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

3847

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. WALKER, ALFANO, QUINN, McDONOUGH, SALADINO, BOYLAND, CALHOUN -- Multi-Sponsored by -- M. of A. BARRA -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the prevailing rate of wages for work associated with certain construction projects

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

Section 1. Paragraphs (a) and (b) of subdivision 3 of section 220 of the labor law, as amended by chapter 7 of the laws of 2008, are amended to read as follows:

(a) The wages to be paid for a legal day's work, as hereinbefore defined, to laborers, workmen or mechanics upon such public works, shall be not less than the prevailing rate of wages as hereinafter defined. FOR PURPOSES OF THIS PARAGRAPH, "SUCH PUBLIC WORKS" SHALL INCLUDE ANY PROGRAM OR PROJECT THE FINANCING OF WHICH IS PROVIDED, IN WHOLE OR IN PART, BY ANY COUNTY, CITY, TOWN, VILLAGE, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, INDUSTRIAL DEVELOPMENT AGENCY OR ANY SUBSIDIARY THEREOF. Serving laborers, helpers, assistants and apprentices shall not be classified as common labor and shall be paid not less than the prevailing rate of wages as hereinafter defined. No employee shall be deemed to be an apprentice unless he is individually registered in an apprenticeship program which is duly registered with the commissioner of labor in conformity with the provisions of article twenty-three of this chapter. The wages to be paid for a legal day's work, as hereinbefore defined, to laborers, workmen or mechanics upon any material to be used upon or in connection therewith, shall be not less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. Such contracts shall contain a provision that each laborer, workman or mechanic, employed by such contractor, subcontractor or other person about or upon such public work, shall be paid the wages herein provided.

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

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(b) The supplements, as hereinafter defined, to be provided to laborers, workmen or mechanics upon such public works, shall be in accordance with the prevailing practices in the locality, as hereinafter defined. Serving laborers, helpers, assistants and apprentices shall not be classified as common labor and shall be provided supplements in accordance with the prevailing practices as hereinafter defined. FOR PURPOSES OF THIS PARAGRAPH, "SUCH PUBLIC WORKS" SHALL INCLUDE ANY PROGRAM OR PROJECT THE FINANCING OF WHICH IS PROVIDED, IN WHOLE OR IN PART, BY ANY COUNTY, CITY, TOWN, VILLAGE, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, INDUSTRIAL DEVELOPMENT AGENCY OR ANY SUBSIDIARY THEREOF. No employee shall be deemed to be an apprentice unless he is individually registered in an apprenticeship program which is duly registered with the [industrial] commissioner in conformity with the provisions of article twenty-three of this chapter. The supplements, as hereinafter defined, to be provided to laborers, workmen or mechanics upon any material to be used upon or in connection therewith, shall be in accordance with the prevailing practices in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. Such contracts shall contain a provision that each laborer, workman or mechanic, employed by such contractor, subcontractor or other person about or upon such public work, shall be provided the supplements as required in this article.

S 2. Section 220-d of the labor law, as amended by chapter 750 of the laws of 1956, is amended to read as follows:

S 220-d. Minimum rate of wage and supplement. The advertised specifications for every contract for the construction, reconstruction, maintenance and/or repair of public work to which the state, county, town and/or village is a party shall contain a provision stating the minimum hourly rate of wage which can be paid and the minimum supplement that can be provided, as shall be designated by the [industrial] commissioner, to the laborers, workingmen or mechanics employed in the performance of the contract, either by the contractor, sub-contractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract, and the contract shall contain a stipulation that such laborers, workingmen or mechanics shall be paid not less than such hourly minimum rate of wage and provided supplements not less than the prevailing supplements.

Any person or corporation that wilfully pays after entering into such contract, less than such stipulated minimums regarding wages and supplements shall be guilty of a misdemeanor and upon conviction shall be punished, for a first offense by a fine of five hundred dollars or by imprisonment for not more than thirty days, or by both fine and imprisonment AND SHALL BE PROHIBITED FOR A PERIOD OF FIVE YEARS FROM BIDDING ON ANY PUBLIC WORK PROJECT IN THE STATE; for a second offense by a fine of one thousand dollars, and in addition thereto the contract on which the violation has occurred shall be forfeited AND SUCH PERSON OR CORPORATION SHALL BE THEREAFTER PROHIBITED FROM BIDDING ON ANY PUBLIC WORK PROJECT IN THE STATE; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state pay the same or authorize its payment from the funds under his charge or control to any person or corporation for work done upon any contract, on which the contractor has been convicted of second offense in violation of the provisions of this section.

S 3. This act shall take effect immediately.