

2031

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. SCHIMMINGER, WEISENBERG, GOODELL -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, the state finance law, the public housing law, the education law, the public authorities law, chapter 892 of the laws of 1971, amending the public authorities law relating to construction by the dormitory authority, and chapter 560 of the laws of 1980, relating to authorizing the city of New York to adopt a waste management law, in relation to project size over which separate contracts on public work are required; and to repeal certain provisions of the general municipal law relating thereto

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

1     Section 1. Subdivisions 1 and 2 of section 101 of the general municipal law, subdivision 1 as amended by section 1 of part MM of chapter 57  
2     of the laws of 2008 and subdivision 2 as added by chapter 861 of the  
3     laws of 1953, are amended to read as follows:  
4     1. Except as otherwise provided in section two hundred twenty-two of  
5     the labor law, every officer, board or agency of a political subdivision  
6     or of any district therein, charged with the duty of preparing specifications or awarding or entering into contracts for the erection,  
7     construction, reconstruction or alteration of buildings[, when the  
8     entire cost of such public work shall exceed three million dollars in  
9     the counties of the Bronx, Kings, New York, Queens, and Richmond; one  
10    million five hundred thousand dollars in the counties of Nassau, Suffolk  
11    and Westchester; and five hundred thousand dollars in all other counties  
12    within the state,] shall prepare separate specifications for the following three subdivisions of the work to be performed:  
13    a. Plumbing and gas fitting;  
14    b. Steam heating, hot water heating, ventilating and air conditioning  
15    apparatus; and

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

LBD05239-01-3

1 c. Electric wiring and standard illuminating fixtures.

2 2. A. Such specifications shall be drawn so as to permit separate and  
3 independent bidding upon each of the above three subdivisions of work.  
4 All contracts awarded by any political subdivision or by an officer,  
5 board or agency thereof, or of any district therein, for the erection,  
6 construction, reconstruction or alteration of buildings, or any part  
7 thereof, shall award the three subdivisions of the above specified work  
8 separately in the manner provided by section one hundred three of this  
9 chapter. Nothing in this section shall be construed to prevent any poli-  
10 tical subdivision from performing any such branches of work by or  
11 through their regular employees, or in the case of public institutions,  
12 by the inmates thereof.

13 B. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, WHERE THE ESTIMATED  
14 COST OF ANY OF THE THREE SUBDIVISIONS OF WORK TO BE PERFORMED DOES NOT  
15 EXCEED TEN PERCENT OF THE APPLICABLE DOLLAR THRESHOLD IN SUBDIVISION  
16 FOUR OF THIS SECTION, THE PUBLIC OWNER SHALL NOT BE REQUIRED TO PREPARE  
17 SEPARATE SPECIFICATIONS FOR, OR BID SUCH SUBDIVISION OF WORK AS A SEPA-  
18 RATE CONTRACT.

19 S 2. Subdivisions 3 and 4 of section 101 of the general municipal law  
20 are REPEALED and two new subdivisions 3 and 4 are added to read as  
21 follows:

22 3. SPECIFICATIONS FOR PUBLIC WORK PERTAINING TO THE ERECTION,  
23 CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS MAY PROVIDE FOR  
24 THE ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY  
25 OR ALL CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE  
26 PERSON, FIRM OR CORPORATION WHICH HAS NOT BEEN AWARDED A CONTRACT FOR  
27 ANY OTHER PORTION OF SUCH WORK.

28 4. THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO PUBLIC WORK AS  
29 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION WHEN THE ENTIRE COST OF  
30 SUCH WORK EXCEEDS THREE MILLION DOLLARS.

31 S 3. Paragraph (b) of subdivision 7 of section 120-w of the general  
32 municipal law, as amended by section 2 of part MM of chapter 57 of the  
33 laws of 2008, is amended to read as follows:

34 (b) Except as otherwise provided in section two hundred twenty-two of  
35 the labor law, when the entire cost of constructing such building shall  
36 exceed [three million dollars in the counties of the Bronx, Kings, New  
37 York, Queens, and Richmond; one million five hundred thousand dollars in  
38 the counties of Nassau, Suffolk and Westchester; and five hundred thou-  
39 sand dollars in all other counties within the state,] THE DOLLAR LIMITS  
40 PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED ONE OF THIS CHAPTER  
41 the project developer shall prepare separate specifications for the  
42 following subdivisions of such work, so as to permit separate and inde-  
43 pendent bidding upon each subdivision:

44 (i) plumbing and gas fittings;

45 (ii) steam heating, hot water heating, ventilating and air condition-  
46 ing apparatus; and

47 (iii) electric wiring and standard illuminating fixtures.

48 S 4. Section 135 of the state finance law, as amended by section 3 of  
49 part MM of chapter 57 of the laws of 2008, is amended to read as  
50 follows:

51 S 135. Separate specifications for [contract] CERTAIN PUBLIC work for  
52 the state. 1. Except as otherwise provided in section two hundred twen-  
53 ty-two of the labor law, every officer, board, department, commission or  
54 commissions, charged with the duty of preparing specifications or award-  
55 ing or entering into contracts for the erection, construction or alter-  
56 ation of buildings, for the state[, when the entire cost of such work

shall exceed three million dollars in the counties of the Bronx, Kings, New York, Queens, and Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk and Westchester; and five hundred thousand dollars in all other counties within the state,] must have prepared separate specifications for each of the following three subdivisions of the work to be performed:

[1.] (A) Plumbing and gas fitting.

[2.] (B) Steam heating, hot water heating, ventilating and air conditioning apparatus.

[3.] (C) Electric wiring and standard illuminating fixtures.

2. (A) Such specifications must be so drawn as to permit separate and independent bidding upon each of the above three subdivisions of work. All contracts hereafter awarded by the state or a department, board, commissioner or officer thereof, for the erection, construction or alteration of buildings, or any part thereof, shall award the three subdivisions of the above specified work separately to responsible and reliable persons, firms or corporations engaged in these classes of work. A contract for one or more buildings in any project shall be awarded to the lowest responsible bidder for all the buildings included in the specifications.

(B) Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: [(a)] (1) plumbing and gas fitting, [(b)] (2) steam heating, hot water heating, ventilating and air conditioning apparatus and [(c)] (3) electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e) of subdivision two of section two hundred twenty-two of the labor law, or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed lists of subcontractors submitted by all other bidders shall be returned to them unopened after the contract award.

(C) Nothing in this section shall be construed to prevent the authorities in charge of any state building, from performing any such branches of work by or through their regular employees, or in the case of public institutions, by the inmates thereof.

(D) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, WHERE THE ESTIMATED COST OF ANY OF THE THREE SUBDIVISIONS OF WORK TO BE PERFORMED DOES NOT EXCEED TEN PERCENT OF THE APPLICABLE DOLLAR THRESHOLD IN SUBDIVISION FOUR OF THIS SECTION, THE PUBLIC OWNER SHALL NOT BE REQUIRED TO PREPARE SEPARATE SPECIFICATIONS FOR, OR BID SUCH SUBDIVISION OF WORK AS A SEPARATE CONTRACT.

3. SPECIFICATIONS FOR PUBLIC WORK PERTAINING TO THE ERECTION, CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF BUILDINGS MAY PROVIDE FOR THE ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY OR ALL CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE

PERSON, FIRM OR CORPORATION WHICH HAS NOT BEEN AWARDED A CONTRACT FOR ANY OTHER PORTION OF SUCH WORK.

4. THE PROVISIONS OF THIS SECTION SHALL ONLY APPLY TO PUBLIC WORK AS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION WHEN THE ENTIRE COST OF SUCH WORK EXCEEDS THREE MILLION DOLLARS.

S 5. Section 151-a of the public housing law, as amended by chapter 572 of the laws of 1964, subdivision 1 as amended and subdivision 2-a as added by section 4 of part MM of chapter 57 of the laws of 2008, is amended to read as follows:

S 151-a. Separate specifications for certain [subdivisions of work involved in the construction or alteration of buildings as a part of or in connection with] PUBLIC WORK INVOLVING housing projects. [1.] Notwithstanding any inconsistent provision of this chapter or any other general, special or local law, except as otherwise provided in section two hundred twenty-two of the labor law, any authority or municipality, or any officer, board, department, commission or other agency thereof charged with the duty of preparing specifications or awarding or entering into contracts involving the erection, construction, reconstruction or alteration of any building or other appurtenance as a part of or in connection with a project or any part thereof in any part of the state under or pursuant to the authority of this chapter[, when the entire cost of such work shall exceed three million dollars in the counties of the Bronx, Kings, New York, Queens, and Richmond; one million five hundred thousand dollars in the counties of Nassau, Suffolk and Westchester; and five hundred thousand dollars in all other counties within the state, must have prepared separate specifications for the following three subdivisions of the work to be performed:

- a. Plumbing and gas fitting;
- b. Steam heating, hot water heating, ventilating and air conditioning apparatus; and
- c. Electric wiring and standard illuminating fixtures.

2. Such specifications must be so drawn as to permit separate and independent bidding upon each of the above three subdivisions of work. All contracts hereafter awarded by any such authority or municipality, or any officer, board, department, commission or other agency thereof, involving the erection, construction, reconstruction or alteration of any building as a part of or in connection with any project under or pursuant to this chapter, shall award the three subdivisions of the above specified work separately to responsible and reliable persons, firms or corporations engaged in such classes of work.

2-a. Each bidder on a public work contract, where the preparation of separate specifications is not required, shall submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each, for: a. plumbing and gas fitting, b. steam heating, hot water heating, ventilating and air conditioning apparatus and c. electric wiring and standard illuminating fixtures. After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor or agreed-upon amount to be paid to each shall require the approval of the public owner, upon a showing presented to the public owner of legitimate construction need for such change, which shall be open to public inspection. Legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to paragraph (e)

1 of subdivision two of section two hundred twenty-two of the labor law,  
2 or the subcontractor has become otherwise unwilling, unable or unavail-  
3 able to perform the subcontract. The sealed lists of subcontractors  
4 submitted by all other bidders shall be returned to them unopened after  
5 the contract award.

6 3. Nothing in this section shall be construed to prevent any such  
7 authority or municipality in charge of any such project from performing  
8 any such branches of work by or through their regular employees] SHALL  
9 CONTRACT FOR PUBLIC WORK INVOLVING HOUSING PROJECTS PURSUANT TO SECTION  
10 ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW.

11 S 6. The opening paragraph of subdivision 2 of section 458 of the  
12 education law, as amended by section 5 of part MM of chapter 57 of the  
13 laws of 2008, is amended to read as follows:

14 Except as otherwise provided in section two hundred twenty-two of the  
15 labor law, every contract, lease or other agreement entered into by or  
16 on behalf of the fund for the acquisition, lease, construction, recon-  
17 struction, rehabilitation or improvement of the school portion of the  
18 work in any combined occupancy structure shall contain a provision that,  
19 when the entire cost of any such contemplated construction, recon-  
20 struction, rehabilitation or improvement for the school portion of the  
21 work shall exceed [three million dollars in the counties of the Bronx,  
22 Kings, New York, Queens, and Richmond; one million five hundred thousand  
23 dollars in the counties of Nassau, Suffolk and Westchester; and five  
24 hundred thousand dollars in all other counties within the state,] THE  
25 DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED ONE OF  
26 THE GENERAL MUNICIPAL LAW separate specifications shall be prepared for  
27 the following three subdivisions of the work on the school portion to be  
28 performed:

29 S 7. The opening paragraph of subdivision 2 of section 482 of the  
30 education law, as amended by section 6 of part MM of chapter 57 of the  
31 laws of 2008, is amended to read as follows:

32 Except as otherwise provided in section two hundred twenty-two of the  
33 labor law, every contract, lease or other agreement entered into by or  
34 on behalf of the fund for the acquisition, lease, construction, recon-  
35 struction, rehabilitation or improvement of any combined occupancy  
36 structure shall contain a provision that, when the entire cost of any  
37 such contemplated construction, reconstruction, rehabilitation or  
38 improvement shall exceed [three million dollars in the counties of the  
39 Bronx, Kings, New York, Queens, and Richmond; one million five hundred  
40 thousand dollars in the counties of Nassau, Suffolk and Westchester; and  
41 five hundred thousand dollars in all other counties within the state,]  
42 THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE HUNDRED  
43 ONE OF THE GENERAL MUNICIPAL LAW separate specifications shall be  
44 prepared for the following three subdivisions of the work to be  
45 performed:

46 S 8. Subdivision 2 of section 1045-i of the public authorities law, as  
47 amended by section 7 of part MM of chapter 57 of the laws of 2008, is  
48 amended to read as follows:

49 2. Any such agreements (i) shall describe in sufficient detail for  
50 reasonable identification the particular water project to be financed in  
51 whole or in part by the authority, (ii) shall describe the plan for the  
52 financing of the cost of the construction of such water project, includ-  
53 ing the amount, if any, to be provided by the water board and the source  
54 or sources thereof, (iii) shall set forth the method by which and by  
55 whom and the terms and conditions upon which moneys provided by the  
56 authority shall be disbursed, (iv) may require, in the discretion of the

1 authority, the payment to the authority of the proceeds of any state and  
2 federal grants available to the water board, (v) shall provide for the  
3 establishment of user fees, rates, rents and other charges and the  
4 charging and collection thereof by the water board for the use of, or  
5 services furnished, rendered or made available by such system such as to  
6 provide that such board receive revenues at least sufficient, together  
7 with other revenues of the board, if any, to meet the requirements of  
8 subdivision one of section one thousand forty-five-j of this title,  
9 provided that revenues received by such board shall be deposited in a  
10 special fund established pursuant to this title and disbursed to, and  
11 upon certification of, the authority, (vi) may provide for the transfer  
12 by the city to the water board pursuant to section one thousand forty-  
13 five-h of this title of ownership of the sewerage system or water  
14 system, or both, as the case may be, of which such project will form a  
15 part by the city, (vii) shall provide for the construction and  
16 completion of such water project by the city and for the operation,  
17 maintenance and repair thereof as an integrated part of the system of  
18 which such water project forms a part, subject to such terms and condi-  
19 tions, not inconsistent with this title, which may be in the public  
20 interest and necessary or desirable properly and adequately to secure  
21 the holders of bonds of the authority, provided, however, all contracts  
22 for public work and all purchase contracts shall be awarded by the city  
23 as provided by law for the award of such contracts by the city and that  
24 all contracts for construction shall be let in accordance with the  
25 provisions of state law pertaining to prevailing wages, labor standards  
26 and working hours. Except as otherwise provided in section two hundred  
27 twenty-two of the labor law, when the entire cost of constructing a  
28 building as part of any water project shall exceed [three million  
29 dollars] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION ONE  
30 HUNDRED ONE OF THE GENERAL MUNICIPAL LAW, the city shall prepare sepa-  
31 rate specifications for the following three subdivisions of the work to  
32 be performed: (a) plumbing and gas fitting; (b) steam heating, hot water  
33 heating, ventilating and air conditioning apparatus; and (c) electric  
34 wiring and standard illuminating fixtures, (viii) shall provide for the  
35 discontinuance or disconnection of the supply of water or the provision  
36 of sewerage service, or both, as the case may be, for non-payment of  
37 fees, rates, rents or other charges therefor imposed by the water board,  
38 provided such discontinuance or disconnection of any supply of water or  
39 the provision of sewerage service, or both, as the case may be, shall  
40 not be carried out except in the manner and upon the notice as is  
41 required of a waterworks corporation pursuant to subdivisions three-a,  
42 three-b and three-c of section eighty-nine-b and section one hundred  
43 sixteen of the public service law, and (ix) in the discretion of the  
44 authority, require reports concerning the project from the water board  
45 to the authority and the city.

46 S 9. Subdivision 2 of section 1048-i of the public authorities law, as  
47 amended by section 8 of part MM of chapter 57 of the laws of 2008, is  
48 amended to read as follows:

49 2. Any such agreements (i) shall describe in sufficient detail for  
50 reasonable identification the particular water project to be financed in  
51 whole or in part by the authority, (ii) shall describe the plan for the  
52 financing of the cost of the construction of such water project, includ-  
53 ing the amount, if any, to be provided by the water board and the source  
54 or sources thereof, (iii) shall set forth the method by which and by  
55 whom and the terms and conditions upon which moneys provided by the  
56 authority shall be disbursed, (iv) may require, in the discretion of the

1 authority, the payment to the authority of the proceeds of any state and  
2 federal grants available to the water board, (v) shall provide for the  
3 establishment of user fees, rates, rents and other charges and the  
4 charging and collection thereof by the water board for the use of, or  
5 services furnished, rendered or made available by such system such as to  
6 provide that such board receive revenues at least sufficient, together  
7 with other revenues of the board, if any, to meet the requirements of  
8 subdivision one of section one thousand forty-eight-j of this title,  
9 provided that revenues received by such board shall be deposited in a  
10 special fund established pursuant to this title and disbursed to, and  
11 upon certification of, the authority, (vi) may provide for the transfer  
12 by the city to the water board pursuant to section one thousand forty-  
13 eight-h of this title of ownership of the water system of which such  
14 project will form a part, (vii) shall provide for the construction and  
15 completion of such water project by the city and for the operation,  
16 maintenance and repair thereof as an integrated part of the system of  
17 which such water project forms a part, subject to such terms and condi-  
18 tions, not inconsistent with this title, which may be in the public  
19 interest and necessary or desirable properly and adequately to secure  
20 the holders of bonds of the authority, provided, however, all contracts  
21 for public work and all purchase contracts shall be awarded by the city  
22 as provided by law for the award of such contracts by the city and that  
23 all contracts for construction shall be let in accordance with the  
24 provisions of state law pertaining to prevailing wages, labor standards  
25 and working hours. Except as otherwise provided in section two hundred  
26 twenty-two of the labor law, when the entire cost of constructing a  
27 building as part of any water project shall exceed [five hundred thou-  
28 sand dollars] THE DOLLAR LIMITS PROVIDED IN SUBDIVISION FOUR OF SECTION  
29 ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW, the city shall prepare  
30 separate specifications for the following three subdivisions of the work  
31 to be performed: (a) plumbing and gas fitting; (b) steam heating, hot  
32 water heating, ventilating and air conditioning apparatus; and (c) elec-  
33 tric wiring and standard illuminating fixtures, (viii) shall provide for  
34 the discontinuance or disconnection of the supply of water for non-pay-  
35 ment of fees, rates, rents or other charges therefor imposed by the  
36 water board, provided such discontinuance or disconnection of any supply  
37 of water shall not be carried out except in the manner and upon the  
38 notice as is required of a waterworks corporation pursuant to subdivi-  
39 sions three-a, three-b and three-c of section eighty-nine-b and section  
40 one hundred sixteen of the public service law, and (ix) in the  
41 discretion of the authority, require reports concerning the project from  
42 the water board to the authority and the city.

43 S 10. The opening paragraph of section 9 of chapter 892 of the laws of  
44 1971, amending the public authorities law relating to construction by  
45 the dormitory authority, as amended by section 14 of part MM of chapter  
46 57 of the laws of 2008, is amended to read as follows:

47 Except as otherwise provided in section 222 of the labor law, the  
48 dormitory authority in awarding or entering into contracts for the  
49 erection, construction, reconstruction or alteration of buildings,  
50 pursuant to the provisions added by this act, when the entire cost of  
51 such work shall exceed [three million dollars in the counties of the  
52 Bronx, Kings, New York, Queens, and Richmond; one million five hundred  
53 thousand dollars in the counties of Nassau, Suffolk and Westchester; and  
54 five hundred thousand dollars in all other counties within the state]  
55 THE DOLLAR LIMITS PROVIDED IN SUBDIVISION 4 OF SECTION 135 OF THE STATE

1 FINANCE LAW, shall prepare separate specifications for the following  
2 three subdivisions of the work to be performed:

3 S 11. The opening paragraph of subdivision (c) of section 4 of chapter  
4 560 of the laws of 1980 relating to authorizing the city of New York to  
5 adopt a waste management law, as amended by section 13 of part MM of  
6 chapter 57 of the laws of 2008, is amended to read as follows:

7 Except as otherwise provided in section 222 of the labor law, every  
8 contract, lease or other agreement entered into, pursuant to this  
9 section, by the city of New York for construction, reconstruction, reha-  
10 bilitation or improvement of buildings for a solid waste recovery and  
11 management facility shall contain a provision that, when the entire cost  
12 of such work shall exceed [three million dollars] THE DOLLAR LIMITS  
13 PROVIDED IN SUBDIVISION 4 OF SECTION 101 OF THE GENERAL MUNICIPAL LAW,  
14 separate specifications shall be prepared for the following three subdi-  
15 visions of work:

16 S 12. This act shall take effect immediately and shall apply to all  
17 subject contracts bid on and after January first next succeeding such  
18 effective date.