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

588

2009-2010 Regular Sessions

I N S E N A T E

January 9, 2009

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

AN ACT to amend the labor law, in relation to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage

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

Section 1. Legislative findings and intent. The legislature finds and declares that the prevailing wage law was established to provide fair and equitable working conditions, wages and supplementary benefits for persons employed on public works construction projects.

The legislature further finds and declares that there are growing number of instances where materials are fabricated off the public work job site either to meet the unique specifications of the project subject to a public work contract or for the contractor's convenience.

The legislature further finds and declares that in many instances the prevailing wage is not paid to persons involved in off-site fabrication of materials which are used specifically for public works projects.

It is the intent of the legislature that construction and fabrication done off the public work site for specific use only in public work projects be compensated at the prevailing wage rate.

S 2. Subdivision 3 of section 220 of the labor law is amended by adding a new closing paragraph to read as follows:

"CUSTOM FABRICATION" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FABRICATION OF WOODWORK, CASES, CABINETS OR COUNTERS AND THE FABRICATION OF ELECTRICAL, PLUMBING, HEATING, COOLING, VENTILATION OR EXHAUST DUCT SYSTEMS, AND MECHANICAL INSULATION SOLELY AND SPECIFICALLY DESIGNED AND ENGINEERED FOR INSTALLATION IN THE CONSTRUCTION, REPAIR OR RENOVATION OF A BUILDING WHICH IS THE SUBJECT OF A CONTRACT TO WHICH THE STATE, A MUNICIPAL CORPORATION, A PUBLIC BENEFIT CORPORATION OR A COMMISSION APPOINTED PURSUANT TO LAW IS A PARTY. FOR THE PURPOSES OF THIS SUBDIVI-

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

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SION CONTRACTORS OR SUBCONTRACTORS ENGAGED IN CUSTOM FABRICATION SHALL NOT BE REGARDED AS MATERIAL SUPPLIERS. FOR THE PURPOSES OF THIS SUBDIVISION, A LEGAL DAY'S WORK FOR WHICH THE PREVAILING RATE OF WAGES SHALL BE PAID TO LABORERS, WORKERS AND MECHANICS SHALL INCLUDE CUSTOM FABRICATION WHETHER OR NOT THE CUSTOM FABRICATION IS DONE ON THE PUBLIC WORK SITE. IT SHALL BE A CONDITION OF THE CONTRACT CONCERNING SUCH OFF-SITE CUSTOM FABRICATION WORK THAT THE CONTRACTOR OR EMPLOYER AWARDED THE PUBLIC WORK CONTRACT SHALL COVENANT TO PAY THE ON-SITE PREVAILING WAGE OF THE PUBLIC WORK PROJECT. EACH CONTRACTOR WHO EMPLOYS WORKERS OFF-SITE ON A PUBLIC WORK PROJECT MUST MAINTAIN CERTIFIED PAYROLLS AND PROVIDE SUCH PAYROLLS, WITH ORIGINAL CERTIFICATIONS, TO THE CONTRACTING AGENCY AT LEAST ONCE EVERY THIRTY DAYS.

S 3. This act shall take effect on the sixtieth day after it shall have become a law and shall apply only to those contracts put out to bid on or after such effective date.