

# STATE OF NEW YORK

2536--A

2025-2026 Regular Sessions

## IN SENATE

January 21, 2025

Introduced by Sens. JACKSON, ADDABBO, BROUK, CHAN, CLEARE, COMRIE, FERNANDEZ, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, KAVANAGH, KRUEGER, MARTINS, MATTERA, MAYER, OBERACKER, PALUMBO, PARKER, RAMOS, RHOADS, C. RYAN, S. RYAN, SALAZAR, SCARCELLA-SPANTON, SERRANO, SKOUFIS, STAVISKY, WEBER, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

3 (f) (i) For the purposes of this subdivision contractors or subcon-  
4 tractors engaged in custom fabrication shall not be regarded as material  
5 suppliers. For the purposes of this subdivision, a legal day's work for  
6 which the prevailing rate of wages for the New York county in which the  
7 public works project is situated shall be paid to laborers, workers and  
8 mechanics shall include custom fabrication regardless of whether the  
9 custom fabrication occurs on-site, off-site, or in another jurisdiction  
10 outside the state where the custom fabrication constitutes a significant  
11 portion of the building or work, it shall be a condition of the contract  
12 concerning all such custom fabrication work that the contractor or  
13 employer awarded the public work contract, except where the project  
14 includes federal funding that triggers federal rules for wage require-  
15 ments, and any subcontractor thereto shall pay the on-site prevailing  
16 wage required for workers at the site of the public work project to  
17 those workers performing the custom fabrication. To perform a public  
18 works contract each contractor or subcontractor who employs workers

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

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1 off-site for the custom fabrication work related to a public work  
2 project shall maintain certified payrolls for those workers and provide  
3 such payrolls, with original certifications, to the department at least  
4 annually and upon request, and shall comply with section two hundred  
5 twenty-i of this article, as applicable. For the purposes of this  
6 subdivision the term "custom fabrication" shall include, but not be  
7 limited to, the fabrication of exterior or interior wall panel systems,  
8 woodwork, electrical, plumbing, heating, cooling, ventilation or exhaust  
9 duct systems, rebar cages, and mechanical insulation solely and specif-  
10 ically designed and engineered for installation in the construction,  
11 repair or renovation of a building which is the subject of a contract to  
12 which the state, a department of the state, a board or officer in the  
13 state, a municipal corporation, a public benefit corporation or a  
14 commission appointed pursuant to law is a party. For the purposes of  
15 this subdivision, a "significant portion of building or work" means that  
16 portions or modules of the building or work, as opposed to smaller  
17 prefabricated components, are delivered to the place where the building  
18 or work will remain, with minimal construction work remaining other than  
19 the installation and/or assembly of the portions or modules.

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

33 § 2. This act shall take effect on the one hundred eightieth day after  
34 it shall have become a law and shall apply only to those contracts put  
35 out to bid on or after such effective date. Effective immediately, the  
36 addition, amendment and/or repeal of any rule or regulation necessary  
37 for the implementation of this act on its effective date are authorized  
38 to be made and completed on or before such effective date.