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

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I N A S S E M B L Y

May 12, 2010

Introduced by M. of A. JORDAN, CORWIN, BURLING, P. LOPEZ, MONTESANO, FINCH, AMEDORE -- Multi-Sponsored by -- M. of A. CROUCH, HAWLEY -- read once and referred to the Committee on Labor

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

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

Section 1. Paragraphs a and d of subdivision 5 of section 220 of the labor law, paragraph a as amended and paragraph d as added by chapter 447 of the laws of 1983, are amended to read as follows:

a. The "prevailing rate of wage," for the intents and purposes of this article, shall be [the rate of wage paid in the locality, as hereinafter defined, by virtue of collective bargaining agreements between bona fide labor organizations and employers of the private sector, performing public or private work provided that said employers employ at least thirty per centum of workers, laborers or mechanics in the same trade or occupation in the locality where the work is being performed. The prevailing rate of wage shall be annually determined in accordance herewith by the fiscal officer no later than thirty days prior to July first of each year, and the prevailing rate of wage for the period commencing July first of such year through June thirtieth, inclusive, of the following year shall be the rate of wage set forth in such collective bargaining agreements for the period commencing July first through June thirtieth, including those increases for such period which are directly ascertainable from such collective bargaining agreements by the fiscal officer in his annual determination. In the event that it is determined after a contest, as provided in subdivision six of this section, that less than thirty percent of the workers, laborers or mechanics in a particular trade or occupation in the locality where the work is being performed receive a collectively bargained rate of wage, then] the average wage paid to such workers, laborers or mechanics in the same trade or occupation in the locality for the twelve-month period preceding the fiscal officer's annual determination [shall be the prevailing rate of wage]. Laborers, workers or mechanics for whom a prevailing rate of wage is to be determined shall not be considered in determining such

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

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prevailing wage. THE FISCAL OFFICER SHALL MAKE AN ANNUAL DETERMINATION OF THE PREVAILING WAGE, AND SHALL BE EMPOWERED TO CAUSE AN INVESTIGATION TO BE MADE TO DETERMINE THE WAGES PREVAILING IN ANY LOCALITY IN ALL CRAFTS, TRADES AND OCCUPATIONS INVOLVED IN WORK TO BE PERFORMED; IN MAKING SUCH INVESTIGATION, THE FISCAL OFFICER SHALL UTILIZE WAGE AND FRINGE BENEFIT DATA FROM VARIOUS SOURCES INCLUDING, BUT NOT LIMITED TO, DATA AND DETERMINATIONS OF FEDERAL, STATE OR OTHER GOVERNMENTAL AGENCIES, INCLUSIVE OF DATA ENCOMPASSING BOTH EMPLOYERS WHOSE EMPLOYEES ARE SUBJECT TO COLLECTIVE BARGAINING AGREEMENTS AS WELL AS EMPLOYERS NOT SO SUBJECT, AND TO ESTABLISH SUCH RATES IN SUCH A FASHION AS TO GATHER AN ACCURATE AND FAIR MEASURE OF THOSE WAGE RATES.

d. "Locality" means [such areas of the state described and defined for a trade or occupation in the current collective bargaining agreements between bona fide labor organizations and employers of the private sector, performing public and private work] THE COUNTY OR, IN THE EVENT THAT A PROJECT CROSSES THE BOUNDARIES OF TWO COUNTIES, THE AVERAGE OF THE PREVAILING WAGE OF THOSE TWO COUNTIES AS DEFINED BY THE FISCAL OFFICER. IN THE CASE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE, ALL COUNTIES COMPRISING SUCH A CITY SHALL BE CONSIDERED A SINGLE LOCALITY FOR PURPOSES OF THIS SECTION.

S 2. Subdivision 7 of section 230 of the labor law, as added by chapter 777 of the laws of 1971, is amended to read as follows:

7. "Locality" means [the state, a town, city, village or other civil division or area of the state as determined by the fiscal officer. The fiscal officer may fix a different geographic area in determining the locality for the prevailing basic hourly cash rate of pay and the locality for prevailing supplements] THE COUNTY WHERE SUCH BUILDING SERVICES ARE PERFORMED. IN THE CASE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE, ALL COUNTIES COMPRISING SUCH A CITY SHALL BE CONSIDERED A SINGLE LOCALITY FOR PURPOSES OF THIS SECTION.

S 3. Paragraph (a) of subdivision 1 of section 234 of the labor law, as added by chapter 777 of the laws of 1971, is amended to read as follows:

(a) to cause an investigation to be made to determine the wages prevailing in any locality in all crafts, trades and occupations involved in service work; in making such investigation, the fiscal officer may utilize wage and fringe benefit data from various sources including, but not limited to, data and determinations of federal, state or other governmental agencies, INCLUSIVE OF DATA ENCOMPASSING BOTH EMPLOYERS WHOSE EMPLOYEES ARE SUBJECT TO COLLECTIVE BARGAINING AGREEMENTS AS WELL AS EMPLOYERS NOT SO SUBJECT, AND TO ESTABLISH SUCH RATES IN SUCH A FASHION AS TO GATHER AN ACCURATE AND FAIR MEASURE OF THOSE WAGE RATES;

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.