

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

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. McKEVITT, KOLB, CROUCH, WALKER, ALFANO, BARRA --
Multi-Sponsored by -- M. of A. BACALLES, ERRIGO, FINCH, HAWLEY,
P. LOPEZ, McDONOUGH, MILLER -- read once and referred to the Committee
on Governmental Operations

AN ACT to amend the state finance law, in relation to providing a preference to New York state contractors for purposes of public works contracts

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

1 Section 1. The state finance law is amended by adding a new section
2 147 to read as follows:
3 S 147. PREFERENCE FOR NEW YORK STATE CONTRACTORS. 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, WHEN LETTING CONTRACTS IN ACCORDANCE WITH
4 SECTION ONE HUNDRED THIRTY-FIVE OF THIS ARTICLE FOR THE PURPOSE OF
5 ERECTING, CONSTRUCTING, RECONSTRUCTING, ALTERING OR REPAIRING BUILDINGS
6 OF THE STATE, BID SPECIFICATIONS OF EVERY OFFICER, BOARD, DEPARTMENT,
7 COMMISSION OR COMMISSIONS CHARGED WITH THE DUTY OF PREPARING SPECIFICATIONS OR AWARDING SUCH CONTRACTS MAY REQUIRE PROVISIONS THAT MANDATE
8 THAT THE ESSENTIAL COMPONENTS OF SUCH PROJECTS BE PRODUCED OR PROCESSED
9 IN FACILITIES LOCATED WITHIN THE STATE AND THAT THE SERVICES FOR WORK,
10 LABOR AND SUPERVISION OF SUCH PROJECTS BE PERFORMED BY PARTNERSHIPS,
11 FIRMS, BUSINESSES OR CORPORATIONS WHICH ARE RESIDENTS OF THE STATE.
12 2. THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF
13 LABOR SHALL DETERMINE, USING UNIFORM CRITERIA, THOSE TYPES OF COMPONENTS
14 AND SERVICES FOR WHICH THE REQUIREMENTS OF THIS SECTION ARE DEEMED BENEFICIAL AND SHALL PROMULGATE AND FORWARD TO THE APPROPRIATE AGENCIES A
15 LIST OF SUCH COMPONENTS AND SERVICES. SUCH COMMISSIONERS SHALL UPDATE
16 SUCH LIST AS OFTEN AS IS DEEMED BY THEM TO BE NECESSARY.
17 3. (A) THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER
18 OF LABOR SHALL SPECIFY THE PERCENTAGE OF UNEMPLOYMENT REQUIRED TO EXIST
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 IN THE PERTINENT INDUSTRIES WITHIN THE STATE AND THE PERCENTAGE OF EACH
2 COMPONENT REQUIRED TO BE PRODUCED OR PROCESSED IN THE STATE.

3 (B) UPON A DETERMINATION BY SUCH COMMISSIONERS THAT A SUFFICIENT
4 PERCENTAGE OF UNEMPLOYMENT IN THE PERTINENT INDUSTRIES OF NEW YORK
5 PRODUCED OR PROCESSED COMPONENTS DOES NOT EXIST IN THE STATE, THE SPEC-
6 IFICATIONS REQUIRING THE USE OF NEW YORK PRODUCED OR PROCESSED COMPO-
7 NENTS OR NEW YORK SERVICES FOR WORK, LABOR AND SUPERVISION SHALL BE
8 WAIVED.

9 (C) IN THE EVENT THAT NO ACCEPTABLE BIDS ARE RECEIVED, THE PROVISIONS
10 OF THIS SECTION MAY BE WAIVED AND THE CONTRACT MAY BE AWARDED IN ACCORD-
11 ANCE WITH OTHER APPLICABLE STATUTES. IN ADDITION, IF SUCH COMMISSIONERS
12 AGREE TO THE DELETERIOUS ECONOMIC IMPACT OF THESE SPECIFICATIONS, THE
13 PROVISIONS OF THIS SECTION MAY BE WAIVED.

14 4. THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF
15 LABOR MAY ISSUE SUCH REGULATIONS AS THEY DEEM NECESSARY AND PROPER FOR
16 THE IMPLEMENTATION OF THIS SECTION.

17 5. (A) WITH EACH BID, THE BIDDER SHALL CERTIFY THAT THE COMPONENTS AND
18 SERVICES FOR WORK, LABOR AND SUPERVISION TO BE UTILIZED SHALL BE IN
19 CONFORMITY WITH THE PROVISIONS OF THIS SECTION.

20 (B) ANY SUCCESSFUL BIDDER WHO FAILS TO COMPLY WITH THE PROVISIONS OF
21 THIS SECTION SHALL FORFEIT THE RIGHT TO BID ON CONTRACTS LET UNDER THE
22 PROVISIONS OF THIS SECTION FOR A PERIOD OF TIME TO BE DETERMINED BY THE
23 COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR.

24 6. EACH SUCCEEDING YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
25 COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR SHALL
26 PROVIDE THE LEGISLATURE WITH A REPORT ON THE FIFTEENTH DAY OF JANUARY ON
27 THE EFFECTS OF THIS SECTION AND RECOMMENDATIONS ON WAYS TO MAKE IT MORE
28 EFFECTIVE.

29 7. IF ANY CLAUSE, SENTENCE, PARAGRAPH, OR PART OF THIS SECTION OR THE
30 APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES, SHALL, FOR ANY
31 REASON, BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID,
32 SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER OF
33 THIS SECTION, AND THE APPLICATION THEREOF TO OTHER PERSONS OR CIRCUM-
34 STANCES, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE,
35 PARAGRAPH, OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH
36 SUCH JUDGMENT SHALL HAVE BEEN RENDERED AND TO THE PERSON OR CIRCUM-
37 STANCES INVOLVED. IT IS HEREBY DECLARED TO BE THE INTENT THAT THIS
38 SECTION WOULD HAVE BEEN ADOPTED HAD SUCH INVALID PROVISIONS NOT BEEN
39 INCLUDED.

40 S 2. This act shall take effect on the sixtieth day after it shall
41 have become a law.