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

8454

I N S E N A T E

July 27, 2010

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

AN ACT to amend the labor law and a chapter of the laws of 2010, amending the labor law relating to prevailing wages for service workers, as proposed in legislative bills numbers S.8379-A and A.10257-D, in relation to applicability of certain provisions relating to such wages and the effective date of such chapter; and to repeal certain provisions of the labor law relating thereto

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

Section 1. Subdivisions 1 and 2 of section 230 of the labor law, as amended by a chapter of the laws of 2010 amending the labor law relating to prevailing wages for service workers, as proposed in legislative bills numbers S.8379-A and A.10257-D, is amended to read as follows:

1. "Service employee" or "employee" means any person performing janitorial, or security service work for a contractor, [other than a business improvement district,] under contract with a public agency which is in excess of [ten] TWO thousand dollars and the principal purpose of which is to furnish services through the use of service employees, or any other person performing work in connection with the care or maintenance of an existing building, or in connection with the transportation of office furniture or equipment to or from such building, or in connection with the transportation and delivery of fossil fuel to such building, for a contractor under a contract with a public agency which is in excess of [ten] TWO thousand dollars and the principal purpose of which is to furnish services through the use of service employees.

"Service employee" or "employee" includes, but is not limited, to, watchman, guard, doorman, building cleaner, porter, handyman, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, window cleaner, and occupations relating to the collection of garbage or refuse, and to the transportation of office furniture and equipment, and to the transportation and delivery of fossil fuel but does not include clerical, sales, professional, technician and related occupations.

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

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"Service employee" or "employee" also does not include any employee to whom the provisions of articles eight and eight-A of this chapter are applicable.

2. "Service work" means work performed by a service employee, but does not include work performed for a contractor under a contract for the furnishing of services by radio, telephone, telegraph or cable companies OR JANITORIAL OR SECURITY WORK PERFORMED ON THE PREMISES OWNED OR OPERATED BY THE POWER AUTHORITY OF THE STATE OF NEW YORK UNLESS SUCH PREMISES ARE JOINTLY OWNED OR OPERATED WITH ANY NON-GOVERNMENTAL PUBLIC UTILITY OR SUBSTANTIALLY-OWNED AFFILIATED ENTITY OF SUCH PUBLIC UTILITY AS DEFINED IN SUBDIVISION THREE OF THIS SECTION. ["Service work" shall also include work performed under a contract, with the exception of a contract or subcontract in which a business improvement district is a party, for the benefit of a public agency with any third party person or entity acting in place of, on behalf of or for the benefit of such public agency in the provision of building or property management services or similar services pursuant to any lease or other agreement between such third party person or entity and the public agency provided, however, that "service work" shall not include work performed under a lease or similar agreement in a privately owned building where the space occupied by the public agency represents less than ten thousand square feet.]

S 2. Subdivision 8 of section 231 of the labor law, as added by a chapter of the laws of 2010 amending the labor law relating to prevailing wages for service workers, as proposed in legislative bills numbers S.8379-A and A.10257-D, is REPEALED.

S 3. Section 10 of a chapter of the laws of 2010, amending the labor law relating to prevailing wages for service workers, as proposed in legislative bills numbers S.8379-A and A.10257-D, is amended to read as follows:

S 10. This act shall take effect on the ninetieth day after it shall have become a law, and shall apply to all contracts or other agreements entered into, renewed, or extended on or after such date; PROVIDED THAT PAYMENT OF PREVAILING WAGES FOR WORK PERFORMED UNDER A CONTRACT OR OTHER AGREEMENT MADE SUBJECT TO PREVAILING WAGE REQUIREMENTS BY THIS ACT SHALL NOT BE REQUIRED FOR WORK PERFORMED BEFORE JULY 1, 2011; provided, FURTHER however: (a) the amendments to subdivision 4 of section 230 of the labor law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 678 of the laws of 2007, as amended, when upon such date the provisions of section four of this act shall take effect; and

(b) the amendments to subdivision 5 of section 231 of the labor law made by section three of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 678 of the laws of 2007, as amended, when upon such date the provisions of section five of this act shall take effect.

S 4. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2010 amending the labor law relating to prevailing wages for service workers, as proposed in legislative bills numbers S.8379-A and A.10257-D, takes effect.