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

6873

2011-2012 Regular Sessions

I N A S S E M B L Y

April 5, 2011

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

AN ACT to amend the state finance law and the general municipal law, in relation to enacting the "non-exploitive procurement practices act"

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

Section 1. This act shall be known and may be cited as the "non-exploitive procurement practices act".

S 2. The state finance law is amended by adding a new section 169 to read as follows:

S 169. NON-EXPLOITIVE PROCUREMENT PRACTICES. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CONTRACTING ENTITY" SHALL MEAN ANY NEW YORK STATE AGENCY, DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, POLITICAL SUBDIVISION OF THE STATE OR ANY PUBLIC DEPARTMENT.

(B) "CONTRACT" SHALL MEAN ANY WRITTEN AGREEMENT ENTERED INTO BY A CONTRACTING AGENCY FOR THE PROCUREMENT OR DISPOSAL OF MATERIALS, SERVICES OR CONSTRUCTION, EXCEEDING A DOLLAR VALUE OF NOT LESS THAN TEN THOUSAND DOLLARS.

(C) "BIDDER" SHALL MEAN A PERSON, PARTNERSHIP, FIRM, CORPORATION OR BUSINESS ENTITY SUBMITTING A BID OR PROPOSAL FOR, OR SUBMITTED FOR APPROVAL AS A SUBCONTRACTOR FOR A CONTRACT BY ANY OF THE CONTRACTING AGENCIES.

2. BEFORE ANY CONTRACTING ENTITY ENTERS INTO A CONTRACT WITH A BIDDER, THE CONTRACTING AGENCY SHALL CERTIFY THAT THE BIDDER HAS DEMONSTRATED THAT IT MAINTAINS SATISFACTORY COMPLIANCE WITH WORKPLACE SAFETY, COMPENSATION, CHILD LABOR, WORKPLACE ORGANIZING AND ANTI-DISCRIMINATION POLICIES WHICH ARE AT LEAST AS STRINGENT AS THOSE AFFORDED NEW YORK WORKERS UNDER NEW YORK LAW, INCLUDING, BUT NOT LIMITED TO:

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

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(A) ADHERENCE TO WORKPLACE SAFETY STANDARDS PURSUANT TO THE FEDERAL OCCUPATIONAL HEALTH AND SAFETY ACT OR TO WORKPLACE SAFETY LAWS SUBSTANTIALLY SIMILAR TO THOSE ESTABLISHED PURSUANT TO THE FEDERAL OCCUPATIONAL HEALTH AND SAFETY ACT;

(B) ADHERENCE TO AN HOURLY MINIMUM WAGE IN AN AMOUNT EQUAL TO OR HIGHER THAN THE HOURLY MINIMUM WAGE IN EFFECT IN NEW YORK AT THE TIME THE CONTRACT COMMENCES;

(C) ADHERENCE TO AN HOURLY OVERTIME WAGE FOR EACH HOUR WORKED IN EXCESS OF FORTY HOURS PER WEEK OF ONE AND ONE-HALF TIMES THE USUAL HOURLY WAGE;

(D) ADHERENCE TO CHILD LABOR LAWS SUBSTANTIALLY SIMILAR TO THOSE IN NEW YORK;

(E) ADHERENCE TO "RIGHT TO ORGANIZE" STANDARDS PURSUANT TO THE NATIONAL LABOR RELATIONS ACT OR TO LAWS ACKNOWLEDGING THE RIGHT OF WORKERS TO ORGANIZE WHICH ARE SUBSTANTIALLY SIMILAR TO THOSE RECOGNIZED BY THE NATIONAL LABOR RELATIONS ACT; AND

(F) ADHERENCE TO ANTI-DISCRIMINATION POLICIES SUBSTANTIALLY SIMILAR TO THOSE ESTABLISHED UNDER THE NEW YORK STATE HUMAN RIGHTS LAW CONTAINED IN ARTICLE FIFTEEN OF THE EXECUTIVE LAW, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO BE FREE FROM HARASSMENT AND DISCRIMINATION IN EMPLOYMENT BASED ON AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC CHARACTERISTICS OR MARITAL STATUS.

S 3. The general municipal law is amended by adding a new section 103-g to read as follows:

S 103-G. NON-EXPLOITIVE PROCUREMENT PRACTICES. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CONTRACTING ENTITY" SHALL MEAN ANY NEW YORK STATE AGENCY, DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, POLITICAL SUBDIVISION OF THE STATE OR ANY PUBLIC DEPARTMENT.

(B) "CONTRACT" SHALL MEAN ANY WRITTEN AGREEMENT ENTERED INTO BY A CONTRACTING AGENCY FOR THE PROCUREMENT OR DISPOSAL OF MATERIALS, SERVICES OR CONSTRUCTION, EXCEEDING A DOLLAR VALUE OF NOT LESS THAN TEN THOUSAND DOLLARS.

(C) "BIDDER" SHALL MEAN A PERSON, PARTNERSHIP, FIRM, CORPORATION OR BUSINESS ENTITY SUBMITTING A BID OR PROPOSAL FOR, OR SUBMITTED FOR APPROVAL AS A SUBCONTRACTOR FOR A CONTRACT BY ANY OF THE CONTRACTING AGENCIES.

2. BEFORE ANY CONTRACTING ENTITY ENTERS INTO A CONTRACT WITH A BIDDER, THE CONTRACTING AGENCY SHALL CERTIFY THAT THE BIDDER HAS DEMONSTRATED THAT IT MAINTAINS SATISFACTORY COMPLIANCE WITH WORKPLACE SAFETY, COMPENSATION, CHILD LABOR, WORKPLACE ORGANIZING AND ANTI-DISCRIMINATION POLICIES WHICH ARE AT LEAST AS STRINGENT AS THOSE AFFORDED NEW YORK WORKERS UNDER NEW YORK LAW, INCLUDING, BUT NOT LIMITED TO:

(A) ADHERENCE TO WORKPLACE SAFETY STANDARDS PURSUANT TO THE FEDERAL OCCUPATIONAL HEALTH AND SAFETY ACT OR TO WORKPLACE SAFETY LAWS SUBSTANTIALLY SIMILAR TO THOSE ESTABLISHED PURSUANT TO THE FEDERAL OCCUPATIONAL HEALTH AND SAFETY ACT;

(B) ADHERENCE TO AN HOURLY MINIMUM WAGE IN AN AMOUNT EQUAL TO OR HIGHER THAN THE HOURLY MINIMUM WAGE IN EFFECT IN NEW YORK AT THE TIME THE CONTRACT COMMENCES;

(C) ADHERENCE TO AN HOURLY OVERTIME WAGE FOR EACH HOUR WORKED IN EXCESS OF FORTY HOURS PER WEEK OF ONE AND ONE-HALF TIMES THE USUAL HOURLY WAGE;

(D) ADHERENCE TO CHILD LABOR LAWS SUBSTANTIALLY SIMILAR TO THOSE IN NEW YORK;

(E) ADHERENCE TO "RIGHT TO ORGANIZE" STANDARDS PURSUANT TO THE NATIONAL LABOR RELATIONS ACT OR TO LAWS ACKNOWLEDGING THE RIGHT OF WORKERS TO ORGANIZE WHICH ARE SUBSTANTIALLY SIMILAR TO THOSE RECOGNIZED BY THE NATIONAL LABOR RELATIONS ACT; AND

(F) ADHERENCE TO ANTI-DISCRIMINATION POLICIES SUBSTANTIALLY SIMILAR TO THOSE ESTABLISHED UNDER THE NEW YORK STATE HUMAN RIGHTS LAW CONTAINED IN ARTICLE FIFTEEN OF THE EXECUTIVE LAW, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO BE FREE FROM HARASSMENT AND DISCRIMINATION IN EMPLOYMENT BASED ON AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC CHARACTERISTICS OR MARITAL STATUS.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.