

11672

I N A S S E M B L Y

July 30, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gianaris) --
read once and referred to the Committee on Labor

AN ACT to amend the labor law and a chapter of the laws of 2010, amending the labor law relating to prevailing wages for service workers, as proposed in legislative bills numbers S.8379-A and A.10257-D, in relation to applicability of certain provisions relating to such wages and the effective date of such chapter; and to repeal certain provisions of the labor 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 230 of the labor law, as
2 amended by a chapter of the laws of 2010 amending the labor law relating
3 to prevailing wages for service workers, as proposed in legislative
4 bills numbers S.8379-A and A.10257-D, is amended to read as follows:
5 1. "Service employee" or "employee" means any person performing jani-
6 torial, or security service work for a contractor, [other than a busi-
7 ness improvement district,] under contract with a public agency which is
8 in excess of [ten] TWO thousand dollars and the principal purpose of
9 which is to furnish services through the use of service employees, or
10 any other person performing work in connection with the care or mainte-
11 nance of an existing building, or in connection with the transportation
12 of office furniture or equipment to or from such building, or in
13 connection with the transportation and delivery of fossil fuel to such
14 building, for a contractor under a contract with a public agency which
15 is in excess of [ten] TWO thousand dollars and the principal purpose of
16 which is to furnish services through the use of service employees.
17 "Service employee" or "employee" includes, but is not limited, to,
18 watchman, guard, doorman, building cleaner, porter, handyman, janitor,
19 gardener, groundskeeper, stationary fireman, elevator operator and star-
20 ter, window cleaner, and occupations relating to the collection of
21 garbage or refuse, and to the transportation of office furniture and
22 equipment, and to the transportation and delivery of fossil fuel but
23 does not include clerical, sales, professional, technician and related
24 occupations.

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

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1 "Service employee" or "employee" also does not include any employee to
2 whom the provisions of articles eight and eight-A of this chapter are
3 applicable.

4 2. "Service work" means work performed by a service employee, but does
5 not include work performed for a contractor under a contract for the
6 furnishing of services by radio, telephone, telegraph or cable companies
7 OR JANITORIAL OR SECURITY WORK PERFORMED ON THE PREMISES OWNED OR OPER-
8 ATED BY THE POWER AUTHORITY OF THE STATE OF NEW YORK UNLESS SUCH PREM-
9 ISSES ARE JOINTLY OWNED OR OPERATED WITH ANY NON-GOVERNMENTAL PUBLIC
10 UTILITY OR SUBSTANTIALLY-OWNED AFFILIATED ENTITY OF SUCH PUBLIC UTILITY
11 AS DEFINED IN SUBDIVISION THREE OF THIS SECTION. ["Service work" shall
12 also include work performed under a contract, with the exception of a
13 contract or subcontract in which a business improvement district is a
14 party, for the benefit of a public agency with any third party person or
15 entity acting in place of, on behalf of or for the benefit of such
16 public agency in the provision of building or property management
17 services or similar services pursuant to any lease or other agreement
18 between such third party person or entity and the public agency
19 provided, however, that "service work" shall not include work performed
20 under a lease or similar agreement in a privately owned building where
21 the space occupied by the public agency represents less than ten thou-
22 sand square feet.]

23 S 2. Subdivision 8 of section 231 of the labor law, as added by a
24 chapter of the laws of 2010 amending the labor law relating to prevail-
25 ing wages for service workers, as proposed in legislative bills numbers
26 S.8379-A and A.10257-D, is REPEALED.

27 S 3. Section 10 of a chapter of the laws of 2010, amending the labor
28 law relating to prevailing wages for service workers, as proposed in
29 legislative bills numbers S.8379-A and A.10257-D, is amended to read as
30 follows:

31 S 10. This act shall take effect on the ninetieth day after it shall
32 have become a law, and shall apply to all contracts or other agreements
33 entered into, renewed, or extended on or after such date; PROVIDED THAT
34 PAYMENT OF PREVAILING WAGES FOR WORK PERFORMED UNDER A CONTRACT OR OTHER
35 AGREEMENT MADE SUBJECT TO PREVAILING WAGE REQUIREMENTS BY THIS ACT SHALL
36 NOT BE REQUIRED FOR WORK PERFORMED BEFORE JULY 1, 2011; provided,
37 FURTHER however: (a) the amendments to subdivision 4 of section 230 of
38 the labor law made by section two of this act shall be subject to the
39 expiration and reversion of such subdivision pursuant to section 5 of
40 chapter 678 of the laws of 2007, as amended, when upon such date the
41 provisions of section four of this act shall take effect; and

42 (b) the amendments to subdivision 5 of section 231 of the labor law
43 made by section three of this act shall be subject to the expiration and
44 reversion of such subdivision pursuant to section 5 of chapter 678 of
45 the laws of 2007, as amended, when upon such date the provisions of
46 section five of this act shall take effect.

47 S 4. This act shall take effect immediately; provided, however, that
48 sections one and two of this act shall take effect on the same date and
49 in the same manner as a chapter of the laws of 2010 amending the labor
50 law relating to prevailing wages for service workers, as proposed in
51 legislative bills numbers S.8379-A and A.10257-D, takes effect.