

STATE OF NEW YORK

2298

2025-2026 Regular Sessions

IN SENATE

January 16, 2025

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

AN ACT to amend the labor law, the general municipal law and the public officers law, in relation to the omnibus prevailing wage enforcement act; and to amend chapter 511 of the laws of 1995, relating to establishing a public work enforcement fund and making an appropriation therefor, in relation to moneys accumulated in the public work enforcement fund

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

1 Section 1. This act shall be known and may be cited as the "omnibus
2 prevailing wage enforcement act".

3 § 2. The labor law is amended by adding a new section 223-a to read as
4 follows:

5 § 223-a. Prevailing wage fraud inspector general. 1. Definitions.
6 For the purposes of this section, the following definitions shall apply:

7 (a) "Inspector general" means the prevailing wage fraud inspector
8 general created by this section.

9 (b) "Assistant inspector general" means a prevailing wage fraud
10 assistant inspector general created by this section.

11 2. Appointment, compensation and removal. Notwithstanding any other
12 provision of law, the governor shall appoint the inspector general. The
13 board shall employ and the governor shall fix the compensation of the
14 inspector general. The inspector general shall, and may do so without
15 civil service examination, appoint and the board shall employ, such
16 assistant inspector general and other persons as they deem necessary,
17 determine their duties and fix their compensation. Such assistant
18 inspector general shall assist the inspector general in carrying out the
19 inspector general's duties and responsibilities as set forth in this
20 section and shall have such powers as granted the inspector general
21 under this section. Employees appointed pursuant to this section with-

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

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1 out civil service examination shall be placed in the noncompetitive
2 class of the competitive service pursuant to subdivision two-a of
3 section forty-two of the civil service law and shall serve at the pleas-
4 ure of the governor.

5 3. Powers, duties and responsibilities. The inspector general shall
6 investigate violations of the laws and regulations pertaining to the
7 operation of prevailing wage provisions. The inspector general shall
8 have the following powers, duties and functions:

9 (a) to conduct and supervise investigations, within or without this
10 state, of possible fraud and other violations of laws, rules and regu-
11 lations pertaining to prevailing wage provisions;

12 (b) to subpoena witnesses, administer oaths or affirmations, take
13 testimony and compel the production of such books, papers, records and
14 documents as the inspector general may deem to be relevant to an inves-
15 tigation undertaken pursuant to this section;

16 (c) to report to the attorney general or other appropriate law
17 enforcement agency, violations found through investigations undertaken
18 pursuant to this section and to provide such materials and assistance as
19 may be necessary or appropriate for the successful investigation and
20 prosecution of violations of this chapter;

21 (d) to submit a written report, on an annual basis, to the governor
22 and to the chair of the board, listing all activities undertaken to the
23 extent such activities can be disclosed pursuant to subdivision five of
24 this section; and

25 (e) to recommend legislative and regulatory changes to the governor
26 and to the chair of the board.

27 4. Cooperation of agency officials and employees. (a) In addition to
28 the authority otherwise provided by this section, the inspector general,
29 in carrying out the provisions of this section, is authorized:

30 (i) to have full and unrestricted access to all records, reports,
31 audits, reviews, documents, papers, recommendations or other material
32 maintained by the board or any other state agency relating to prevailing
33 wage provisions, with respect to which the inspector general has respon-
34 sibilities under this section; and

35 (ii) to request such information, assistance and cooperation from any
36 federal, state or local government, department, board, bureau, commis-
37 sion, or other agency or unit thereof as may be necessary for carrying
38 out the duties and responsibilities enjoined upon the inspector general
39 by this section. State and local agencies or units thereof are hereby
40 authorized and directed to provide such information, assistance and
41 cooperation.

42 (b) No person shall prevent, seek to prevent, interfere with, obstruct
43 or otherwise hinder any investigation being conducted pursuant to this
44 section.

45 5. Disclosure of information. The inspector general shall not publicly
46 disclose information which is:

47 (a) a part of an ongoing investigation or prosecution; or

48 (b) specifically prohibited from disclosure by any other provision of
49 law.

50 § 3. Sections 1 and 2 of chapter 511 of the laws of 1995, relating to
51 establishing a public work enforcement fund and making an appropriation
52 therefor, as amended by chapter 407 of the laws of 2005, are amended to
53 read as follows:

54 Section 1. The state comptroller shall establish a public work
55 enforcement fund. Each state agency or public benefit corporation enter-
56 ing into a contract for any construction, reconstruction, renovation,

1 repair, maintenance or other improvement, as defined in subdivision 2 of
2 section 220 of the labor law, shall make a transfer of 0.10 of one
3 percent of the total cost of the contract to such fund. All transfers
4 shall be made available to the labor department for labor law enforce-
5 ment. All moneys transferred to and accumulated in the public work
6 enforcement fund shall be dedicated to enforcement of labor law articles
7 8 and 9 and all moneys appropriated from such fund shall be used for
8 such purpose. Provided further that such dedicated funds shall be used
9 for training, labor and related costs for investigators, hearing offi-
10 cers and administrative staff to ensure that staffing levels for such
11 personnel are maintained at [~~an appropriate level~~] a level equal to or
12 greater than the staffing level for such personnel for fiscal year
13 2019-2020.

14 § 2. The sum of [~~two million four hundred thousand dollars~~
15 ~~(\$2,400,000), or so much thereof as may be~~] moneys so accumulated[~~7~~], is
16 hereby appropriated to the department of labor from any moneys credited
17 to the public work enforcement fund created pursuant to section one of
18 this act for the purposes of carrying out the provisions of this act.
19 Such sum shall be payable on the audit and warrant of the state comp-
20 troller on vouchers certified or approved by the commissioner of labor,
21 or [~~his~~] their duly designated representative in the manner provided by
22 law. No expenditure shall be made from this appropriation until a
23 certificate of approval of availability shall have been issued by the
24 director of the budget and filed with the state comptroller and a copy
25 filed with the chair of the senate finance committee and the chair of
26 the assembly ways and means committee. Such certificate may be amended
27 from time to time by the director of the budget and a copy of each such
28 amendment shall be filed with the state comptroller, the chair of the
29 senate finance committee and the chair of the assembly ways and means
30 committee.

31 § 4. Section 220 of the labor law is amended by adding a new subdivi-
32 sion 10 to read as follows:

33 10. In any instance where the variation between the low bid on any
34 public work contract or subcontract with the state, any municipal corpo-
35 ration or public body and the next lowest bid is ten percent or more, or
36 is ten percent lower than the contracting entity's estimate of the
37 project cost, the low bidder shall provide proof to the satisfaction of
38 the contracting entity that the prevailing wage shall be paid, or such
39 bid shall be rejected.

40 § 5. Section 231 of the labor law is amended by adding a new subdivi-
41 sion 8 to read as follows:

42 8. In any instance where the variation between the low bid on any
43 public work contract or subcontract with the state, any municipal corpo-
44 ration or public body and the next lowest bid is ten percent or more, or
45 is ten percent lower than the contracting entity's estimate of the
46 project cost, the low bidder shall provide proof to the satisfaction of
47 the contracting entity that the prevailing wage shall be paid, or such
48 bid shall be rejected.

49 § 6. Section 220 of the labor law is amended by adding a new subdivi-
50 sion 6-a to read as follows:

51 6-a. The fiscal officer shall require each engineer-in-charge or other
52 agent who has direct supervision of the execution of the contract
53 representing the contracting agency other than the contractor or their
54 employees on all contracts requiring prevailing wage rates to record a
55 daily headcount of all workers on a project site, separately enumerated
56 regarding each classification of worker including hours worked at regu-

1 lar, overtime or holiday pay as classified in the prevailing wage rate
2 schedule. Such records shall be submitted to the fiscal officer and
3 shall be maintained by the fiscal officer for three years after the
4 final acceptance of the project. Knowingly providing the fiscal officer
5 with false records shall be a misdemeanor.

6 § 7. Subdivision 1 of section 103 of the general municipal law, as
7 amended by chapter 668 of the laws of 2023, is amended to read as
8 follows:

9 1. Except as otherwise expressly provided by an act of the legislature
10 or by a local law adopted prior to September first, nineteen hundred
11 fifty-three, all contracts for public work involving an expenditure of
12 more than thirty-five thousand dollars which are subject to the
13 provisions of article eight of the labor law, and all purchase contracts
14 involving an expenditure of more than twenty thousand dollars, shall be
15 awarded by the appropriate officer, board or agency of a political
16 subdivision or of any district therein including but not limited to a
17 soil conservation district to the lowest responsible bidder furnishing
18 the required security after advertisement for sealed bids in the manner
19 provided by this section, provided, however, that purchase contracts
20 (including contracts for service work, but excluding any purchase
21 contracts necessary for the completion of a public works contract pursu-
22 ant to article eight of the labor law) may be awarded on the basis of
23 best value, as defined in section one hundred sixty-three of the state
24 finance law, to a responsive and responsible bidder or offerer in the
25 manner provided by this section except that in a political subdivision
26 other than a city with a population of one million inhabitants or more
27 or any district, board or agency with jurisdiction exclusively therein
28 the use of best value for awarding a purchase contract or purchase
29 contracts must be authorized by local law or, in the case of a district
30 corporation, school district or board of cooperative educational
31 services, by rule, regulation or resolution adopted at a public meeting.
32 Such officer, board, or agency may require responsible bidders and their
33 subcontractors to participate in apprenticeship training programs
34 approved by the department of labor. In any case where a responsible
35 bidder's or responsible offerer's gross price is reducible by an allow-
36 ance for the value of used machinery, equipment, apparatus or tools to
37 be traded in by a political subdivision, the gross price shall be
38 reduced by the amount of such allowance, for the purpose of determining
39 the best value. In cases where two or more responsible bidders furnishing
40 the required security submit identical bids as to price, such offi-
41 cer, board or agency may award the contract to any of such bidders. Such
42 officer, board or agency may, in [~~his or her~~] their or its discretion,
43 reject all bids or offers and readvertise for new bids or offers in the
44 manner provided by this section. In determining whether a purchase is an
45 expenditure within the discretionary threshold amounts established by
46 this subdivision, the officer, board or agency of a political subdivi-
47 sion or of any district therein shall consider the reasonably expected
48 aggregate amount of all purchases of the same commodities, services or
49 technology to be made within the twelve-month period commencing on the
50 date of purchase. Purchases of commodities, services or technology
51 shall not be artificially divided for the purpose of satisfying the
52 discretionary buying thresholds established by this subdivision. A
53 change to or a renewal of a discretionary purchase shall not be permit-
54 ted if the change or renewal would bring the reasonably expected aggre-
55 gate amount of all purchases of the same commodities, services or tech-
56 nology from the same provider within the twelve-month period commencing

1 on the date of the first purchase to an amount greater than the discre-
2 tionary buying threshold amount. For purposes of this section, "sealed
3 bids" and "sealed offers", as that term applies to purchase contracts,
4 (including contracts for service work, but excluding any purchase
5 contracts necessary for the completion of a public works contract pursu-
6 ant to article eight of the labor law) shall include bids and offers
7 submitted in an electronic format including submission of the statement
8 of non-collusion required by section one hundred three-d of this arti-
9 cle, provided that the governing board of the political subdivision or
10 district, by resolution, has authorized the receipt of bids and offers
11 in such format. Submission in electronic format may, for technology
12 contracts only, be required as the sole method for the submission of
13 bids and offers. Provided however, the appropriate officer, board or
14 agency of a city with a population of one million inhabitants or more,
15 or any district, board or agency with jurisdiction exclusively within
16 such city, may authorize or require bids and offers for any contract to
17 be submitted in an electronic format. Bids and offers submitted in an
18 electronic format shall be transmitted by bidders and offerers to the
19 receiving device designated by the political subdivision or district.
20 Any method used to receive electronic bids and offers shall comply with
21 article three of the state technology law, and any rules and regulations
22 promulgated and guidelines developed thereunder and, at a minimum, must
23 (a) document the time and date of receipt of each bid and offer received
24 electronically; (b) authenticate the identity of the sender; (c) ensure
25 the security of the information transmitted; and (d) ensure the confi-
26 dentiality of the bid or offer until the time and date established for
27 the opening of bids or offers. The timely submission of an electronic
28 bid or offer in compliance with instructions provided for such
29 submission in the advertisement for bids or offers and/or the specifica-
30 tions shall be the responsibility solely of each bidder or offerer or
31 prospective bidder or offerer. No political subdivision or district
32 therein shall incur any liability from delays of or interruptions in the
33 receiving device designated for the submission and receipt of electronic
34 bids and offers.

35 § 8. Subdivision 1 of section 103 of the general municipal law, as
36 amended by section 2 of chapter 2 of the laws of 2012, is amended to
37 read as follows:

38 1. Except as otherwise expressly provided by an act of the legislature
39 or by a local law adopted prior to September first, nineteen hundred
40 fifty-three, all contracts for public work involving an expenditure of
41 more than thirty-five thousand dollars which are subject to the
42 provisions of article eight of the labor law, and all purchase contracts
43 involving an expenditure of more than twenty thousand dollars, shall be
44 awarded by the appropriate officer, board or agency of a political
45 subdivision or of any district therein including but not limited to a
46 soil conservation district to the lowest responsible bidder furnishing
47 the required security after advertisement for sealed bids in the manner
48 provided by this section, provided, however, that purchase contracts
49 (including contracts for service work, but excluding any purchase
50 contracts necessary for the completion of a public works contract pursu-
51 ant to article eight of the labor law) may be awarded on the basis of
52 best value, as defined in section one hundred sixty-three of the state
53 finance law, to a responsive and responsible bidder or offerer in the
54 manner provided by this section except that in a political subdivision
55 other than a city with a population of one million inhabitants or more
56 or any district, board or agency with jurisdiction exclusively therein

1 the use of best value for awarding a purchase contract or purchase
2 contracts must be authorized by local law or, in the case of a district
3 corporation, school district or board of cooperative educational
4 services, by rule, regulation or resolution adopted at a public meeting.
5 Such officer, board, or agency may require responsible bidders and their
6 subcontractors to participate in apprenticeship training programs
7 approved by the department of labor. In determining whether a purchase
8 is an expenditure within the discretionary threshold amounts established
9 by this subdivision, the officer, board or agency of a political subdivi-
10 sion or of any district therein shall consider the reasonably expected
11 aggregate amount of all purchases of the same commodities, services or
12 technology to be made within the twelve-month period commencing on the
13 date of purchase. Purchases of commodities, services or technology shall
14 not be artificially divided for the purpose of satisfying the discre-
15 tionary buying thresholds established by this subdivision. A change to
16 or a renewal of a discretionary purchase shall not be permitted if the
17 change or renewal would bring the reasonably expected aggregate amount
18 of all purchases of the same commodities, services or technology from
19 the same provider within the twelve-month period commencing on the date
20 of the first purchase to an amount greater than the discretionary buying
21 threshold amount. In any case where a responsible bidder's or responsi-
22 ble offerer's gross price is reducible by an allowance for the value of
23 used machinery, equipment, apparatus or tools to be traded in by a poli-
24 tical subdivision, the gross price shall be reduced by the amount of
25 such allowance, for the purpose of determining the low bid or best
26 value. In cases where two or more responsible bidders furnishing the
27 required security submit identical bids as to price, such officer, board
28 or agency may award the contract to any of such bidders. Such officer,
29 board or agency may, in [~~his, her~~] their or its discretion, reject all
30 bids or offers and readvertise for new bids or offers in the manner
31 provided by this section.

32 § 9. Section 220 of the labor law is amended by adding a new subdivi-
33 sion 11 to read as follows:

34 11. All public entities subject to this article shall make available
35 for public inspection and copying of the records or portions thereof
36 pertaining to the names of, employee classifications of, rate of wages
37 and supplements paid to, and number of hours worked by the employees of
38 contractors performing work pursuant to this article and article nine of
39 this chapter. The social security numbers of such employees may be
40 blocked out by the agency. An entity shall not be permitted to deny
41 access to records or portions thereof pertaining to the payment of wages
42 and supplements to, and number of hours worked by, the employees of
43 contractors subject to this article and article nine of this chapter.

44 § 10. Section 233 of the labor law is amended by adding a new subdivi-
45 sion 5 to read as follows:

46 5. All public entities subject to this article shall make available
47 for public inspection and copying of the records or portions thereof
48 pertaining to the names of, employee classifications of, rate of wages
49 and supplements paid to, and number of hours worked by the employees of
50 contractors performing work pursuant to this article and article eight
51 of this chapter. The social security numbers of such employees may be
52 blocked out by the agency. An entity shall not be permitted to deny
53 access to records or portions thereof pertaining to the payment of wages
54 and supplements to, and number of hours worked by, the employees of
55 contractors subject to this article and article eight of this chapter.

1 § 11. Subdivision 2 of section 87 of the public officers law is
2 amended by adding a new paragraph (v) to read as follows:

3 (v) Provided that, nothing in this subdivision shall permit an agency
4 to deny access to records or portions thereof pertaining to the payment
5 of wages and supplements to, and number of hours worked by the employees
6 of contractors subject to articles eight and nine of the labor law. All
7 public entities subject to this article shall make available for public
8 inspection and copying of such records, the names of, employee classi-
9 fications of, rate of wages and supplements paid to, and number of hours
10 worked by the employees of contractors performing work pursuant to arti-
11 cles eight and nine of the labor law. The social security numbers of
12 such employees may be blocked out by the agency.

13 § 12. Paragraph (a) of subdivision 2 of section 89 of the public offi-
14 cers law, as amended by section 11 of part U of chapter 61 of the laws
15 of 2011, is amended to read as follows:

16 (a) The committee on public access to records may promulgate guide-
17 lines regarding deletion of identifying details or withholding of
18 records otherwise available under this article to prevent unwarranted
19 invasions of personal privacy. In the absence of such guidelines, an
20 agency may delete identifying details when it makes records available,
21 provided however, nothing in this paragraph shall permit the denial of
22 access to records or portions thereof pertaining to the payment of wages
23 and supplements to, and number of hours worked by the employees of
24 contractors subject to articles eight and nine of the labor law. All
25 public entities subject to this article shall make available for public
26 inspection and copying of such records, the names of, employee classi-
27 fications of, rate of wages and supplements paid to, and number of hours
28 worked by the employees of contractors performing work pursuant to arti-
29 cles eight and nine of the labor law. The social security numbers of
30 such employees may be blocked out by the agency.

31 § 13. Paragraph (b) of subdivision 2 of section 89 of the public offi-
32 cers law is amended by adding a new undesignated paragraph to read as
33 follows:

34 Provided that, nothing in this paragraph shall permit an agency to
35 deny access to records or portions thereof pertaining to the payment of
36 wages and supplements to, and number of hours worked by employees of
37 contractors subject to articles eight and nine of the labor law. It
38 shall not be an unwarranted invasion of personal privacy for all public
39 entities subject to this article, to make available for public
40 inspection and copying, the records of all names of, employee classi-
41 fications of, rate of wages and supplements paid to, and number of hours
42 worked by the employees of contractors performing work pursuant to arti-
43 cles eight and nine of the labor law. The social security numbers of
44 such employees may be blocked out by the agency.

45 § 14. Subdivision 2-a of section 89 of the public officers law, as
46 added by chapter 652 of the laws of 1983, is amended to read as follows:

47 2-a. Nothing in this article shall permit disclosure which constitutes
48 an unwarranted invasion of personal privacy as defined in subdivision
49 two of this section if such disclosure is prohibited under section nine-
50 ty-six of this chapter, provided however, that nothing in this article
51 shall permit an agency to deny access to records or portions thereof
52 pertaining to the payment of rate of wages and supplements to, and
53 number of hours worked by, employees of contractors subject to articles
54 eight and nine of the labor law. It shall not be an unwarranted invasion
55 of personal privacy as defined in subdivision two of this section, nor a
56 prohibited disclosure under section ninety-six of this chapter for all

1 public entities subject to this article, to make available for public
2 inspection and copying such records of all names of, employee classi-
3 fications of, rate of wages and supplements paid to, and number of hours
4 worked by the employees of contractors performing work pursuant to arti-
5 cles eight and nine of the labor law. The social security numbers of
6 such employees may be blocked out by the agency.

7 § 15. Subparagraph (iii) of paragraph a of subdivision 3-a of section
8 220 of the labor law, as amended by chapter 86 of the laws of 2020, is
9 amended to read as follows:

10 (iii) The contractor and every sub-contractor shall keep original
11 payrolls or transcripts thereof, subscribed and sworn to or affirmed by
12 [~~him or her~~] them as true under the penalties of perjury, setting forth
13 the names and addresses and showing for each worker, laborer, or mechan-
14 ic the hours and days worked, the occupations worked, the hourly wage
15 rates paid and the supplements paid or provided. Such payrolls or tran-
16 scripts thereof shall be accompanied by a copy of each notice required
17 under subdivision one or two of section one hundred ninety-five of this
18 chapter for every laborer, worker or mechanic, which shall be subscribed
19 and sworn to or affirmed as true under penalties of perjury and shall be
20 deemed to be part of the original payrolls or transcripts thereof for
21 purposes of this subdivision. Where the contractor or sub-contractor
22 maintains no regular place of business in New York state and where the
23 amount of the contract is in excess of twenty-five thousand dollars such
24 payrolls shall be kept on the site of the work. All other contractors or
25 sub-contractors shall produce within five days on the site of the work
26 and upon formal order of the commissioner or [~~his or her~~] their desig-
27 nated representative such original payrolls or transcripts thereof,
28 subscribed and sworn to or affirmed by [~~him or her~~] them as true under
29 the penalties of perjury, as may be deemed necessary to adequately
30 enforce the provisions of this article. Every contractor, and sub-con-
31 tractor, shall submit to the department of jurisdiction within thirty
32 days after issuance of its first payroll, and every thirty days there-
33 after, a transcript of the original payroll record, as provided by this
34 article, and at the completion of the project a summary transcript spec-
35 ifying the hours and days worked by each worker, laborer or mechanic,
36 the trade or occupation at which they worked, the hourly wage rate paid,
37 the supplements paid or provided to such employee and the names, tax
38 identification number and job title of each individual classified by the
39 contractor or subcontractor as independent contractors who were hired
40 and employed by such contractor to perform work subject to the
41 provisions of this article. Such summary transcript shall be subscribed
42 and sworn to or affirmed as true under the penalties of perjury. Any
43 person who willfully fails to file such payroll records with the depart-
44 ment of jurisdiction, commissioner, or the fiscal officer shall be guilt-
45 y of a class E felony. In addition, any person who willfully fails to
46 file such payroll records within the time specified in this subparagraph
47 shall be subject to a civil penalty of up to one thousand dollars per
48 day. Each independent contractor shall have obtained a tax identifica-
49 tion number prior to employment on a project and shall submit such
50 number to the contractor as required by the commissioner.

51 § 16. Subdivision 3-a of section 220 of the labor law is amended by
52 adding a new paragraph g to read as follows:

53 g. Where the capital construction cost of a public work subject to the
54 provisions of this section exceeds one million dollars, the department
55 of jurisdiction shall certify that the project will be audited from time
56 to time by the department of labor to ensure compliance with the

1 provisions of this article. The department of jurisdiction shall inform
2 the department of labor of the project's cost and shall establish a
3 timetable for audit by the department of labor.

4 § 17. Severability clause. If any clause, sentence, paragraph, subdi-
5 vision, section or part contained in any part of this act shall be
6 adjudged by any court of competent jurisdiction to be invalid, such
7 judgment shall not affect, impair, or invalidate the remainder thereof,
8 but shall be confined in its operation to the clause, sentence, para-
9 graph, subdivision, section or part contained in any part thereof
10 directly involved in the controversy in which such judgment shall have
11 been rendered. It is hereby declared to be the intent of the legislature
12 that this act would have been enacted even if such invalid provisions
13 had not been included herein.

14 § 18. This act shall take effect immediately; provided, however, that:

15 1. Sections four, five, six and fifteen of this act shall take effect
16 on the sixtieth day after they shall have become a law;

17 2. Sections seven and eight of this act shall apply to contracts let
18 on or after such effective date of each section respectively;

19 3. The amendments to subdivision 1 of section 103 of the general
20 municipal law made by section seven of this act shall be subject to the
21 expiration and reversion of such subdivision pursuant to subdivision (a)
22 of section 41 of part X of chapter 62 of the laws of 2003, as amended,
23 when upon such date the provisions of section eight of this act shall
24 take effect; and

25 4. Sections nine through fourteen of this act shall take effect on the
26 thirtieth day after they shall have become a law.