

5733

2013-2014 Regular Sessions

I N A S S E M B L Y

March 6, 2013

Introduced by M. of A. McKEVITT, RAIA, GRAF, KOLB -- Multi-Sponsored by  
-- M. of A. HAWLEY -- read once and referred to the Committee on  
Governmental Operations

AN ACT to amend the state finance law, in relation to providing a preference to New York state contractors for purposes of public works contracts

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

1 Section 1. The state finance law is amended by adding a new section  
2 148 to read as follows:

3 S 148. PREFERENCE FOR NEW YORK STATE CONTRACTORS. 1. EXCEPT AS OTHER-  
4 WISE PROVIDED IN THIS SECTION, WHEN LETTING CONTRACTS IN ACCORDANCE WITH  
5 SECTION ONE HUNDRED THIRTY-FIVE OF THIS ARTICLE FOR THE PURPOSE OF  
6 ERECTING, CONSTRUCTING, RECONSTRUCTING, ALTERING OR REPAIRING BUILDINGS  
7 OF THE STATE, BID SPECIFICATIONS OF EVERY OFFICER, BOARD, DEPARTMENT,  
8 COMMISSION OR COMMISSIONS CHARGED WITH THE DUTY OF PREPARING SPECIFICA-  
9 TIONS OR AWARDING SUCH CONTRACTS MAY REQUIRE PROVISIONS THAT MANDATE  
10 THAT THE ESSENTIAL COMPONENTS OF SUCH PROJECTS BE PRODUCED OR PROCESSED  
11 IN FACILITIES LOCATED WITHIN THE STATE AND THAT THE SERVICES FOR WORK,  
12 LABOR AND SUPERVISION OF SUCH PROJECTS BE PERFORMED BY PARTNERSHIPS,  
13 FIRMS, BUSINESSES OR CORPORATIONS WHICH ARE RESIDENTS OF THE STATE.

14 2. THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF  
15 LABOR SHALL DETERMINE, USING UNIFORM CRITERIA, THOSE TYPES OF COMPONENTS  
16 AND SERVICES FOR WHICH THE REQUIREMENTS OF THIS SECTION ARE DEEMED BENE-  
17 FICIAL AND SHALL PROMULGATE AND FORWARD TO THE APPROPRIATE AGENCIES A  
18 LIST OF SUCH COMPONENTS AND SERVICES. SUCH COMMISSIONERS SHALL UPDATE  
19 SUCH LIST AS OFTEN AS IS DEEMED BY THEM TO BE NECESSARY.

20 3. (A) THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER  
21 OF LABOR SHALL SPECIFY THE PERCENTAGE OF UNEMPLOYMENT REQUIRED TO EXIST  
22 IN THE PERTINENT INDUSTRIES WITHIN THE STATE AND THE PERCENTAGE OF EACH  
23 COMPONENT REQUIRED TO BE PRODUCED OR PROCESSED IN THE STATE.

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

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1 (B) UPON A DETERMINATION BY SUCH COMMISSIONERS THAT A SUFFICIENT  
2 PERCENTAGE OF UNEMPLOYMENT IN THE PERTINENT INDUSTRIES OF NEW YORK  
3 PRODUCED OR PROCESSED COMPONENTS DOES NOT EXIST IN THE STATE, THE SPEC-  
4 IFICATIONS REQUIRING THE USE OF NEW YORK PRODUCED OR PROCESSED COMPO-  
5 NENTS OR NEW YORK SERVICES FOR WORK, LABOR AND SUPERVISION SHALL BE  
6 WAIVED.

7 (C) IN THE EVENT THAT NO ACCEPTABLE BIDS ARE RECEIVED, THE PROVISIONS  
8 OF THIS SECTION MAY BE WAIVED AND THE CONTRACT MAY BE AWARDED IN ACCORD-  
9 ANCE WITH OTHER APPLICABLE STATUTES. IN ADDITION, IF SUCH COMMISSIONERS  
10 AGREE TO THE DELETERIOUS ECONOMIC IMPACT OF THESE SPECIFICATIONS, THE  
11 PROVISIONS OF THIS SECTION MAY BE WAIVED.

12 4. THE COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF  
13 LABOR MAY ISSUE SUCH REGULATIONS AS THEY DEEM NECESSARY AND PROPER FOR  
14 THE IMPLEMENTATION OF THIS SECTION.

15 5. (A) WITH EACH BID, THE BIDDER SHALL CERTIFY THAT THE COMPONENTS AND  
16 SERVICES FOR WORK, LABOR AND SUPERVISION TO BE UTILIZED SHALL BE IN  
17 CONFORMITY WITH THE PROVISIONS OF THIS SECTION.

18 (B) ANY SUCCESSFUL BIDDER WHO FAILS TO COMPLY WITH THE PROVISIONS OF  
19 THIS SECTION SHALL FORFEIT THE RIGHT TO BID ON CONTRACTS LET UNDER THE  
20 PROVISIONS OF THIS SECTION FOR A PERIOD OF TIME TO BE DETERMINED BY THE  
21 COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR.

22 6. EACH SUCCEEDING YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE  
23 COMMISSIONER OF ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF LABOR SHALL  
24 PROVIDE THE LEGISLATURE WITH A REPORT ON THE FIFTEENTH DAY OF JANUARY ON  
25 THE EFFECTS OF THIS SECTION AND RECOMMENDATIONS ON WAYS TO MAKE IT MORE  
26 EFFECTIVE.

27 7. IF ANY CLAUSE, SENTENCE, PARAGRAPH, OR PART OF THIS SECTION OR THE  
28 APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES, SHALL, FOR ANY  
29 REASON, BE ADJUDGED BY A COURT OF COMPETENT JURISDICTION TO BE INVALID,  
30 SUCH JUDGMENT SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER OF  
31 THIS SECTION, AND THE APPLICATION THEREOF TO OTHER PERSONS OR CIRCUM-  
32 STANCES, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE,  
33 PARAGRAPH, OR PART THEREOF DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH  
34 SUCH JUDGMENT SHALL HAVE BEEN RENDERED AND TO THE PERSON OR CIRCUM-  
35 STANCES INVOLVED. IT IS HEREBY DECLARED TO BE THE INTENT THAT THIS  
36 SECTION WOULD HAVE BEEN ADOPTED HAD SUCH INVALID PROVISIONS NOT BEEN  
37 INCLUDED.

38 S 2. This act shall take effect on the sixtieth day after it shall  
39 have become a law.