STATE OF NEW YORK

2747--A

2025-2026 Regular Sessions

IN ASSEMBLY

January 22, 2025

Introduced by M. of A. BRONSON, TAYLOR, ROZIC, CRUZ, GLICK, ROSENTHAL, SIMONE, BORES, GONZALEZ-ROJAS, SEAWRIGHT, BENEDETTO, REYES, WEPRIN, BRABENEC, RAGA, SLATER, BRAUNSTEIN, DINOWITZ, DURSO, STECK, RA, EPSTEIN, RAJKUMAR, GIBBS, TAPIA, HYNDMAN, BERGER, LEE, BURDICK, JACOBSON, K. BROWN, BENDETT, REILLY, McDONOUGH, PHEFFER AMATO, MIKULIN, SANTABARBARA, STERN, OTIS, GRIFFIN, COLTON, KAY, WILLIAMS, MEEKS, SHRESTHA, LUNSFORD, CLARK, BURROUGHS, SHIMSKY, LUPARDO -- Multi-Sponsored by -- M. of A. LEVENBERG -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the labor law, in relation to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage

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

Section 1. Subdivision 3 of section 220 of the labor law is amended by adding a new paragraph (f) to read as follows:

(f) (i) For the purposes of this subdivision contractors or subcontractors engaged in custom fabrication shall not be regarded as material suppliers. For the purposes of this subdivision, a legal day's work for which the prevailing rate of wages for the New York county in which the public works project is situated shall be paid to laborers, workers and mechanics shall include custom fabrication regardless of whether the custom fabrication occurs on-site, off-site, or in another jurisdiction outside the state where the custom fabrication constitutes a significant portion of the building or work, it shall be a condition of the contract concerning all such custom fabrication work that the contractor or employer awarded the public work contract, except where the project includes federal funding that triggers federal rules for wage require-

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

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ments, and any subcontractor thereto shall pay the on-site prevailing wage required for workers at the site of the public work project to those workers performing the custom fabrication. To perform a public works contract each contractor or subcontractor who employs workers off-site for the custom fabrication work related to a public work project shall maintain certified payrolls for those workers and provide such payrolls, with original certifications, to the department at least annually and upon request, and shall comply with section two hundred twenty-i of this article, as applicable. For the purposes of this subdivision the term "custom fabrication" shall include, but not be limited to, the fabrication of exterior or interior wall panel systems, woodwork, electrical, plumbing, heating, cooling, ventilation or exhaust duct systems, rebar cages, and mechanical insulation solely and specifically designed and engineered for installation in the construction, repair or renovation of a building which is the subject of a contract to which the state, a department of the state, a board or officer in the state, a municipal corporation, a public benefit corporation or a commission appointed pursuant to law is a party. For the purposes of this subdivision, a "significant portion of building or work" means that portions or modules of the building or work, as opposed to smaller prefabricated components, are delivered to the place where the building or work will remain, with minimal construction work remaining other than the installation and/or assembly of the portions or modules.

(ii) The department of jurisdiction, as defined in subdivision three-a of this section and including any entity to whom such department of jurisdiction delegates their authority, shall be required to report to the fiscal officer the intention to contract for custom, off-site fabrication of any materials on all contracts, regardless of the amount, which may include the employment of laborers, workers or mechanics in the application to the fiscal officer for the approval of such contract. The department of jurisdiction's report shall state the name and address of the off-site, custom fabricator, identify the custom materials that are being fabricated off-site and the quantity thereof, the estimated and actual cost of the off-site fabrication, and the estimated number of workers employed to complete the custom fabrication at the off-site location.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply only to those contracts put out to bid on or after such effective date. 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.