STATE OF NEW YORK

6494

2021-2022 Regular Sessions

IN ASSEMBLY

March 19, 2021

Introduced by M. of A. DICKENS, BARRON, COOK, DE LA ROSA, HYNDMAN, BICHOTTE HERMELYN, FALL, JEAN-PIERRE, O'DONNELL, RICHARDSON, J. RIVERA, PEOPLES-STOKES, TAYLOR, WALKER, WEPRIN, VANEL -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to disclosure of certain employment statistics and demographics of state-assisted construction projects

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The labor law is amended by adding a new article 34 to read as follows:

ARTICLE 34
STATE-ASSISTED CONSTRUCTION
WORKFORCE DISCLOSURE

Section 960. Definitions.
961. Disclosure requirements.
962. Reporting on covered projects.
963. Designation of administering agency.
964. Recordkeeping.
965. Remedies and enforcement.

§ 960. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Administering agency" shall mean the department of labor, which shall administer and enforce the provisions of this article.

2. "State financial assistance" shall mean financial assistance that is provided by entities including but not limited to the state, a local development corporation as defined by subdivision eight of section eighteen hundred one of the public authorities law or section fourteen hundred eleven of the not-for-profit corporation law, industrial development agencies formed pursuant to article eighteen-A of the general municipal law or industrial development authorities formed pursuant to

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

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article eight of the public authorities law, education corporations as defined in section two hundred sixteen-a of the education law, commissions appointed pursuant to law, as well as state authorities as defined in section two of the public authorities law, and shall also include any trust created by any such entities. The administering agency may include additional providers of financial assistance by rule or regulation, however in no case shall financial assistance provided by a municipal corporation, as defined in section one hundred-one-b of the executive law, be included in the definition of "state financial assistance."

3. "Covered contractor" shall mean a person or entity who has entered into a contract or other agreement with a covered developer for a covered project developer for one million dollars or more, to perform construction work in connection with such project, except that the term "covered contractor" shall not include the state.

4. "Covered developer" shall mean a person or entity who receives state financial assistance in connection with a covered project.

5. (a) "Covered project" shall mean:

(i) a construction project that is funded in whole or in part with state financial assistance, other than a tax abatement or exemption, expected to have a present value of one million dollars or more where the agreement for providing any part of such assistance is executed, renewed or substantially amended on or after the effective date of this article; or

(ii) a construction project that is funded in whole or in part with state financial assistance in the form of tax abatements or exemptions, where the project has a total estimated cost certified by the applicant of five million dollars or more, where the application for such benefits is made on or after the effective date of this article.

(b) The term "covered project" shall not include a construction project by a not-for-profit developer that is intended to provide a site exclusively for the provision of human services including social services such as day care, foster care, home care, homeless assistance, housing and shelter assistance, supportive housing, preventive services, youth services, and senior centers, health or medical services including those provided by health maintenance organizations, legal services, employment assistance services, vocational and educational programs, and recreation programs.

6. "Construction work" shall mean construction, alteration, or demolition work, except that such term shall not include:

(a) architectural, engineering, legal, accounting or other professional services;

(b) clerical or other similar office support services; or

(c) the managing, directing or supervising of construction, rehabilitation, alteration, or demolition work.

7. "Financial assistance" shall mean, but not be limited to, cash payments, grants or other subsidies, loans, bond financing, tax abatements or exemptions, tax increment financing, environmental remediation costs, real property conveyance for less than market value, or write-downs in the market value of buildings, lands or leases or the cost of capital improvements related to real property that, under ordinary circumstances, the state would not pay for. The term "financial assistance" shall include both discretionary and mandatory assistance.

§ 961. Disclosure requirements. 1. Beginning July first, two thousand twenty-two, each covered developer shall provide workforce disclosure records consisting of the following information to the administering agency on at least a quarterly basis with respect to covered projects

that receive state financial assistance on or after such date. Such workforce disclosure records shall include:

(a) for each individual employed or otherwise engaged to perform construction work by the covered developer or any covered contractor during the prior year:

(i) the number of hours worked;

(ii) job title;

(iii) full-time or part-time designation;

(iv) gross wages;

(v) hourly rate of payment;

(vi) pension, health, and welfare funds; and

(vii) zip code of primary address;

(b) for each individual employed or otherwise engaged to perform construction work by the covered developer or covered contractor, who has voluntarily disclosed such individual's gender and race or ethnic group to such covered developer and covered contractor for the purpose of reporting under this section, such gender and race or ethnic group;

(c) for each job title, where such information is made available to such covered developer:

(i) the total number of individuals employed or otherwise engaged to perform project work by the covered developer or any covered contractor during the prior year, disaggregated by gender, race or ethnic group, and full-time or part-time designation;

(ii) the average number of hours worked by such individuals;

(iii) the average compensation of such individuals, including benefit information; and

(iv) the amount such covered developer or covered contractor contributed to pension, health, and welfare funds;

(d) the address, block, and lot number of such covered project; and

(e) whether such covered developer is certified as either a minority-owned business enterprise or a women-owned business enterprise, as such terms are defined in section three hundred ten of the executive law.

2. The information required by subdivision one of this section shall be submitted electronically to the administering agency in a form and manner to be determined by the administering agency.

§ 962. Reporting on covered projects. 1. No later than October thirty-first, two thousand twenty-three, the administering agency shall make data regarding the number of hours worked, job title, full-time or part-time designation, total compensation, zip code of primary address, gender and race or ethnic group received pursuant to section nine hundred sixty-one of this article publicly available online in an anonymized manner.

2. No later than October thirty-first, two thousand twenty-three, and once every three years after such date, the administering agency shall submit to the governor and post publicly on the website of the department of labor, a report providing details concerning the workforce of covered projects. Such report shall include information concerning trends related to individuals employed on covered projects based upon data aggregated from workforce disclosure records as provided for by section nine hundred sixty-one of this article.

§ 963. Designation of administering agency. The governor shall, in writing, designate one or more offices or agencies to administer and enforce the provisions of this article and may, from time to time, at the governor's discretion, change such designation. Within ten days after such designation or change thereof, a copy of such designation or

change thereof shall be published on the governor's website and on the website of each such office or agency.

§ 964. Recordkeeping. Each covered developer shall retain copies of the information required to be submitted pursuant to section nine hundred sixty-one of this article for at least six years after each covered project's completion date and make such copies available to the administering agency at the administering agency's request.

§ 965. Remedies and enforcement. Violation of this chapter shall be punishable by a civil penalty of not more than five thousand dollars, provided that the administering agency shall offer a covered developer an opportunity to cure for a first time violation of this article. Such civil penalty shall be recovered in a proceeding before an administrative tribunal of competent jurisdiction or in a civil action in any court of competent jurisdiction.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. 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 to be made and completed on or before such effective date.