

2129

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. JOHN, NOLAN, PERALTA, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. COLTON, GOTTFRIED, GREENE, HEASTIE, LIFTON, O'DONNELL, ORTIZ, PERRY, PHEFFER, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, the general municipal law and the public officers law, in relation to the omnibus prevailing wage enforcement act and to amend chapter 511 of the laws of 1995, relating to establishing a public work enforcement fund and making an appropriation therefor, in relation to moneys accumulated in the public work enforcement fund

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

1 Section 1. This act shall be known and may be cited as the "omnibus
2 prevailing wage enforcement act".
3 S 2. The labor law is amended by adding a new section 223-a to read as
4 follows:
5 S 223-A. PREVAILING WAGE FRAUD INSPECTOR GENERAL. 1. DEFINITIONS.
6 FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:
7 (A) "INSPECTOR GENERAL" MEANS THE PREVAILING WAGE FRAUD INSPECTOR
8 GENERAL CREATED BY THIS SECTION.
9 (B) "ASSISTANT INSPECTOR GENERAL" MEANS A PREVAILING WAGE FRAUD
10 ASSISTANT INSPECTOR GENERAL CREATED BY THIS SECTION.
11 2. APPOINTMENT, COMPENSATION AND REMOVAL. NOTWITHSTANDING ANY OTHER
12 PROVISION OF LAW, THE GOVERNOR SHALL APPOINT THE INSPECTOR GENERAL. THE
13 BOARD SHALL EMPLOY AND THE GOVERNOR SHALL FIX THE COMPENSATION OF THE
14 INSPECTOR GENERAL. THE INSPECTOR GENERAL SHALL, AND MAY DO SO WITHOUT
15 CIVIL SERVICE EXAMINATION, APPOINT AND THE BOARD SHALL EMPLOY, SUCH
16 ASSISTANT INSPECTOR GENERAL AND OTHER PERSONS AS HE OR SHE DEEMS NECES-
17 SARY, DETERMINE THEIR DUTIES AND FIX THEIR COMPENSATION. SUCH ASSISTANT
18 INSPECTOR GENERAL SHALL ASSIST THE INSPECTOR GENERAL IN CARRYING OUT THE
19 INSPECTOR GENERAL'S DUTIES AND RESPONSIBILITIES AS SET FORTH IN THIS

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

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SECTION AND SHALL HAVE SUCH POWERS AS GRANTED THE INSPECTOR GENERAL UNDER THIS SECTION. EMPLOYEES APPOINTED PURSUANT TO THIS SECTION WITHOUT CIVIL SERVICE EXAMINATION SHALL BE PLACED IN THE NONCOMPETITIVE CLASS OF THE COMPETITIVE SERVICE PURSUANT TO SUBDIVISION TWO-A OF SECTION FORTY-TWO OF THE CIVIL SERVICE LAW AND SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.

3. POWERS, DUTIES AND RESPONSIBILITIES. THE INSPECTOR GENERAL SHALL INVESTIGATE VIOLATIONS OF THE LAWS AND REGULATIONS PERTAINING TO THE OPERATION OF PREVAILING WAGE PROVISIONS. THE INSPECTOR GENERAL SHALL HAVE THE FOLLOWING POWERS, DUTIES AND FUNCTIONS:

(A) TO CONDUCT AND SUPERVISE INVESTIGATIONS, WITHIN OR WITHOUT THIS STATE, OF POSSIBLE FRAUD AND OTHER VIOLATIONS OF LAWS, RULES AND REGULATIONS PERTAINING TO PREVAILING WAGE PROVISIONS;

(B) TO SUBPOENA WITNESSES, ADMINISTER OATHS OR AFFIRMATIONS, TAKE TESTIMONY AND COMPEL THE PRODUCTION OF SUCH BOOKS, PAPERS, RECORDS AND DOCUMENTS AS THE INSPECTOR GENERAL MAY DEEM TO BE RELEVANT TO AN INVESTIGATION UNDERTAKEN PURSUANT TO THIS SECTION;

(C) TO REPORT TO THE ATTORNEY GENERAL OR OTHER APPROPRIATE LAW ENFORCEMENT AGENCY, VIOLATIONS FOUND THROUGH INVESTIGATIONS UNDERTAKEN PURSUANT TO THIS SECTION AND TO PROVIDE SUCH MATERIALS AND ASSISTANCE AS MAY BE NECESSARY OR APPROPRIATE FOR THE SUCCESSFUL INVESTIGATION AND PROSECUTION OF VIOLATIONS OF THIS CHAPTER;

(D) TO SUBMIT A WRITTEN REPORT, ON AN ANNUAL BASIS, TO THE GOVERNOR AND TO THE CHAIR OF THE BOARD, LISTING ALL ACTIVITIES UNDERTAKEN TO THE EXTENT SUCH ACTIVITIES CAN BE DISCLOSED PURSUANT TO SUBDIVISION FIVE OF THIS SECTION; AND

(E) TO RECOMMEND LEGISLATIVE AND REGULATORY CHANGES TO THE GOVERNOR AND TO THE CHAIR OF THE BOARD.

4. COOPERATION OF AGENCY OFFICIALS AND EMPLOYEES. (A) IN ADDITION TO THE AUTHORITY OTHERWISE PROVIDED BY THIS SECTION, THE INSPECTOR GENERAL, IN CARRYING OUT THE PROVISIONS OF THIS SECTION, IS AUTHORIZED:

(I) TO HAVE FULL AND UNRESTRICTED ACCESS TO ALL RECORDS, REPORTS, AUDITS, REVIEWS, DOCUMENTS, PAPERS, RECOMMENDATIONS OR OTHER MATERIAL MAINTAINED BY THE BOARD OR ANY OTHER STATE AGENCY RELATING TO PREVAILING WAGE PROVISIONS, WITH RESPECT TO WHICH THE INSPECTOR GENERAL HAS RESPONSIBILITIES UNDER THIS SECTION; AND

(II) TO REQUEST SUCH INFORMATION, ASSISTANCE AND COOPERATION FROM ANY FEDERAL, STATE OR LOCAL GOVERNMENT, DEPARTMENT, BOARD, BUREAU, COMMISSION, OR OTHER AGENCY OR UNIT THEREOF AS MAY BE NECESSARY FOR CARRYING OUT THE DUTIES AND RESPONSIBILITIES ENJOINED UPON THE INSPECTOR GENERAL BY THIS SECTION. STATE AND LOCAL AGENCIES OR UNITS THEREOF ARE HEREBY AUTHORIZED AND DIRECTED TO PROVIDE SUCH INFORMATION, ASSISTANCE AND COOPERATION.

(B) NO PERSON SHALL PREVENT, SEEK TO PREVENT, INTERFERE WITH, OBSTRUCT OR OTHERWISE HINDER ANY INVESTIGATION BEING CONDUCTED PURSUANT TO THIS SECTION.

5. DISCLOSURE OF INFORMATION. THE INSPECTOR GENERAL SHALL NOT PUBLICLY DISCLOSE INFORMATION WHICH IS:

(A) A PART OF AN ONGOING INVESTIGATION OR PROSECUTION; OR

(B) SPECIFICALLY PROHIBITED FROM DISCLOSURE BY ANY OTHER PROVISION OF LAW.

S 3. Sections 1 and 2 of chapter 511 of the laws of 1995, relating to establishing a public work enforcement fund and making an appropriation therefor, as amended by chapter 407 of the laws of 2005, are amended to read as follows:

1 Section 1. The state comptroller shall establish a public work
2 enforcement fund. Each state agency or public benefit corporation enter-
3 ing into a contract for any construction, reconstruction, renovation,
4 repair, maintenance or other improvement, as defined in subdivision 2 of
5 section 220 of the labor law, shall make a transfer of 0.10 of one
6 percent of the total cost of the contract to such fund. All transfers
7 shall be made available to the labor department for labor law enforce-
8 ment. All moneys transferred to and accumulated in the public work
9 enforcement fund shall be dedicated to enforcement of labor law articles
10 8 and 9 and all moneys appropriated from such fund shall be used for
11 such purpose. Provided further that such dedicated funds shall be used
12 for training, labor and related costs for investigators, hearing offi-
13 cers and administrative staff to ensure that staffing levels for such
14 personnel are maintained at [an appropriate level] A LEVEL EQUAL TO OR
15 GREATER THAN THE STAFFING LEVEL FOR SUCH PERSONNEL FOR FISCAL YEAR
16 2006-2007.

17 S 2. The sum of [two million four hundred thousand dollars
18 (\$2,400,000), or so much thereof as may be] MONEYS SO accumulated[,] is
19 hereby appropriated to the department of labor from any moneys credited
20 to the public work enforcement fund created pursuant to section one of
21 this act for the purposes of carrying out the provisions of this act.
22 Such sum shall be payable on the audit and warrant of the state comp-
23 troller on vouchers certified or approved by the commissioner of labor,
24 or his duly designated representative in the manner provided by law. No
25 expenditure shall be made from this appropriation until a certificate of
26 approval of availability shall have been issued by the director of the
27 budget and filed with the state comptroller and a copy filed with the
28 chair of the senate finance committee and the chair of the assembly ways
29 and means committee. Such certificate may be amended from time to time
30 by the director of the budget and a copy of each such amendment shall be
31 filed with the state comptroller, the chair of the senate finance
32 committee and the chair of the assembly ways and means committee.

33 S 4. Section 220 of the labor law is amended by adding a new subdivi-
34 sion 10 to read as follows:

35 10. IN ANY INSTANCE WHERE THE VARIATION BETWEEN THE LOW BID ON ANY
36 PUBLIC WORK CONTRACT OR SUBCONTRACT WITH THE STATE, ANY MUNICIPAL CORPO-
37 RATION OR PUBLIC BODY AND THE NEXT LOWEST BID IS TEN PERCENT OR MORE, OR
38 IS TEN PERCENT LOWER THAN THE CONTRACTING ENTITY'S ESTIMATE OF THE
39 PROJECT COST, THE LOW BIDDER SHALL PROVIDE PROOF TO THE SATISFACTION OF
40 THE CONTRACTING ENTITY THAT THE PREVAILING WAGE SHALL BE PAID, OR SUCH
41 BID SHALL BE REJECTED.

42 S 5. Section 231 of the labor law is amended by adding a new subdivi-
43 sion 8 to read as follows:

44 8. IN ANY INSTANCE WHERE THE VARIATION BETWEEN THE LOW BID ON ANY
45 PUBLIC WORK CONTRACT OR SUBCONTRACT WITH THE STATE, ANY MUNICIPAL CORPO-
46 RATION OR PUBLIC BODY AND THE NEXT LOWEST BID IS TEN PERCENT OR MORE, OR
47 IS TEN PERCENT LOWER THAN THE CONTRACTING ENTITY'S ESTIMATE OF THE
48 PROJECT COST, THE LOW BIDDER SHALL PROVIDE PROOF TO THE SATISFACTION OF
49 THE CONTRACTING ENTITY THAT THE PREVAILING WAGE SHALL BE PAID, OR SUCH
50 BID SHALL BE REJECTED.

51 S 6. Section 220 of the labor law is amended by adding a new subdivi-
52 sion 6-a to read as follows:

53 6-A. THE FISCAL OFFICER SHALL REQUIRE EACH ENGINEER-IN-CHARGE OR OTHER
54 AGENT WHO HAS DIRECT SUPERVISION OF THE EXECUTION OF THE CONTRACT
55 REPRESENTING THE CONTRACTING AGENCY OTHER THAN THE CONTRACTOR OR HIS OR
56 HER EMPLOYEES ON ALL CONTRACTS REQUIRING PREVAILING WAGE RATES TO RECORD

1 A DAILY HEADCOUNT OF ALL WORKERS ON A PROJECT SITE, SEPARATELY ENUMER-
2 ATED REGARDING EACH CLASSIFICATION OF WORKER INCLUDING HOURS WORKED AT
3 REGULAR, OVERTIME OR HOLIDAY PAY AS CLASSIFIED IN THE PREVAILING WAGE
4 RATE SCHEDULE. SUCH RECORDS SHALL BE SUBMITTED TO THE FISCAL OFFICER AND
5 SHALL BE MAINTAINED BY THE FISCAL OFFICER FOR THREE YEARS AFTER THE
6 FINAL ACCEPTANCE OF THE PROJECT. KNOWINGLY PROVIDING THE FISCAL OFFICER
7 WITH FALSE RECORDS SHALL BE A MISDEMEANOR.

8 S 7. Subdivision 1 of section 103 of the general municipal law, as
9 amended by chapter 741 of the laws of 2005, is amended to read as
10 follows:

11 1. Except as otherwise expressly provided by an act of the legislature
12 or by a local law adopted prior to September first, nineteen hundred
13 fifty-three, all contracts for public work involving an expenditure of
14 more than twenty thousand dollars WHICH ARE SUBJECT TO THE PROVISIONS OF
15 ARTICLE EIGHT OF THE LABOR LAW, and all purchase contracts involving an
16 expenditure of more than ten thousand dollars, shall be awarded by the
17 appropriate officer, board or agency of a political subdivision or of
18 any district therein including but not limited to a soil conservation
19 district, to the lowest responsible bidder furnishing the required secu-
20 rity after advertisement for sealed bids in the manner provided by this
21 section. SUCH OFFICER, BOARD, OR AGENCY MAY REQUIRE RESPONSIBLE BIDDERS
22 AND THEIR SUBCONTRACTORS TO PARTICIPATE IN APPRENTICESHIP TRAINING
23 PROGRAMS APPROVED BY THE DEPARTMENT OF LABOR. In any case where a
24 responsible bidder's gross price is reducible by an allowance for the
25 value of used machinery, equipment, apparatus or tools to be traded in
26 by a political subdivision, the gross price shall be reduced by the
27 amount of such allowance, for the purpose of determining the low bid. In
28 cases where two or more responsible bidders furnishing the required
29 security submit identical bids as to price, such officer, board or agen-
30 cy may award the contract to any of such bidders. Such officer, board or
31 agency may, in his, HER or its discretion, reject all bids and readver-
32 tise for new bids in the manner provided by this section. For purposes
33 of this section, "sealed bids", as that term applies to purchase
34 contracts, shall include bids submitted in an electronic format,
35 provided that the governing board of the political subdivision or
36 district, by resolution, has authorized the receipt of bids in such
37 format. Submission in electronic format may not, however, be required as
38 the sole method for the submission of bids. Bids submitted in an elec-
39 tronic format shall be transmitted by bidders to the receiving device
40 designated by the political subdivision or district. Any method used to
41 receive electronic bids shall comply with article three of the state
42 technology law, and any rules and regulations promulgated and guidelines
43 developed thereunder and, at a minimum, must (a) document the time and
44 date of receipt of each bid received electronically; (b) authenticate
45 the identity of the sender; (c) ensure the security of the information
46 transmitted; and (d) ensure the confidentiality of the bid until the
47 time and date established for the opening of bids. The timely submission
48 of an electronic bid in compliance with instructions provided for such
49 submission in the advertisement for bids and/or the specifications shall
50 be the responsibility solely of each bidder or prospective bidder. No
51 political subdivision or district therein shall incur any liability from
52 delays of or interruptions in the receiving device designated for the
53 submission and receipt of electronic bids.

54 S 8. Subdivision 1 of section 103 of the general municipal law, as
55 amended by chapter 413 of the laws of 1991, is amended to read as
56 follows:

1 1. Except as otherwise expressly provided by an act of the legislature
2 or by a local law adopted prior to September first, nineteen hundred
3 fifty-three, all contracts for public work involving an expenditure of
4 more than twenty thousand dollars WHICH ARE SUBJECT TO THE PROVISIONS OF
5 ARTICLE EIGHT OF THE LABOR LAW, and all purchase contracts involving an
6 expenditure of more than ten thousand dollars, shall be awarded by the
7 appropriate officer, board or agency of a political subdivision or of
8 any district therein including but not limited to a soil conservation
9 district, to the lowest responsible bidder furnishing the required secu-
10 rity after advertisement for sealed bids in the manner provided by this
11 section. SUCH OFFICER, BOARD OR AGENCY MAY REQUIRE RESPONSIBLE BIDDERS
12 AND THEIR SUBCONTRACTORS TO PARTICIPATE IN APPRENTICESHIP TRAINING
13 PROGRAMS APPROVED BY THE DEPARTMENT OF LABOR. In any case where a
14 responsible bidder's gross price is reducible by an allowance for the
15 value of used machinery, equipment, apparatus or tools to be traded in
16 by a political subdivision, the gross price shall be reduced by the
17 amount of such allowance, for the purpose of determining the low bid. In
18 cases where two or more responsible bidders furnishing the required
19 security submit identical bids as to price, such officer, board or agen-
20 cy may award the contract to any of such bidders. Such officer, board or
21 agency may, in his, HER or its discretion, reject all bids and readver-
22 tise for new bids in the manner provided by this section.

23 S 9. Section 220 of the labor law is amended by adding a new subdivi-
24 sion 11 to read as follows:

25 11. ALL PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE
26 FOR PUBLIC INSPECTION AND COPYING OF THE RECORDS OR PORTIONS THEREOF
27 PERTAINING TO THE NAMES OF, EMPLOYEE CLASSIFICATIONS OF, RATE OF WAGES
28 AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES OF
29 CONTRACTORS PERFORMING WORK PURSUANT TO THIS ARTICLE AND ARTICLE NINE OF
30 THIS CHAPTER. THE SOCIAL SECURITY NUMBERS OF SUCH EMPLOYEES MAY BE
31 BLOCKED OUT BY THE AGENCY. AN ENTITY SHALL NOT BE PERMITTED TO DENY
32 ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT OF WAGES
33 AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY, THE EMPLOYEES OF
34 CONTRACTORS SUBJECT TO THIS ARTICLE AND ARTICLE NINE OF THIS CHAPTER.

35 S 10. Section 233 of the labor law is amended by adding a new subdivi-
36 sion 5 to read as follows:

37 5. ALL PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE
38 FOR PUBLIC INSPECTION AND COPYING OF THE RECORDS OR PORTIONS THEREOF
39 PERTAINING TO THE NAMES OF, EMPLOYEE CLASSIFICATIONS OF, RATE OF WAGES
40 AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES OF
41 CONTRACTORS PERFORMING WORK PURSUANT TO THIS ARTICLE AND ARTICLE EIGHT
42 OF THIS CHAPTER. THE SOCIAL SECURITY NUMBERS OF SUCH EMPLOYEES MAY BE
43 BLOCKED OUT BY THE AGENCY. AN ENTITY SHALL NOT BE PERMITTED TO DENY
44 ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT OF WAGES
45 AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY, THE EMPLOYEES OF
46 CONTRACTORS SUBJECT TO THIS ARTICLE AND ARTICLE EIGHT OF THIS CHAPTER.

47 S 11. Subdivision 2 of section 87 of the public officers law is
48 amended by adding a new paragraph (k) to read as follows:

49 (K) PROVIDED THAT, NOTHING IN THIS SUBDIVISION SHALL PERMIT AN AGENCY
50 TO DENY ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT
51 OF WAGES AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES
52 OF CONTRACTORS SUBJECT TO ARTICLES EIGHT AND NINE OF THE LABOR LAW. ALL
53 PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE FOR PUBLIC
54 INSPECTION AND COPYING OF SUCH RECORDS, THE NAMES OF, EMPLOYEE CLASSI-
55 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
56 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-

1 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
2 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

3 S 12. Paragraph (a) of subdivision 2 of section 89 of the public offi-
4 cers law, as added by chapter 933 of the laws of 1977, is amended to
5 read as follows:

6 (a) The committee on public access to records may promulgate guide-
7 lines regarding deletion of identifying details or withholding of
8 records otherwise available under this article to prevent unwarranted
9 invasions of personal privacy. In the absence of such guidelines, an
10 agency may delete identifying details when it makes records available,
11 PROVIDED HOWEVER, NOTHING IN THIS PARAGRAPH SHALL PERMIT THE DENIAL OF
12 ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT OF WAGES
13 AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES OF
14 CONTRACTORS SUBJECT TO ARTICLES EIGHT AND NINE OF THE LABOR LAW. ALL
15 PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE FOR PUBLIC
16 INSPECTION AND COPYING OF SUCH RECORDS, THE NAMES OF, EMPLOYEE CLASSI-
17 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
18 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
19 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
20 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

21 S 13. Paragraph (b) of subdivision 2 of section 89 of the public offi-
22 cers law is amended by adding a new subparagraph vii to read as follows:

23 VII. PROVIDED THAT, NOTHING IN THIS PARAGRAPH SHALL PERMIT AN AGENCY
24 TO DENY ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT
25 OF WAGES AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY EMPLOYEES OF
26 CONTRACTORS SUBJECT TO ARTICLES EIGHT AND NINE OF THE LABOR LAW. IT
27 SHALL NOT BE AN UNWARRANTED INVASION OF PERSONAL PRIVACY FOR ALL PUBLIC
28 ENTITIES SUBJECT TO THIS ARTICLE, TO MAKE AVAILABLE FOR PUBLIC
29 INSPECTION AND COPYING, THE RECORDS OF ALL NAMES OF, EMPLOYEE CLASSI-
30 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
31 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
32 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
33 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

34 S 14. Subdivision 2-a of section 89 of the public officers law, as
35 added by chapter 652 of the laws of 1983, is amended to read as follows:

36 2-a. Nothing in this article shall permit disclosure which constitutes
37 an unwarranted invasion of personal privacy as defined in subdivision
38 two of this section if such disclosure is prohibited under section nine-
39 ty-six of this chapter, PROVIDED HOWEVER, THAT NOTHING IN THIS ARTICLE
40 SHALL PERMIT AN AGENCY TO DENY ACCESS TO RECORDS OR PORTIONS THEREOF
41 PERTAINING TO THE PAYMENT OF RATE OF WAGES AND SUPPLEMENTS TO, AND
42 NUMBER OF HOURS WORKED BY, EMPLOYEES OF CONTRACTORS SUBJECT TO ARTICLES
43 EIGHT AND NINE OF THE LABOR LAW. IT SHALL NOT BE AN UNWARRANTED INVASION
44 OF PERSONAL PRIVACY AS DEFINED IN SUBDIVISION TWO OF THIS SECTION, NOR A
45 PROHIBITED DISCLOSURE UNDER SECTION NINETY-SIX OF THIS CHAPTER FOR ALL
46 PUBLIC ENTITIES SUBJECT TO THIS ARTICLE, TO MAKE AVAILABLE FOR PUBLIC
47 INSPECTION AND COPYING SUCH RECORDS OF ALL NAMES OF, EMPLOYEE CLASSI-
48 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
49 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
50 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
51 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

52 S 15. Subparagraph (iii) of paragraph a of subdivision 3-a of section
53 220 of the labor law, as amended by chapter 8 of the laws of 2008, is
54 amended to read as follows:

55 (iii) The contractor and every sub-contractor shall keep original
56 payrolls or transcripts thereof, subscribed and sworn to or affirmed by

1 him or her as true under the penalties of perjury, setting forth the
2 names and addresses and showing for each worker, laborer, or mechanic
3 the hours and days worked, the occupations worked, the hourly wage rates
4 paid and the supplements paid or provided. Where the contractor or sub-
5 contractor maintains no regular place of business in New York state and
6 where the amount of the contract is in excess of twenty-five thousand
7 dollars such payrolls shall be kept on the site of the work. All other
8 contractors or sub-contractors shall produce within five days on the
9 site of the work and upon formal order of the commissioner or his or her
10 designated representative such original payrolls or transcripts thereof,
11 subscribed and sworn to or affirmed by him or her as true under the
12 penalties of perjury, as may be deemed necessary to adequately enforce
13 the provisions of this article. Every contractor, and sub-contractor,
14 shall submit to the department of jurisdiction within thirty days after
15 issuance of its first payroll, and every thirty days thereafter, a tran-
16 script of the original payroll record, as provided by this article, AND
17 AT THE COMPLETION OF THE PROJECT A SUMMARY TRANSCRIPT SPECIFYING THE
18 HOURS AND DAYS WORKED BY EACH WORKMAN, LABORER OR MECHANIC, THE TRADE OR
19 OCCUPATION AT WHICH HE OR SHE WORKED, THE HOURLY WAGE RATE PAID, THE
20 SUPPLEMENTS PAID OR PROVIDED TO SUCH EMPLOYEE AND THE NAMES, TAX IDEN-
21 TIFICATION NUMBER AND JOB TITLE OF EACH INDIVIDUAL CLASSIFIED BY THE
22 CONTRACTOR OR SUBCONTRACTOR AS INDEPENDENT CONTRACTORS WHO WERE HIRED
23 AND EMPLOYED BY SUCH CONTRACTOR TO PERFORM WORK SUBJECT TO THE
24 PROVISIONS OF THIS ARTICLE. SUCH SUMMARY TRANSCRIPT SHALL BE subscribed
25 and sworn to or affirmed as true under the penalties of perjury. Any
26 person who wilfully fails to file such payroll records with the depart-
27 ment of jurisdiction shall be guilty of a class E felony. In addition,
28 any person who wilfully fails to file such payroll records within the
29 time specified in this subparagraph shall be subject to a civil penalty
30 of up to one thousand dollars per day. EACH INDEPENDENT CONTRACTOR
31 SHALL HAVE OBTAINED A TAX IDENTIFICATION NUMBER PRIOR TO EMPLOYMENT ON A
32 PROJECT AND SHALL SUBMIT SUCH NUMBER TO THE CONTRACTOR AS REQUIRED BY
33 THE COMMISSIONER.

34 S 16. Subdivision 3-a of section 220 of the labor law is amended by
35 adding a new paragraph f to read as follows:

36 F. WHERE THE CAPITAL CONSTRUCTION COST OF A PUBLIC WORK SUBJECT TO THE
37 PROVISIONS OF THIS SECTION EXCEEDS ONE MILLION DOLLARS, THE DEPARTMENT
38 OF JURISDICTION SHALL CERTIFY THAT THE PROJECT WILL BE AUDITED FROM TIME
39 TO TIME BY THE DEPARTMENT OF LABOR TO ENSURE COMPLIANCE WITH THE
40 PROVISIONS OF THIS ARTICLE. THE DEPARTMENT OF JURISDICTION SHALL INFORM
41 THE DEPARTMENT OF LABOR OF THE PROJECT'S COST AND SHALL ESTABLISH A
42 TIMETABLE FOR AUDIT BY THE DEPARTMENT OF LABOR.

43 S 17. Severability clause. If any clause, sentence, paragraph, subdi-
44 vision, section or part contained in any part of this act shall be
45 adjudged by any court of competent jurisdiction to be invalid, such
46 judgment shall not affect, impair, or invalidate the remainder thereof,
47 but shall be confined in its operation to the clause, sentence, para-
48 graph, subdivision, section or part contained in any part thereof
49 directly involved in the controversy in which such judgment shall have
50 been rendered. It is hereby declared to be the intent of the legislature
51 that this act would have been enacted even if such invalid provisions
52 had not been included herein.

53 S 18. This act shall take effect immediately; provided, however, that:

54 1. Sections four, five, six and fifteen of this act shall take effect
55 on the sixtieth day after they shall have become a law;

1 2. Sections seven and eight of this act shall apply to contracts let
2 on or after such effective date of each section respectively;
3 3. The amendments to subdivision 1 of section 103 of the general
4 municipal law made by section seven of this act shall be subject to the
5 expiration and reversion of such subdivision pursuant to section 41 of
6 chapter 62 of the laws of 2003, as amended, when upon such date the
7 provisions of section eight of this act shall take effect; and
8 4. Sections nine through fourteen of this act shall take effect on the
9 thirtieth day after they shall have become a law.