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

5801

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. McKEVITT, KOLB, CROUCH, WALKER, ALFANO, BARRA -- Multi-Sponsored by -- M. of A. BACALLES, ERRIGO, FINCH, HAWLEY, P. LOPEZ, McDONOUGH, MILLER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to providing a preference to New York state contractors for purposes of public works contracts

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

Section 1. The state finance law is amended by adding a new section 147 to read as follows:

S 147. PREFERENCE FOR NEW YORK STATE CONTRACTORS. 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, WHEN LETTING CONTRACTS IN ACCORDANCE WITH SECTION ONE HUNDRED THIRTY-FIVE OF THIS ARTICLE FOR THE PURPOSE OF ERECTING, CONSTRUCTING, RECONSTRUCTING, ALTERING OR REPAIRING BUILDINGS OF THE STATE, BID SPECIFICATIONS OF EVERY OFFICER, BOARD, DEPARTMENT, COMMISSION OR COMMISSIONS CHARGED WITH THE DUTY OF PREPARING SPECIFICATIONS OR AWARDING SUCH CONTRACTS MAY REQUIRE PROVISIONS THAT MANDATE THAT THE ESSENTIAL COMPONENTS OF SUCH PROJECTS BE PRODUCED OR PROCESSED IN FACILITIES LOCATED WITHIN THE STATE AND THAT THE SERVICES FOR WORK, LABOR AND SUPERVISION OF SUCH PROJECTS BE PERFORMED BY PARTNERSHIPS, FIRMS, BUSINESSES OR CORPORATIONS WHICH ARE RESIDENTS OF THE STATE.

2. THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR SHALL DETERMINE, USING UNIFORM CRITERIA, THOSE TYPES OF COMPONENTS AND SERVICES FOR WHICH THE REQUIREMENTS OF THIS SECTION ARE DEEMED BENEFICIAL AND SHALL PROMULGATE AND FORWARD TO THE APPROPRIATE AGENCIES A LIST OF SUCH COMPONENTS AND SERVICES. SUCH COMMISSIONERS SHALL UPDATE SUCH LIST AS OFTEN AS IS DEEMED BY THEM TO BE NECESSARY.

3. (A) THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR SHALL SPECIFY THE PERCENTAGE OF UNEMPLOYMENT REQUIRED TO EXIST

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

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IN THE PERTINENT INDUSTRIES WITHIN THE STATE AND THE PERCENTAGE OF EACH COMPONENT REQUIRED TO BE PRODUCED OR PROCESSED IN THE STATE.

(B) UPON A DETERMINATION BY SUCH COMMISSIONERS THAT A SUFFICIENT PERCENTAGE OF UNEMPLOYMENT IN THE PERTINENT INDUSTRIES OF NEW YORK PRODUCED OR PROCESSED COMPONENTS DOES NOT EXIST IN THE STATE, THE SPECIFICATIONS REQUIRING THE USE OF NEW YORK PRODUCED OR PROCESSED COMPONENTS OR NEW YORK SERVICES FOR WORK, LABOR AND SUPERVISION SHALL BE WAIVED.

(C) IN THE EVENT THAT NO ACCEPTABLE BIDS ARE RECEIVED, THE PROVISIONS OF THIS SECTION MAY BE WAIVED AND THE CONTRACT MAY BE AWARDED IN ACCORDANCE WITH OTHER APPLICABLE STATUTES. IN ADDITION, IF SUCH COMMISSIONERS AGREE TO THE DELETERIOUS ECONOMIC IMPACT OF THESE SPECIFICATIONS, THE PROVISIONS OF THIS SECTION MAY BE WAIVED.

4. THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR MAY ISSUE SUCH REGULATIONS AS THEY DEEM NECESSARY AND PROPER FOR THE IMPLEMENTATION OF THIS SECTION.

5. (A) WITH EACH BID, THE BIDDER SHALL CERTIFY THAT THE COMPONENTS AND SERVICES FOR WORK, LABOR AND SUPERVISION TO BE UTILIZED SHALL BE IN CONFORMITY WITH THE PROVISIONS OF THIS SECTION.

(B) ANY SUCCESSFUL BIDDER WHO FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL FORFEIT THE RIGHT TO BID ON CONTRACTS LET UNDER THE PROVISIONS OF THIS SECTION FOR A PERIOD OF TIME TO BE DETERMINED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR.

6. EACH SUCCEEDING YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR SHALL PROVIDE THE LEGISLATURE WITH A REPORT ON THE FIFTEENTH DAY OF JANUARY ON THE EFFECTS OF THIS SECTION AND RECOMMENDATIONS ON WAYS TO MAKE IT MORE EFFECTIVE.

7. IF ANY CLAUSE, SENTENCE, PARAGRAPH, OR PART OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES, SHALL, FOR ANY REASON, BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER OF THIS SECTION, AND THE APPLICATION THEREOF TO OTHER PERSONS OR CIRCUMSTANCES, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED AND TO THE PERSON OR CIRCUMSTANCES INVOLVED. IT IS HEREBY DECLARED TO BE THE INTENT THAT THIS SECTION WOULD HAVE BEEN ADOPTED HAD SUCH INVALID PROVISIONS NOT BEEN INCLUDED.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.