each shall require the approval of the
34 public owner, upon a showing presented to the public owner of legitimate
35 construction need for such change, which shall be open to public
36 inspection. Legitimate construction need shall include, but not be
37 limited to, a change in project specifications, a change in construction
38 material costs, a change to subcontractor status as determined pursuant
39 to paragraph (e) of subdivision two of section two hundred twenty-two of
40 the labor law, or the subcontractor has become otherwise unwilling,
41 unable or unavailable to perform the subcontract. The sealed lists of
42 subcontractors submitted by all other bidders shall be returned to them
43 unopened after the contract award.

44 (C) Nothing in this section shall be construed to prevent the authori-
45 ties in charge of any state building, from performing any such branches
46 of work by or through their regular employees, or in the case of public
47 institutions, by the inmates thereof.

48 (D) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, WHERE THE ESTI-
49 MATED COST OF ANY OF THE THREE SUBDIVISIONS OF WORK TO BE PERFORMED DOES
50 NOT EXCEED TEN PERCENT OF THE APPLICABLE DOLLAR THRESHOLD IN SUBDIVISION
51 FOUR OF THIS SECTION, THE PUBLIC OWNER SHALL NOT BE REQUIRED TO PREPARE
52 SEPARATE SPECIFICATIONS FOR, OR BID SUCH SUBDIVISION OF WORK AS A SEPA-
53 RATE CONTRACT.

54 3. SPECIFICATIONS FOR PUBLIC WORK PERTAINING TO THE ERECTION,
55 CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS MAY PROVIDE FOR
56 THE ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY

1 OR ALL CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE
2 PERSON, FIRM OR CORPORATION WHICH HAS NOT BEEN AWARDED A CONTRACT FOR
3 ANY OTHER PORTION OF SUCH WORK.

4 4. THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO PUBLIC WORK AS
5 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION WHEN THE ENTIRE COST OF
6 SUCH WORK EXCEEDS THREE MILLION DOLLARS.

7 S 5. Section 151-a of the public housing law, as amended by chapter
8 572 of the laws of 1964, subdivision 1 as amended and subdivision 2-a as
9 added by section 4 of part MM of chapter 57 of the laws of 2008, is
10 amended to read as follows:

11 S 151-a. Separate specifications for certain [subdivisions of work
12 involved in the construction or alteration of buildings as a part of or
13 in connection with] PUBLIC WORK INVOLVING housing projects. [1.]
14 Notwithstanding any inconsistent provision of this chapter or any other
15 general, special or local law, except as otherwise provided in section
16 two hundred twenty-two of the labor law, any authority or municipality,
17 or any officer, board, department, commission or other agency thereof
18 charged with the duty of preparing specifications or awarding or enter-
19 ing into contracts involving the erection, construction, reconstruction
20 or alteration of any building or other appurtenance as a part of or in
21 connection with a project or any part thereof in any part of the state
22 under or pursuant to the authority of this chapter[, when the entire
23 cost of such work shall exceed three million dollars in the counties of
24 the Bronx, Kings, New York, Queens, and Richmond; one million five
25 hundred thousand dollars in the counties of Nassau, Suffolk and West-
26 chester; and five hundred thousand dollars in all other counties within
27 the state, must have prepared separate specifications for the following
28 three subdivisions of the work to be performed:

29 a. Plumbing and gas fitting;
30 b. Steam heating, hot water heating, ventilating and air conditioning
31 apparatus; and

32 c. Electric wiring and standard illuminating fixtures.

33 2. Such specifications must be so drawn as to permit separate and
34 independent bidding upon each of the above three subdivisions of work.
35 All contracts hereafter awarded by any such authority or municipality,
36 or any officer, board, department, commission or other agency thereof,
37 involving the erection, construction, reconstruction or alteration of
38 any building as a part of or in connection with any project under or
39 pursuant to this chapter, shall award the three subdivisions of the
40 above specified work separately to responsible and reliable persons,
41 firms or corporations engaged in such classes of work.

42 2-a. Each bidder on a public work contract, where the preparation of
43 separate specifications is not required, shall submit with its bid a
44 separate sealed list that names each subcontractor that the bidder will
45 use to perform work on the contract, and the agreed-upon amount to be
46 paid to each, for: a. plumbing and gas fitting, b. steam heating, hot
47 water heating, ventilating and air conditioning apparatus and c. elec-
48 tric wiring and standard illuminating fixtures. After the low bid is
49 announced, the sealed list of subcontractors submitted with such low bid
50 shall be opened and the names of such subcontractors shall be announced,
51 and thereafter any change of subcontractor or agreed-upon amount to be
52 paid to each shall require the approval of the public owner, upon a
53 showing presented to the public owner of legitimate construction need
54 for such change, which shall be open to public inspection. Legitimate
55 construction need shall include, but not be limited to, a change in
56 project specifications, a change in construction material costs, a

1 change to subcontractor status as determined pursuant to paragraph (e)
2 of subdivision two of section two hundred twenty-two of the labor law,
3 or the subcontractor has become otherwise unwilling, unable or unavail-
4 able to perform the subcontract. The sealed lists of subcontractors
5 submitted by all other bidders shall be returned to them unopened after
6 the contract award.

7 3. Nothing in this section shall be construed to prevent any such
8 authority or municipality in charge of any such project from performing
9 any such branches of work by or through their regular employees] SHALL
10 CONTRACT FOR PUBLIC WORK INVOLVING HOUSING PROJECTS PURSUANT TO SECTION
11 ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW.

12 S 6. The opening paragraph of subdivision 2 of section 458 of the
13 education law, as amended by section 5 of part MM of chapter 57 of the
14 laws of 2008, is amended to read as follows:

15 Except as otherwise provided in section two hundred twenty-two of the
16 labor law, every contract, lease or other agreement entered into by or
17 on behalf of the fund for the acquisition, lease, construction, recon-
18 struction, rehabilitation or improvement of the school portion of the
19 work in any combined occupancy structure shall contain a provision that,
20 when the entire cost of any such contemplated construction, recon-
21 struction, rehabilitation or improvement for the school portion of the
22 work shall exceed [three million dollars in the counties of the Bronx,
23 Kings, New York, Queens, and Richmond; one million five hundred thousand
24 dollars in the counties of Nassau, Suffolk and Westchester; and five
25 hundred thousand dollars in all other counties within the state,] THE
26 DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED ONE OF
27 THE GENERAL MUNICIPAL LAW separate specifications shall be prepared for
28 the following three subdivisions of the work on the school portion to be
29 performed:

30 S 7. The opening paragraph of subdivision 2 of section 482 of the
31 education law, as amended by section 6 of part MM of chapter 57 of the
32 laws of 2008, is amended to read as follows:

33 Except as otherwise provided in section two hundred twenty-two of the
34 labor law, every contract, lease or other agreement entered into by or
35 on behalf of the fund for the acquisition, lease, construction, recon-
36 struction, rehabilitation or improvement of any combined occupancy
37 structure shall contain a provision that, when the entire cost of any
38 such contemplated construction, reconstruction, rehabilitation or
39 improvement shall exceed [three million dollars in the counties of the
40 Bronx, Kings, New York, Queens, and Richmond; one million five hundred
41 thousand dollars in the counties of Nassau, Suffolk and Westchester; and
42 five hundred thousand dollars in all other counties within the state,]
43 THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED
44 ONE OF THE GENERAL MUNICIPAL LAW separate specifications shall be
45 prepared for the following three subdivisions of the work to be
46 performed:

47 S 8. Subdivision 2 of section 1045-i of the public authorities law, as
48 amended by section 7 of part MM of chapter 57 of the laws of 2008, is
49 amended to read as follows:

50 2. Any such agreements (i) shall describe in sufficient detail for
51 reasonable identification the particular water project to be financed in
52 whole or in part by the authority, (ii) shall describe the plan for the
53 financing of the cost of the construction of such water project, includ-
54 ing the amount, if any, to be provided by the water board and the source
55 or sources thereof, (iii) shall set forth the method by which and by
56 whom and the terms and conditions upon which moneys provided by the

1 authority shall be disbursed, (iv) may require, in the discretion of the
2 authority, the payment to the authority of the proceeds of any state and
3 federal grants available to the water board, (v) shall provide for the
4 establishment of user fees, rates, rents and other charges and the
5 charging and collection thereof by the water board for the use of, or
6 services furnished, rendered or made available by such system such as to
7 provide that such board receive revenues at least sufficient, together
8 with other revenues of the board, if any, to meet the requirements of
9 subdivision one of section one thousand forty-five-j of this title,
10 provided that revenues received by such board shall be deposited in a
11 special fund established pursuant to this title and disbursed to, and
12 upon certification of, the authority, (vi) may provide for the transfer
13 by the city to the water board pursuant to section one thousand forty-
14 five-h of this title of ownership of the sewerage system or water
15 system, or both, as the case may be, of which such project will form a
16 part by the city, (vii) shall provide for the construction and
17 completion of such water project by the city and for the operation,
18 maintenance and repair thereof as an integrated part of the system of
19 which such water project forms a part, subject to such terms and condi-
20 tions, not inconsistent with this title, which may be in the public
21 interest and necessary or desirable properly and adequately to secure
22 the holders of bonds of the authority, provided, however, all contracts
23 for public work and all purchase contracts shall be awarded by the city
24 as provided by law for the award of such contracts by the city and that
25 all contracts for construction shall be let in accordance with the
26 provisions of state law pertaining to prevailing wages, labor standards
27 and working hours. Except as otherwise provided in section two hundred
28 twenty-two of the labor law, when the entire cost of constructing a
29 building as part of any water project shall exceed [three million
30 dollars] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE
31 HUNDRED ONE OF THE GENERAL MUNICIPAL LAW, the city shall prepare sepa-
32 rate specifications for the following three subdivisions of the work to
33 be performed: (a) plumbing and gas fitting; (b) steam heating, hot water
34 heating, ventilating and air conditioning apparatus; and (c) electric
35 wiring and standard illuminating fixtures, (viii) shall provide for the
36 discontinuance or disconnection of the supply of water or the provision
37 of sewerage service, or both, as the case may be, for non-payment of
38 fees, rates, rents or other charges therefor imposed by the water board,
39 provided such discontinuance or disconnection of any supply of water or
40 the provision of sewerage service, or both, as the case may be, shall
41 not be carried out except in the manner and upon the notice as is
42 required of a waterworks corporation pursuant to subdivisions three-a,
43 three-b and three-c of section eighty-nine-b and section one hundred
44 sixteen of the public service law, and (ix) in the discretion of the
45 authority, require reports concerning the project from the water board
46 to the authority and the city.

47 S 9. Subdivision 2 of section 1048-i of the public authorities law, as
48 amended by section 8 of part MM of chapter 57 of the laws of 2008, is
49 amended to read as follows:

50 2. Any such agreements (i) shall describe in sufficient detail for
51 reasonable identification the particular water project to be financed in
52 whole or in part by the authority, (ii) shall describe the plan for the
53 financing of the cost of the construction of such water project, includ-
54 ing the amount, if any, to be provided by the water board and the source
55 or sources thereof, (iii) shall set forth the method by which and by
56 whom and the terms and conditions upon which moneys provided by the

1 authority shall be disbursed, (iv) may require, in the discretion of the
2 authority, the payment to the authority of the proceeds of any state and
3 federal grants available to the water board, (v) shall provide for the
4 establishment of user fees, rates, rents and other charges and the
5 charging and collection thereof by the water board for the use of, or
6 services furnished, rendered or made available by such system such as to
7 provide that such board receive revenues at least sufficient, together
8 with other revenues of the board, if any, to meet the requirements of
9 subdivision one of section one thousand forty-eight-j of this title,
10 provided that revenues received by such board shall be deposited in a
11 special fund established pursuant to this title and disbursed to, and
12 upon certification of, the authority, (vi) may provide for the transfer
13 by the city to the water board pursuant to section one thousand forty-
14 eight-h of this title of ownership of the water system of which such
15 project will form a part, (vii) shall provide for the construction and
16 completion of such water project by the city and for the operation,
17 maintenance and repair thereof as an integrated part of the system of
18 which such water project forms a part, subject to such terms and condi-
19 tions, not inconsistent with this title, which may be in the public
20 interest and necessary or desirable properly and adequately to secure
21 the holders of bonds of the authority, provided, however, all contracts
22 for public work and all purchase contracts shall be awarded by the city
23 as provided by law for the award of such contracts by the city and that
24 all contracts for construction shall be let in accordance with the
25 provisions of state law pertaining to prevailing wages, labor standards
26 and working hours. Except as otherwise provided in section two hundred
27 twenty-two of the labor law, when the entire cost of constructing a
28 building as part of any water project shall exceed [five hundred thou-
29 sand dollars] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION
30 ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW, the city shall prepare
31 separate specifications for the following three subdivisions of the work
32 to be performed: (a) plumbing and gas fitting; (b) steam heating, hot
33 water heating, ventilating and air conditioning apparatus; and (c) elec-
34 tric wiring and standard illuminating fixtures, (viii) shall provide for
35 the discontinuance or disconnection of the supply of water for non-pay-
36 ment of fees, rates, rents or other charges therefor imposed by the
37 water board, provided such discontinuance or disconnection of any supply
38 of water shall not be carried out except in the manner and upon the
39 notice as is required of a waterworks corporation pursuant to subdivi-
40 sions three-a, three-b and three-c of section eighty-nine-b and section
41 one hundred sixteen of the public service law, and (ix) in the
42 discretion of the authority, require reports concerning the project from
43 the water board to the authority and the city.

44 S 10. The opening paragraph of section 9 of chapter 892 of the laws of
45 1971, amending the public authorities law relating to construction by
46 the dormitory authority, as amended by section 14 of part MM of chapter
47 57 of the laws of 2008, is amended to read as follows:

48 Except as otherwise provided in section 222 of the labor law, the
49 dormitory authority in awarding or entering into contracts for the
50 erection, construction, reconstruction or alteration of buildings,
51 pursuant to the provisions added by this act, when the entire cost of
52 such work shall exceed [three million dollars in the counties of the
53 Bronx, Kings, New York, Queens, and Richmond; one million five hundred
54 thousand dollars in the counties of Nassau, Suffolk and Westchester; and
55 five hundred thousand dollars in all other counties within the state]
56 THE DOLLAR LIMITS PROVIDED IN SUBDIVISION 4 OF SECTION 135 OF THE STATE

1 FINANCE LAW, shall prepare separate specifications for the following
2 three subdivisions of the work to be performed:

3 S 11. The opening paragraph of subdivision (c) of section 4 of chapter
4 560 of the laws of 1980 relating to authorizing the city of New York to
5 adopt a waste management law, as amended by section 13 of part MM of
6 chapter 57 of the laws of 2008, is amended to read as follows:

7 Except as otherwise provided in section 222 of the labor law, every
8 contract, lease or other agreement entered into, pursuant to this
9 section, by the city of New York for construction, reconstruction, reha-
10 bilitation or improvement of buildings for a solid waste recovery and
11 management facility shall contain a provision that, when the entire cost
12 of such work shall exceed [three million dollars] THE DOLLAR LIMITS
13 PROVIDED IN SUBDIVISION 4 OF SECTION 101 OF THE GENERAL MUNICIPAL LAW,
14 separate specifications shall be prepared for the following three subdi-
15 visions of work:

16 S 12. This act shall take effect immediately and shall apply to all
17 subject contracts bid on and after January first next succeeding such
18 effective date.