

1402

2011-2012 Regular Sessions

I N S E N A T E

January 7, 2011

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

AN ACT to amend the labor law, and the education law, in relation to enacting the "charter schools construction 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 corporation or a commission appointed pursuant to law OR AN EDUCATION CORPORATION ORGANIZED TO OPERATE A CHARTER SCHOOL is a party, and
7 any contract for public work entered into by a third party acting in
8 place of, on behalf of and for the benefit of such public entity pursuant to any lease, permit or other agreement between such third party and
9 the public entity, and which may involve the employment of laborers, workers or mechanics shall contain a stipulation that no laborer, worker
10 or mechanic in the employ of the contractor, subcontractor or other
11 person doing or contracting to do the whole or a part of the work
12 contemplated by the contract shall be permitted or required to work more
13 than eight hours in any one calendar day or more than five days in any
14 one week except in cases of extraordinary emergency including fire, flood or danger to life or property. No such person shall be so employed
15 more than eight hours in any day or more than five days in any one week
16 except in such emergency. Extraordinary emergency within the meaning of
17 this section shall be deemed to include situations in which sufficient
18 laborers, workers and mechanics cannot be employed to carry on public
19 work expeditiously as a result of such restrictions upon the number of
20 hours and days of labor and the immediate commencement or prosecution or
21 completion without undue delay of the public work is necessary in the
22 judgment of the commissioner for the preservation of the contract site
23 and for the protection of the life and limb of the persons using the
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EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 same. Upon the application of any person interested, the commissioner
2 shall make a determination as to whether or not on any public project or
3 on all public projects in any area of this state, sufficient laborers,
4 workers and mechanics of any or all classifications can be employed to
5 carry on work expeditiously if their labor is restricted to eight hours
6 per day and five days per week, and in the event that the commissioner
7 determines that there are not sufficient workers, laborers and mechanics
8 of any or all classifications which may be employed to carry on such
9 work expeditiously if their labor is restricted to eight hours per day
10 and five days per week, and the immediate commencement or prosecution or
11 completion without undue delay of the public work is necessary in the
12 judgment of the commissioner for the preservation of the contract site
13 and for the protection of the life and limb of the persons using the
14 same, the commissioner shall grant a dispensation permitting all labor-
15 ers, workers and mechanics, or any classification of such laborers,
16 workers and mechanics, to work such additional hours or days per week on
17 such public project or in such areas the commissioner shall determine.
18 Whenever such a dispensation is granted, all work in excess of eight
19 hours per day and five days per week shall be considered overtime work,
20 and the laborers, workers and mechanics performing such work shall be
21 paid a premium wage commensurate with the premium wages prevailing in
22 the area in which the work is performed. No such dispensation shall be
23 effective with respect to any public work unless and until the depart-
24 ment of jurisdiction, as defined in this section, certifies to the
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 3. Subdivision 2 of section 220 of the labor law, as amended by
32 chapter 851 of the laws of 1947, is amended to read as follows:

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

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

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

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

46 S 5. This act shall take effect immediately; provided that the amendments to subdivision 2 of section 220 of the labor law made by section
47 two of this act shall be subject to the expiration and reversion of such
48 subdivision pursuant to section 5 of chapter 678 of the laws of 2007, as
49 amended, when upon such date the provisions of section three of this act
50 shall take effect.