

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. LANCMAN -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, and the education law, in relation to enacting the "charter schools constriction fair wages act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "charter schools construction fair wages act".
3 S 2. Subdivision 2 of section 220 of the labor law, as amended by
4 chapter 678 of the laws of 2007, is amended to read as follows:
5 2. Each contract, LEASE, GRANT, BOND, COVENANT, DEBT AGREEMENT, OR
6 PERMIT, to which the state or a public benefit corporation or a municipal
7 corporation or a commission appointed pursuant to law OR AN EDUCATION
8 CORPORATION ORGANIZED TO OPERATE A CHARTER SCHOOL is a party, and
9 any contract for public work entered into by a third party acting in
10 place of, on behalf of and for the benefit of such public entity pursuant
11 to any lease, permit or other agreement between such third party and
12 the public entity, and which may involve the employment of laborers,
13 workers or mechanics shall contain a stipulation that no laborer, worker
14 or mechanic in the employ of the contractor, subcontractor or other
15 person doing or contracting to do the whole or a part of the work
16 contemplated by the contract shall be permitted or required to work more
17 than eight hours in any one calendar day or more than five days in any
18 one week except in cases of extraordinary emergency including fire,
19 flood or danger to life or property. No such person shall be so employed
20 more than eight hours in any day or more than five days in any one week
21 except in such emergency. Extraordinary emergency within the meaning of
22 this section shall be deemed to include situations in which sufficient
23 laborers, workers and mechanics cannot be employed to carry on public
24 work expeditiously as a result of such restrictions upon the number of
25 hours and days of labor and the immediate commencement or prosecution or
26 completion without undue delay of the public work is necessary in the
27 judgment of the commissioner for the preservation of the contract site

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

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1 and for the protection of the life and limb of the persons using the
2 same. Upon the application of any person interested, the commissioner
3 shall make a determination as to whether or not on any public project or
4 on all public projects in any area of this state, sufficient laborers,
5 workers and mechanics of any or all classifications can be employed to
6 carry on work expeditiously if their labor is restricted to eight hours
7 per day and five days per week, and in the event that the commissioner
8 determines that there are not sufficient workers, laborers and mechanics
9 of any or all classifications which may be employed to carry on such
10 work expeditiously if their labor is restricted to eight hours per day
11 and five days per week, and the immediate commencement or prosecution or
12 completion without undue delay of the public work is necessary in the
13 judgment of the commissioner for the preservation of the contract site
14 and for the protection of the life and limb of the persons using the
15 same, the commissioner shall grant a dispensation permitting all labor-
16 ers, workers and mechanics, or any classification of such laborers,
17 workers and mechanics, to work such additional hours or days per week on
18 such public project or in such areas the commissioner shall determine.
19 Whenever such a dispensation is granted, all work in excess of eight
20 hours per day and five days per week shall be considered overtime work,
21 and the laborers, workers and mechanics performing such work shall be
22 paid a premium wage commensurate with the premium wages prevailing in
23 the area in which the work is performed. No such dispensation shall be
24 effective with respect to any public work unless and until the depart-
25 ment of jurisdiction, as defined in this section, certifies to the
26 commissioner that such public work is of an important nature and that a
27 delay in carrying it to completion would result in serious disadvantage
28 to the public. Time lost in any week because of inclement weather by
29 employees engaged in the construction, reconstruction and maintenance of
30 highways outside of the limits of cities and villages may be made up
31 during that week and/or the succeeding three weeks.

32 S 3. Subdivision 2 of section 220 of the labor law, as amended by
33 chapter 851 of the laws of 1947, is amended to read as follows:

34 2. Each contract, LEASE, GRANT, BOND, COVENANT, DEBT AGREEMENT, OR
35 PERMIT, to which the state or a public benefit corporation or a municipi-
36 pal corporation or a commission appointed pursuant to law OR AN EDUCA-
37 TION CORPORATION ORGANIZED TO OPERATE A CHARTER SCHOOL is a party and
38 which may involve the employment of laborers, [workmen] WORKERS or
39 mechanics shall contain a stipulation that no laborer, [workman] WORKER
40 or mechanic in the employ of the contractor, subcontractor or other
41 person doing or contracting to do the whole or a part of the work
42 contemplated by the contract shall be permitted or required to work more
43 than eight hours in any one calendar day or more than five days in any
44 one week except in cases of extraordinary emergency including fire,
45 flood or danger to life or property. No such person shall be so employed
46 more than eight hours in any day or more than five days in any one week
47 except in such emergency. Extraordinary emergency within the meaning of
48 this section shall be deemed to include situations in which sufficient
49 laborers, [workmen] WORKERS and mechanics cannot be employed to carry on
50 public work expeditiously as a result of such restrictions upon the
51 number of hours and days of labor and the immediate commencement or
52 prosecution or completion without undue delay of the public work is
53 necessary in the judgment of the [industrial] commissioner for the pres-
54 ervation of the contract site and for the protection of the life and
55 limb of the persons using the same. Upon the application of any person
56 interested, the [industrial] commissioner shall make a determination as

1 to whether or not on any public project or on all public projects in any
2 area of this state, sufficient laborers, [workmen] WORKERS and mechanics
3 of any or all classifications can be employed to carry on work expe-
4 ditiously if their labor is restricted to eight hours per day and five
5 days per week, and in the event that the [industrial] commissioner
6 determines that there are not sufficient [workmen] WORKERS, laborers and
7 mechanics of any or all classifications which may be employed to carry
8 on such work expeditiously if their labor is restricted to eight hours
9 per day and five days per week, and the immediate commencement or prose-
10 cution or completion without undue delay of the public work is necessary
11 in the judgment of the [industrial] commissioner for the preservation of
12 the contract site and for the protection of the life and limb of the
13 persons using the same, the [industrial] commissioner shall grant a
14 dispensation permitting all laborers, [workmen] WORKERS and mechanics,
15 or any classification of such laborers, [workmen] WORKERS and mechanics,
16 to work such additional hours or days per week on such public project or
17 in such areas the [industrial] commissioner shall determine. Whenever
18 such a dispensation is granted, all work in excess of eight hours per
19 day and five days per week shall be considered overtime work, and the
20 laborers, workmen and mechanics performing such work shall be paid a
21 premium wage commensurate with the premium wages prevailing in the area
22 in which the work is performed. No such dispensation shall be effective
23 with respect to any public work unless and until the department of
24 jurisdiction, as defined in this section, certifies to the [industrial]
25 commissioner that such public work is of an important nature and that a
26 delay in carrying it to completion would result in serious disadvantage
27 to the public. Time lost in any week because of inclement weather by
28 employees engaged in the construction, reconstruction and maintenance of
29 highways outside of the limits of cities and villages may be made up
30 during that week and/or the succeeding three weeks.

31 S 4. Paragraph (a) of subdivision 3 of section 2853 of the education
32 law, as amended by chapter 101 of the laws of 2010, is amended to read
33 as follows:

34 (a) A charter school may be located in part of an existing public
35 school building, in space provided on a private work site, in a public
36 building or in any other suitable location. Provided, however, before a
37 charter school may be located in part of an existing public school
38 building, the charter entity shall provide notice to the parents or
39 guardians of the students then enrolled in the existing school building
40 and shall hold a public hearing for purposes of discussing the location
41 of the charter school. ALL CONTRACTS ENTERED INTO BY SUCH CHARTER
42 SCHOOL, OR ANY EDUCATION CORPORATION ORGANIZED TO OPERATE A CHARTER
43 SCHOOL, OR ANY OTHER PUBLIC ENTITY, INCLUDING THE STATE, A PUBLIC BENE-
44 FIT CORPORATION, MUNICIPAL CORPORATION, OR ANY PRIVATE ENTITY ACTING ON
45 BEHALF OF ANY OF THESE ENTITIES, INVOLVING THE CONSTRUCTION, RECON-
46 STRUCTION, DEMOLITION, EXCAVATION, REHABILITATION, REPAIR, RENOVATION,
47 OR ALTERATION OF ANY CHARTER SCHOOL FACILITY SHALL BE SUBJECT TO THE
48 REQUIREMENTS OF SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW
49 AND ARTICLES EIGHT AND NINE OF THE LABOR LAW. A charter school may own,
50 lease or rent its space.

51 S 5. This act shall take effect immediately; provided that the amend-
52 ments to subdivision 2 of section 220 of the labor law made by section
53 two of this act shall be subject to the expiration and reversion of such
54 subdivision pursuant to section 5 of chapter 678 of the laws of 2007, as
55 amended, when upon such date the provisions of section three of this act
56 shall take effect.