STATE OF NEW YORK

9265--A

IN ASSEMBLY

February 23, 2024

Introduced by M. of A. BRONSON, GONZALEZ-ROJAS, SHRESTHA, REYES, L. ROSENTHAL, LUCAS, JACOBSON, SAYEGH, SHIMSKY, ROZIC, BORES, RA, GANDOLFO, LUNSFORD -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to requiring contractors and subcontractors employed by the state to submit their payrolls or transcripts to the fiscal officer

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 section 220-j to read as follows:

§ 220-j. Payroll reporting requirements. 1. As used in this section:

a. "Contractor" means any entity entering into a contract to perform construction, demolition, reconstruction, excavation, rehabilitation, repair, installation, renovation, alteration, or custom fabrication, which is subject to the provisions of this article.

b. "Fiscal officer" for purposes of this section shall have the same meaning as set forth in paragraph e of subdivision five of section two hundred twenty of this article.

c. "Subcontractor" means any entity subcontracting with a contractor to perform construction, demolition, reconstruction, excavation, rehabilitation, repair, installation, renovation, alteration, or custom fabrication, which is subject to the provisions of this article.

d. "Covered project" means any project subject to the provisions of this article, including but not limited to, public work projects, privately owned prevailing wage projects and those subject to the provisions of sections two hundred twenty-four-a, two hundred twenty-four-d and sections two hundred twenty-four-f of this article.

e. "Monthly" means at least once every thirty days while work is being performed on a covered project and within thirty days after the final day of work was performed on the covered project.

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

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2. Each contractor and subcontractor working on a covered project shall furnish records consistent with subparagraph (iii) of paragraph a of subdivision three-a of section two hundred twenty of this article directly to the fiscal officer in the following manner:

a. submit records monthly unless such covered project contract requires more frequent reporting requirements;

b. in an electronic format, in a manner prescribed by the commissioner, on the department's website;

c. provide documentation of each fund, plan or program where any supplement has been paid or provided for; and

d. provide a copy of the payment bond required by section one hundred thirty-seven of the state finance law, including all information open to public inspection.

3. a. A contractor or subcontractor who fails to furnish records pursuant to this section relating to its employees, shall be subject to a penalty by the fiscal officer of one hundred dollars for each day such contractor or subcontractor is in violation of this section.

b. The fiscal officer shall not level a penalty pursuant to this subdivision until such contractor or subcontractor fails to furnish such electronic records fourteen days after the requirements set forth in paragraph a of subdivision two of this section.

c. Such penalties pursuant to this subdivision shall only accrue to the actual contractor or subcontractor who failed to furnish such required records.

d. All penalties collected pursuant to this section shall be used by the fiscal officer for prevailing wage enforcement.

e. The fiscal officer shall undertake activities it deems necessary to monitor and enforce compliance with this section.

4. No later than December thirty-first, two thousand twenty-four, the department shall develop and implement an online database of electronic certified payroll records submitted pursuant to this section. Such database shall be publicly accessible, but not include personally identifiable information. Such database shall be searchable, including each available payroll record subset. In a city with a population in excess of one million, the commissioner shall ensure access to such online database is provided to the fiscal officer in a manner that allows such officer to monitor and enforce the provisions of this section.

§ 2. This act shall take effect immediately.