

3715

2013-2014 Regular Sessions

I N S E N A T E

February 12, 2013

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

34 S 3. Paragraph (a) of subdivision 3 of section 2853 of the education
35 law, as amended by chapter 101 of the laws of 2010, is amended to read
36 as follows:

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

54 S 4. This act shall take effect immediately.