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2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to compliance investigations on public works projects

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

1 Section 1. Section 220 of the labor law is amended by adding a new
2 subdivision 7-b to read as follows:

3 7-B. LOCAL INVESTIGATIONS. A. UPON APPLICATION OF THE COUNTY EXECUTIVE
4 OF ANY COUNTY, THE STATE COMPTROLLER OR ATTORNEY GENERAL OF THE STATE
5 SHALL GRANT THE APPLICANT THE AUTHORITY TO CONDUCT COMPLIANCE INVESTI-
6 GATIONS ON PUBLIC WORKS PROJECTS BEING CONDUCTED WITHIN THE JURISDICTION
7 HE OR SHE REPRESENTS.

8 B. UPON RECEIPT OF AN APPLICATION FOR LOCAL INVESTIGATION, THE STATE
9 COMPTROLLER OR ATTORNEY GENERAL SHALL MAKE INQUIRY TO ENSURE THAT THE
10 EXAMINERS AND INSPECTORS WHO WILL BE APPOINTED BY THE APPLICANT TO
11 CONDUCT SUCH INVESTIGATIONS WILL INVESTIGATE COMPLIANCE WITH THIS CHAP-
12 TER IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF THE DEPARTMENT. THE
13 STATE COMPTROLLER OR ATTORNEY GENERAL SHALL REQUIRE THAT ANY SUCH
14 INSPECTORS BE TRAINED IN A LIKE MANNER TO THE EMPLOYEES OF THE DEPART-
15 MENT WHO PRESENTLY INVESTIGATE COMPLIANCE WITH THIS ARTICLE. THE CHOICE
16 OF INSPECTORS AND THE DECISION WHETHER THEY SHALL BE REMUNERATED OR NOT
17 SHALL BE SOLELY WITHIN THE DISCRETION OF THE APPLICANT.

18 C. THE STATE COMPTROLLER OR ATTORNEY GENERAL SHALL GRANT THE APPLICA-
19 TION ONLY IF HE OR SHE DETERMINES THAT INVESTIGATIONS BY THE LOCAL
20 AUTHORITY WILL AID THE DEPARTMENT IN ITS ENFORCEMENT OF THIS ARTICLE.
21 THE STATE COMPTROLLER OR ATTORNEY GENERAL SHALL ACT UPON AN APPLICATION
22 WITHIN FOUR MONTHS OF RECEIPT OF THAT APPLICATION.

23 D. IF THE APPLICATION IS GRANTED, THE LOCAL INSPECTORS SHALL HAVE THE
24 SAME RIGHTS AS INSPECTORS AND EXAMINERS OF THE DEPARTMENT, INCLUDING BUT
25 NOT LIMITED TO ACCESS TO WORKSITES AND TO PAYROLL RECORDS AND ALL OTHER

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

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1 BOOKS AND RECORDS PERTAINING TO THE RATE OF WAGES PAID AND SUPPLEMENTS
2 PROVIDED TO THE LABORERS, WORKERS AND MECHANICS AND THE HOURS OF LABOR
3 PERFORMED. AFTER COMPLETING AN INVESTIGATION THE LOCAL INSPECTORS SHALL
4 RECOMMEND TO THE STATE COMPTROLLER OR ATTORNEY GENERAL WHETHER OR NOT TO
5 ISSUE AN ORDER OR DETERMINATION OF VIOLATION OF THIS ARTICLE. THE
6 RECOMMENDATION OF THE LOCAL AUTHORITY SHALL INCLUDE DOCUMENTATION
7 REQUIRED BY THE STATE COMPTROLLER OR ATTORNEY GENERAL TO SUPPORT THE
8 CONCLUSION. IF THE STATE COMPTROLLER OR ATTORNEY GENERAL REJECTS A
9 RECOMMENDATION BY A LOCAL INVESTIGATOR TO ISSUE AN ORDER OR DETERMI-
10 NATION, THE STATE COMPTROLLER OR ATTORNEY GENERAL SHALL, WITHIN FIFTEEN
11 DAYS OF SUCH DETERMINATION, PROVIDE THE LOCAL INVESTIGATOR WITH A WRIT-
12 TEN EXPLANATION OF THE REASONS FOR THE REJECTION OF THE RECOMMENDATION
13 OF THE LOCAL INVESTIGATOR. THE STATE COMPTROLLER OR ATTORNEY GENERAL
14 SHALL RETAIN RESPONSIBILITY FOR ENFORCEMENT OF THIS ARTICLE. LOCAL
15 INSPECTORS MUST BE SUBJECT TO THE AUTHORITY OF THE STATE COMPTROLLER OR
16 ATTORNEY GENERAL AND MUST FOLLOW ANY DIRECTIONS FROM THE STATE COMP-
17 TROLLER OR ATTORNEY GENERAL AS TO PARTICULAR INVESTIGATIONS OR THE FORM
18 OF INVESTIGATIONS IN GENERAL.

19 E. THE STATE COMPTROLLER OR ATTORNEY GENERAL SHALL ISSUE RULES AND
20 REGULATIONS SETTING FORTH, AMONG OTHER THINGS, THE FORM OF THE APPLICA-
21 TION FOR LOCAL INVESTIGATION, THE TRAINING OF THE LOCAL INSPECTORS, THE
22 FORM IN WHICH INSPECTORS MUST FORWARD THE RESULTS OF THEIR INVESTI-
23 GATIONS AND THEIR RECOMMENDATIONS TO THE STATE COMPTROLLER OR ATTORNEY
24 GENERAL, AND THE FORMAL MECHANISM FOR COMMUNICATION BETWEEN THE LOCAL
25 ENFORCEMENT BODY AND THE DEPARTMENT.

26 F. THE STATE COMPTROLLER OR ATTORNEY GENERAL SHALL BE RESPONSIBLE FOR
27 INVESTIGATING ANY COMPLAINTS ABOUT THE ACTIVITIES OF THE LOCAL INSPEC-
28 TORS AND SHALL HAVE THE POWER TO REVOKE THE AUTHORIZATION FOR LOCAL
29 INVESTIGATION FOR CAUSE, WHICH CAUSE SHALL INCLUDE, BUT NOT BE LIMITED
30 TO, FAILURE TO PRESENT THE RESULTS OF AN INVESTIGATION IN A MANNER WHICH
31 WILL ALLOW THE STATE COMPTROLLER OR ATTORNEY GENERAL TO DETERMINE WHETH-
32 ER AN ORDER OR DETERMINATION OF VIOLATION OF THIS ARTICLE SHALL BE
33 ISSUED.

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