

STATE OF NEW YORK

5994

2021-2022 Regular Sessions

IN SENATE

March 25, 2021

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

AN ACT to amend the labor law, in relation to establishing a registration system for contractors and subcontractors engaged in public work projects in order to better enforce existing labor laws and regulations in the public works industry

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

1 Section 1. The labor law is amended by adding a new section 220-i to
2 read as follows:

3 § 220-i. Registration system for contractors and subcontractors. 1.
4 As used in this section:

5 a. "Contractor" means any contractor or subcontractor entering into a
6 contract to perform construction, demolition, reconstruction, exca-
7 vation, rehabilitation, repair, installation, renovation, alteration, or
8 custom fabrication, which is subject to the provisions of this article.

9 b. "Bureau" means the department's bureau of public works.

10 2. a. Prior to submitting a bid on a contract for a public work, a
11 contractor shall register in writing with the bureau on a form provided
12 by the commissioner. The form shall require the following information:

13 i. The name, principal business address and telephone number of the
14 contractor.

15 ii. Whether the contractor is a person, partnership, association,
16 joint stock company, trust, corporation, or other form of business enti-
17 ty.

18 iii. The name and address of each person with a financial interest in
19 the contractor and the percentage interest, except that if the contrac-
20 tor is a publicly-traded corporation, the contractor shall supply the
21 names and addresses of the corporation's officers.

22 iv. The contractor's tax identification number and unemployment insur-
23 ance registration number.

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

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1 v. Whether the contractor has any outstanding wage assessments against
2 it, pursuant to this article.

3 vi. Whether the contractor has been debarred under New York or federal
4 law within the last ten years.

5 vii. Whether the contractor has been debarred pursuant to the laws of
6 any other state within the last ten years.

7 viii. Whether the contractor has been finally determined by the appro-
8 prate authority to have violated any labor laws or employment tax laws
9 including, but not limited to, the requirement to have workers' compen-
10 sation coverage, payment of workers' compensation premiums, deduction
11 and payment of income taxes, payment of unemployment insurance contrib-
12 utions or payment of prevailing wage.

13 ix. Whether the contractor has been finally determined by the appro-
14 prate authority to have violated any laws establishing workplace safety
15 standards including the federal Occupational Safety and Health Act.

16 x. Whether or not the contractor is associated, or a signatory to, an
17 apprenticeship program under article twenty-three of this chapter. If
18 so, the apprenticeship program shall be provided by the contractor.

19 xi. Whether or not the contractor is a minority or women-owned busi-
20 ness enterprise pursuant to the provisions of article fifteen-A of the
21 executive law.

22 b. At the time of registration, and upon request, the contractor shall
23 submit to the commissioner documentation demonstrating that the contrac-
24 tor has workers' compensation insurance coverage for all workers as
25 required by law. This information shall be made readily available to the
26 public by the bureau within forty-eight hours of the initial public
27 request.

28 3. The contractor shall pay a non-refundable registration fee of two
29 hundred dollars to the commissioner which shall be paid to the general
30 fund. The commissioner, through regulations, shall reduce the registra-
31 tion fee associated with minority or women-owned business enterprises in
32 order to promote the use of such businesses on public work projects.

33 4. Unless, following notice and a hearing, the bureau determines a
34 contractor unfit to be registered, the commissioner shall issue a
35 certificate of registration to the contractor upon receipt of the fee,
36 form and documentation required by this section. A registration certif-
37 icate shall be valid for two calendar years from the date of registra-
38 tion. Registrations may be renewed not less than thirty days before the
39 expiration date of the immediately preceding registration. The commis-
40 sioner shall promulgate regulations to determine under what circum-
41 stances a contractor would be unfit to be registered pursuant to this
42 section. The notice to a contractor initially determined by the commis-
43 sioner to be unfit based upon the registration application shall be in
44 writing, shall not be conclusory, and shall state the factual basis upon
45 which the determination is based. Any documents, reports, or information
46 that form a basis for such determination shall be provided to the
47 contractor within a reasonable time before the hearing. For purposes of
48 this subdivision, the term "unfit" shall mean a contractor who the
49 commissioner determines to be unable to lawfully adhere to public work
50 contractual obligations and responsibilities including prevailing wage
51 requirements pursuant to this article. Such determination shall be based
52 on a clearly documented history, official record of past dealings, or a
53 present demonstrable inability to lawfully adhere to such obligations
54 and responsibilities.

55 5. No contractor shall bid on a contract for public work unless they
56 and all subcontractors listed in the bid, in addition to any subcontrac-

1 tors associated with wage and/or fringe benefit payments to employees on
2 the public work project, are registered pursuant to this section.
3 Further, each contractor must submit their certificate of registration
4 as well as all certificates of registration for any and all subcontractors
5 for such contract at the time the bid is made. Applications for
6 registration shall not be accepted as a substitute for a certificate of
7 registration for the purposes of this section.

8 6. a. A contractor who knowingly bids on a contract for public work
9 without registering, or knowingly submits a bid with subcontractors that
10 are not registered pursuant to subdivision five of this section shall,
11 after notice and a hearing, be subject to a civil penalty of up to one
12 thousand dollars.

13 b. The commissioner may revoke or suspend a registration if a contrac-
14 tor or subcontractor has been finally determined to be in violation of
15 the prevailing wage requirements of this article.

16 c. Nothing in this section shall be construed to limit or supersede
17 the authority of any state or municipal entity to enforce existing labor
18 laws, safety standards, regulations, codes or any other existing laws
19 relative to public work.

20 d. A registration pursuant to this section is not necessary for a bid
21 or work on a contract for public work and penalties pursuant to this
22 section shall not apply when a state of emergency is declared pursuant
23 to section twenty-four of the executive law, when the governor declares
24 a disaster emergency pursuant to section twenty-eight of the executive
25 law, or when the President issues a major disaster or emergency declara-
26 tion and such work arises from or is in connection with the actual or
27 impending declared emergency or disaster or pursuant to an emergency
28 construction contract, or other contract entered into due to an urgent
29 and unexpected event where public safety or the conservation of public
30 resources is at risk, as authorized by law, including but not limited to
31 the public buildings law, the state finance law, the general municipal
32 law, or the public authorities law.

33 7. The department shall prescribe regulations necessary to carry out
34 the provisions of this section within one hundred eighty days after its
35 effective date.

36 § 2. This act shall take effect immediately, provided however, subdi-
37 visions five and six of section 220-i of the labor law as added by
38 section one of this act shall take effect one year after such date and
39 shall apply to bids for public work projects on or after such date.