STATE OF NEW YORK

7340

2023-2024 Regular Sessions

IN SENATE

May 19, 2023
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Introduced by Sens. PARKER, MYRIE -- 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 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:

1   Section 1. The labor law is amended by adding a new article 35 to read
2   as follows:
3   ARTICLE 35
4   STATE-ASSISTED CONSTRUCTION
5   WORKFORCE DISCLOSURE
6   Section 1120. Definitions.
7   1121. Disclosure requirements.
8   1122. Reporting on covered projects.
9   1123. Designation of administering agency.
10   1124. Recordkeeping.
11   1125. Remedies and enforcement.
12   § 1120. Definitions. For purposes of this article, the following terms
13   shall have the following meanings:
14   1. "Administering agency" shall mean the department of labor, which
15   shall administer and enforce the provisions of this article.
16   2. "State financial assistance" shall mean financial assistance that
17   is provided by entities including but not limited to the state, a local
18   development corporation as defined by subdivision eight of section eigh-
19   teen hundred one of the public authorities law or section fourteen
20   hundred eleven of the not-for-profit corporation law, industrial devel-
21   opment agencies formed pursuant to article eighteen-A of the general
22   municipal law or industrial development authorities formed pursuant to
23   article eight of the public authorities law, education corporations as
24   defined in section two hundred sixteen-a of the education law, commis-

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

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 1 sions appointed pursuant to law, as well as state authorities as defined
 2 in section two of the public authorities law, and shall also include any
 3 trust created by any such entities. The administering agency may include
 4 additional providers of financial assistance by rule or regulation,
 5 however in no case shall financial assistance provided by a municipal
 6 corporation, as defined in section one hundred-one-b of the executive
 7 law, be included in the definition of "state financial assistance".
 8   3. "Covered contractor" shall mean a person or entity who has entered
 9 into a contract or other agreement with a covered developer for a
10 covered project developer for one million dollars or more, to perform
11 construction work in connection with such project, except that the term
12 "covered contractor" shall not include the state.
13   4. "Covered developer" shall mean a person or entity who receives
14 state financial assistance in connection with a covered project.
15   5. (a) "Covered project" shall mean:
16   (i) a construction project that is funded in whole or in part with
17 state financial assistance, other than a tax abatement or exemption,
18 expected to have a present value of one million dollars or more where
19 the agreement for providing any part of such assistance is executed,
20 renewed or substantially amended on or after the effective date of this
21 article; or
22   (ii) a construction project that is funded in whole or in part with
23 state financial assistance in the form of tax abatements or exemptions,
24 where the project has a total estimated cost certified by the applicant
25 of five million dollars or more, where the application for such benefits
26 is made on or after the effective date of this article.
27   (b) The term "covered project" shall not include a construction
28 project by a not-for-profit developer that is intended to provide a site
29 exclusively for the provision of human services including social
30 services such as day care, foster care, home care, homeless assistance,
31 housing and shelter assistance, supportive housing, preventive services,
32 youth services, and senior centers, health or medical services including
33 those provided by health maintenance organizations, legal services,
34 employment assistance services, vocational and educational programs, and
35 recreation programs.
36   6. "Construction work" shall mean construction, alteration, or demoli-
37 tion work, except that such term shall not include:
38   (a) architectural, engineering, legal, accounting or other profes-
39 sional services;
40   (b) clerical or other similar office support services; or
41   (c) the managing, directing or supervising of construction, rehabili-
42 tation, alteration, or demolition work.
43   7. "Financial assistance" shall mean, but not be limited to, cash
44 payments, grants or other subsidies, loans, bond financing, tax abate-
45 ments or exemptions, tax increment financing, environmental remediation
46 costs, real property conveyance for less than market value, or write-
47 downs in the market value of buildings, lands or leases or the cost of
48 capital improvements related to real property that, under ordinary
49 circumstances, the state would not pay for. The term "financial assist-
50 ance" shall include both discretionary and mandatory assistance.
51   § 1121. Disclosure requirements. 1. Beginning July first, two thousand
52 twenty-four, each covered developer shall provide workforce disclosure
53 records consisting of the following information to the administering
54 agency on at least a quarterly basis with respect to covered projects
55 that receive state financial assistance on or after such date. Such
56 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 contrib-
uted 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.
  § 1122. Reporting on covered projects. 1. No later than October thir-
ty-first, two thousand twenty-five, 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 eleven
hundred twenty-one of this article publicly available online in an
anonymized manner.
  2. No later than October thirty-first, two thousand twenty-five, and
once every three years after such date, the administering agency shall
submit to the governor and post publicly on the website of the depart-
ment 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 eleven hundred twenty-one of this article.
  § 1123. 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.

1   **§ 1124. Recordkeeping. Each covered developer shall retain copies of**
2   **the information required to be submitted pursuant to section eleven**
3   **hundred twenty-one of this article for at least six years after each**
4   **covered project's completion date and make such copies available to the**
5   **administering agency at the administering agency's request.**
6   **§ 1125. Remedies and enforcement. Violation of this chapter shall be**
7   **punishable by a civil penalty of not more than five thousand dollars,**
8   **provided that the administering agency shall offer a covered developer**
9   **an opportunity to cure for a first time violation of this article. Such**
10   **civil penalty shall be recovered in a proceeding before an administra-**
11   **tive tribunal of competent jurisdiction or in a civil action in any**
12   **court of competent jurisdiction.**
13   § 2. This act shall take effect on the one hundred eightieth day after
14   it shall have become a law. Effective immediately, the addition, amend-
15   ment and/or repeal of any rule or regulation necessary for the implemen-
16   tation of this act on its effective date are authorized to be made and
17   completed on or before such effective date.