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

5015

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. P. RIVERA, ORTIZ -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, COLTON, CUSICK, CYMBROWITZ, FINCH, KOON, J. RIVERA, WEINSTEIN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to requiring public works contractors to agree to post notice of provisions relating to the reporting of fraud by employees

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

Section 1. The labor law is amended by adding a new section 220-i to read as follows:

S 220-I. PROVISIONS IN CONTRACTS PROVIDING FOR NOTICE OF RIGHT OF EMPLOYEES TO REPORT FRAUD. 1. EVERY CONTRACT FOR OR ON BEHALF OF THE STATE, A PUBLIC AUTHORITY, A PUBLIC BENEFIT CORPORATION, A MUNICIPAL CORPORATION OR A COMMISSION APPOINTED PURSUANT TO LAW FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF ANY PUBLIC BUILDING OR PUBLIC WORK, OR FOR THE MANUFACTURE, SALE OR DISTRIBUTION OF MATERIALS, EQUIPMENT OR SUPPLIES SHALL CONTAIN PROVISIONS BY WHICH THE CONTRACTOR WITH THE STATE, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, MUNICIPAL CORPORATION OR SUCH A COMMISSION AGREES TO:

(A) BE SUBJECT TO THE RULES AND REGULATIONS OF THE COMMISSIONER AND THE PROVISIONS OF THIS SECTION PROVIDING A PROCEDURE AND PROCESSES FOR THE REPORTING BY THE EMPLOYEES OF SUCH CONTRACTOR OR OF ANY SUBCONTRACTOR OF SUCH CONTRACTOR OF ANY INCIDENT OR INCIDENTS OF THE COMMISSION OF ANY ACT OF FRAUD IN THE PERFORMANCE OF SUCH CONTRACT IN VIOLATION OF THE TERMS OF SUCH CONTRACT, THIS CHAPTER OR ANY OTHER PROVISION OF LAW; AND

(B) POST IN A PROMINENT AND ACCESSIBLE PLACE ON THE WORK SITE OF SUCH CONTRACT A NOTICE, IN SUCH FORM AND SUBSTANCE AS THE COMMISSIONER SHALL DETERMINE, OF THE PROVISIONS OF THIS SECTION AND ANY RULES AND REGULATIONS ADOPTED PURSUANT THERETO. SUCH POSTED NOTICE SHALL BE PRINTED IN PLAIN ENGLISH AND CONSTRUCTED OF MATERIALS CAPABLE OF WITHSTANDING ADVERSE WEATHER CONDITIONS.

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

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2. THE COMMISSIONER SHALL ESTABLISH A PROCEDURE AND PROCESSES BY WHICH AN EMPLOYEE OF A CONTRACTOR SUBJECT TO THE PROVISIONS OF THIS SECTION OR OF A SUBCONTRACTOR OF SUCH CONTRACTOR MAY CONFIDENTIALLY REPORT ANY INCIDENT OF THE COMMISSION OF ANY ACT OF FRAUD IN THE PERFORMANCE OF A CONTRACT IN VIOLATION OF THE TERMS OF SUCH CONTRACT, THIS CHAPTER OR ANY OTHER PROVISION OF LAW TO THE APPROPRIATE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL.

3. ANY EMPLOYEE WHO REPORTS AN INCIDENT OF FRAUD PURSUANT TO THIS SECTION, UPON A FINDING BY THE COMMISSIONER THAT REASONABLE GROUNDS EXISTED FOR SUCH REPORT, MAY RESIGN FROM HIS OR HER EMPLOYMENT AND SHALL BE PAID THE PREVAILING WAGE AND SUPPLEMENTS FOR SUCH EMPLOYMENT FOR A PERIOD OF SIX MONTHS. NO PROVISION OF THIS SUBDIVISION SHALL BE DEEMED TO REQUIRE ANY SUCH EMPLOYEE TO RESIGN NOR SHALL IT PRECLUDE THE APPLICATION OF ARTICLE TWENTY-C OF THIS CHAPTER.

4. ANY CONTRACTOR WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF 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 SUCH FINE AND IMPRISONMENT; AND FOR A SECOND OR SUBSEQUENT OFFENSE WITHIN FIVE YEARS BY A FINE OF ONE THOUSAND DOLLARS AND THE CONTRACT ON WHICH THE VIOLATION OCCURRED SHALL BE FORFEITED.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be promulgated on or before such date.