STATE OF NEW YORK

5868--A

2023-2024 Regular Sessions

IN SENATE

March 20, 2023

Introduced by Sens. HARCKHAM, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to imposing certain brownfield remediation site work requirements to be eligible for the tangible property tax credit associated with brownfield redevelopment

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

Section 1. The closing paragraph of subdivision 1-a of section 27-1407 of the environmental conservation law, as added by section 3 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

Sites are not eligible for tangible property tax credits if: (a) the contamination from ground water or soil vapor is solely emanating from property other than the site subject to the present application; or (b) the department has determined that the property has previously been remediated pursuant to titles nine, thirteen and fourteen of this article, title five of article fifty-six of this chapter and article twelve of the navigation law such that it may be developed for its then intended use**; or (c) remedial activities as defined in paragraph (c), (d), or (f) of subdivision five of section 27-1405 of this title are performed by construction workers on a site who are paid less than the prevailing rate of wages set forth by section two hundred twenty of the labor law, unless such site is an affordable housing project as defined in subdivision twenty-nine of section 27-1405 of this title**.

§ 2. Paragraphs (c) and (d) of subdivision 8 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws of 2004, are amended and a new paragraph (e) is added to read as follows:

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

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(c) there is an order providing for the investigation, removal, or remediation of contamination relating to the brownfield site against the person who is requesting participation; [~~or~~]

(d) [~~The~~] **the** person requesting participation is subject to an outstanding claim as provided in subdivision four of this section[~~.~~]**; or**

(e) the person requesting participation does not require construction workers on a site performing remedial activities as defined in paragraph (c), (d), or (f) of subdivision five of section 27-1405 of this title to be paid the prevailing rate of wages set forth by section two hundred twenty of the labor law, unless such site is an affordable housing project as defined in subdivision twenty-nine of section 27-1405 of this title.

§ 3. Subdivision 5 of section 27-1409 of the environmental conservation law, as amended by section 4 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

5. One authorizing the department to terminate a brownfield site cleanup agreement at any time during the implementation of such agreement if the applicant implementing such agreement fails to substantially comply with such agreement's terms and conditions**, including the requirement that remedial activities as defined in paragraph (c), (d), or (f) of subdivision five of section 27-1405 of this title to be performed by construction workers on a site shall be paid the prevailing rate of wages set forth by section two hundred twenty of the labor law, unless the site is an affordable housing project as defined in subdivision twenty-nine of section 27-1405 of this title. The prevailing rate of wages for the performance of remedial activities as defined in paragraph (c), (d), or (f) of subdivision five of section 27-1405 of this title shall be subject to enforcement under sections two hundred twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-three and two hundred twenty-four-b of the labor law and within the jurisdiction of the fiscal officer as defined therein; provided, however, nothing contained in this subdivision shall be deemed to construe any remedial site as otherwise being considered public work pursuant to article thirty-one of the labor law**;

§ 4. This act shall take effect immediately and shall apply to all state contracting opportunities advertised on or after such date and shall exclude contracts entered into, or for which an invitation for bid, request for proposal, or similar solicitation has been issued, prior to such effective date.