

STATE OF NEW YORK

6378

2025-2026 Regular Sessions

IN SENATE

March 12, 2025

Introduced by Sen. RAMOS -- 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 prevailing wage requirements applicable to construction projects performed under private contract; and to repeal section 224-c of the labor law, in relation to eliminating the public subsidiary board

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

Section 1. Section 224-a of the labor law, as added by section 1 of part FFF of chapter 58 of the laws of 2020, paragraphs c and d of subdivision 2 as amended and paragraph e of subdivision 2 as added by section 1 of part R and paragraphs f and g of subdivision 3 as amended and paragraph h of subdivision 3 as added by section 2 of part U of chapter 56 of the laws of 2024, and paragraph b of subdivision 4 as amended by section 3 of part AA of chapter 56 of the laws of 2021, is amended to read as follows:

§ 224-a. Prevailing wage requirements applicable to construction projects performed under private contract. 1. Subject to the provisions of this section, each "covered project" as defined in this section shall be subject to prevailing wage requirements in accordance with section two hundred twenty and two hundred twenty-b of this article. A "covered project" shall mean construction work done under contract which is paid for in whole or in part out of public funds as such term is defined in this section where:

a. the amount of all such public funds, when aggregated, is at least [thirty] twenty percent of the total construction [project] costs and where such [project] costs are over five million dollars [except as provided for by section two hundred twenty-four c of this article]; or

b. the amount of such public funds received pursuant to paragraph a of subdivision two of this section is at least three million dollars; or

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

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1 c. the amount of all such public funds, when aggregated, is at least
2 five million dollars.

3 2. For purposes of this section, "paid for in whole or in part out of
4 public funds" shall mean any of the following:

5 a. The payment of money, by a public entity, or a third party acting
6 on behalf of and for the benefit of a public entity, directly to or on
7 behalf of the contractor, subcontractor, developer or owner that is not
8 subject to repayment;

9 b. The savings achieved from fees, rents, interest rates, or other
10 loan costs, or insurance costs that are lower than market rate costs;
11 savings from reduced taxes as a result of tax credits, tax abatements,
12 tax exemptions or tax increment financing; savings from payments in lieu
13 of taxes; and any other savings from reduced, waived, or forgiven costs
14 that would have otherwise been at a higher or market rate but for the
15 involvement of the public entity;

16 c. Money loaned by the public entity that is to be repaid on a contin-
17 gent basis;

18 d. Credits that are applied by the public entity against repayment of
19 obligations to the public entity; or

20 e. Benefits under section four hundred sixty-seven-m of the real prop-
21 erty tax law.

22 3. For purposes of this section, "paid for in whole or in part out of
23 public funds" shall not include:

24 a. Benefits under section four hundred twenty-one-a of the real prop-
25 erty tax law;

26 b. ~~[Funds that are not provided primarily to promote, incentivize, or~~
27 ~~ensure that construction work is performed, which would otherwise be~~
28 ~~captured in subdivision two of this section;~~

29 ~~c.] Funds used to incentivize or ensure the development of a compre-~~
30 ~~hensive sewage system, including connection to existing sewer lines or~~
31 ~~creation of new sewage lines or sewer capacity, provided, however, that~~
32 ~~such work shall be deemed to be a public work covered under the~~
33 ~~provisions of this article;~~

34 ~~[d. tax benefits provided for projects the length or value of which~~
35 ~~are not able to be calculated at the time the work is to be performed;~~

36 ~~e. tax benefits related to brownfield remediation or brownfield rede-~~
37 ~~velopment pursuant to section twenty one, twenty two, one hundred eight-~~
38 ~~y seven g or one hundred eighty seven h of the tax law, subdivision~~
39 ~~seventeen or eighteen of section two hundred ten B of the tax law,~~
40 ~~subsection (dd) or (ee) of section six hundred six of the tax law, or~~
41 ~~subdivision (u) or (v) of section fifteen hundred eleven of the tax law;~~

42 ~~f.] c. funds provided pursuant to subdivision three of section twen-~~
43 ~~ty-eight hundred fifty-three of the education law; and~~

44 ~~[g. any other public monies, credits, savings or loans, determined by~~
45 ~~the public subsidy board created in section two hundred twenty four c of~~
46 ~~this article as exempt from this definition; and~~

47 ~~h.] d. benefits under section four hundred eighty-five-x of the real~~
48 ~~property tax law.~~

49 4. For purposes of this section "covered project" shall not include
50 any of the following:

51 a. Construction work on one or two family dwellings where the property
52 is the owner's primary residence, or construction work performed on
53 property where the owner of the property owns no more than four dwelling
54 units;

55 b. Construction work performed under a contract with a not-for-profit
56 corporation as defined in section one hundred two of the not-for-profit

1 corporation law, other than a not-for-profit corporation formed exclu-
2 sively for the purpose of holding title to property and collecting
3 income thereof or any public entity as defined in this section, where
4 the not-for-profit corporation has gross annual revenue and support less
5 than five million dollars;

6 c. Construction work performed on a multiple residence and/or ancil-
7 lary amenities or installations that is wholly privately owned in any of
8 the following circumstances [~~except as provided for by section two~~
9 ~~hundred twenty-four c of this article~~]:

10 (i) where no less than twenty-five percent of the residential units
11 are affordable and shall be retained subject to an anticipated regulato-
12 ry agreement with a local, state, or federal governmental entity, or a
13 not-for-profit entity with an anticipated formal agreement with a local,
14 state, or federal governmental entity for purposes of providing afforda-
15 ble housing in a given locality or region provided that the period of
16 affordability for a residential unit deemed affordable under the
17 provisions of this paragraph shall be for no less than fifteen years
18 from the date of construction; or

19 (ii) where no less than thirty-five percent of the residential units
20 involves the provision of supportive housing services for vulnerable
21 populations provided that such units are subject to an anticipated regu-
22 latory agreement with a local, state, or federal governmental entity[~~+~~
23 ~~or~~

24 ~~(iii) any newly created programs for affordable or subsidized housing~~
25 ~~as determined by the public subsidy board established by section two~~
26 ~~hundred twenty four c of this article~~].

27 d. Construction work performed on a manufactured home park as defined
28 in paragraph three of subdivision a of section two hundred thirty-three
29 of the real property law where the manufactured home park is subject to
30 a regulatory agreement with a local, state, or federal governmental
31 entity for no less than fifteen years;

32 e. Construction work performed under a pre-hire collective bargaining
33 agreement between an owner or contractor and a bona fide building and
34 construction trade labor organization which has established itself as
35 the collective bargaining representative for all persons who will
36 perform work on such a project, and which provides that only contractors
37 and subcontractors who sign a pre-negotiated agreement with the labor
38 organization can perform work on such a project, or construction work
39 performed under a [~~labor peace agreement,~~] project labor agreement[, ~~or~~
40 ~~any other construction work performed under an enforceable agreement~~]
41 between an owner or contractor and a bona fide building and construction
42 trade labor organization;

43 f. [~~Construction work performed on projects funded by section~~
44 ~~sixteen-n of the urban development corporation act or the downtown revi-~~
45 ~~talization initiative;~~

46 ~~g. Construction work and engineering and consulting services performed~~
47 ~~in connection with the installation of a renewable energy system, renew-~~
48 ~~able heating or cooling system, or energy storage system, with a capaci-~~
49 ~~ty equal to or under five megawatts alternating current;~~

50 ~~h. Construction work performed on supermarket retail space built or~~
51 ~~renovated with tax incentives provided under the food retail expansion~~
52 ~~to support health (FRESH) program through the New York city industrial~~
53 ~~development agency;~~

54 ~~i.]~~ Construction work performed for interior fit-outs and improvements
55 under ten thousand square feet through small business incubation

1 programs operated by the New York city economic development corporation;
2 or

3 ~~[j. Construction work on space to be used as a school under sixty~~
4 ~~thousand square feet, pursuant to a lease from a private owner to the~~
5 ~~New York city department of education and the school construction~~
6 ~~authority; or~~

7 ~~k.]~~ g. Construction work performed on projects that received tax bene-
8 fits related to historic rehabilitation pursuant to subdivision twenty-
9 six of section two hundred ten-B of the tax law, subsection (oo) or (pp)
10 of section six hundred six of the tax law, or subdivision (y) of section
11 fifteen hundred eleven of the tax law.

12 5. For purposes of this section, "public entity" shall include, but
13 shall not be limited to, the state, a local development corporation as
14 defined in subdivision eight of section eighteen hundred one of the
15 public authorities law or section fourteen hundred eleven of the not-
16 for-profit corporation law, a municipal corporation as defined in
17 section one hundred nineteen-n of the general municipal law, an indus-
18 trial development agency formed pursuant to article eighteen-A of the
19 general municipal law or industrial development authorities formed
20 pursuant to article eight of the public authorities law, and any state,
21 local or interstate or international authorities as defined in section
22 two of the public authorities law; and shall include any trust created
23 by any such entities.

24 6. ~~[For purposes of this section, "construction" means work which~~
25 ~~shall be as defined by the public subsidy board to require payment of~~
26 ~~prevailing wage, and which may involve the employment of laborers, work-~~
27 ~~ers, or mechanics.~~

28 ~~7.]~~ For purposes of this section and section two hundred twenty-four-b
29 of this article, the "fiscal officer" shall be deemed to be the commis-
30 sioner.

31 ~~[8.]~~ 7. The enforcement of any construction work deemed to be a
32 covered project pursuant to this section, and any additional require-
33 ments, shall be subject, in addition to this section, [~~only~~] to the
34 requirements of sections two hundred twenty, two hundred twenty-four-b,
35 ~~[two hundred twenty-four-c, and]~~ two hundred twenty-b, two hundred twen-
36 ty-i, and two hundred twenty-j of this article and within the jurisdic-
37 tion of the fiscal officer; provided, however, nothing contained in this
38 section shall be deemed to construe any covered project as otherwise
39 being considered public work pursuant to this article; and further
40 provided:

41 a. The owner or developer of such covered project shall certify under
42 penalty of perjury [~~within~~] not less than five days [~~of~~] prior to the
43 commencement of construction work whether the project at issue is
44 subject to the provisions of this section through the use of a standard
45 form developed by the fiscal officer.

46 b. The owners or developers of a property who are undertaking a
47 project under private contract, may seek guidance from the [~~public~~
48 ~~subsidy board contained in section two hundred twenty-four-c of this~~
49 ~~article]~~ department, and [~~such board~~] the department may [~~render an~~
50 ~~opinion]~~ issue a determination as to whether or not the project is a
51 covered project within the meaning of this article. [~~Any such determi-~~
52 ~~nation shall not be reviewable by the fiscal officer, nor shall it be~~
53 ~~reviewable by the department pursuant to section two hundred twenty of~~
54 ~~this article.]~~

55 c. The owner or developer of a covered project shall be responsible
56 for retaining original payroll records in accordance with section two

1 hundred twenty of this article for a period of six years from the
2 conclusion of such work. All payroll records maintained by an owner or
3 developer pursuant to this section shall be subject to inspection on
4 request of the fiscal officer. Such owner or developer may authorize the
5 prime contractor of the construction project to take responsibility for
6 retaining and maintaining payroll records, but will be held jointly and
7 severally liable for any violations of such contractor. All records
8 obtained by the fiscal officer shall be subject to the Freedom of Infor-
9 mation Law.

10 d. (i) Each public entity providing any of the public funds listed in
11 subdivision two of this section to an owner, developer, contractor or
12 subcontractor of a project shall ~~identify~~ provide a certification, on
13 a form provided by the department, to both the department and recipient
14 which identifies the nature and dollar value of such funds and whether
15 any such funds are excluded under subdivision three of this section and
16 shall so notify the recipient of such funds of such determination and of
17 their obligations under paragraph a of this subdivision. Such certif-
18 ication shall be filed with the department within two days of the date
19 in which the recipient and public entity executed the agreement for the
20 issuance of such public funds. The department shall maintain a list of
21 all certifications received pursuant to this paragraph, which shall be
22 available to the public upon request. The department is authorized to
23 refer any failure by a public entity to comply with this paragraph to
24 the comptroller or attorney general, or both, for further investigation.

25 (ii) For public funds that provide the recipient with a future benefit
26 or incentives in future years, the certification provided to the recipi-
27 ent by the public entity shall identify the estimated future value of
28 the funds and the methodology used by the public entity to determine the
29 future value. Such future value shall not be less than any calculations
30 made by the recipient in public or private financing documents related
31 to the project. The department, upon investigation, may reject this
32 estimation and calculate a future value in accordance with subparagraph
33 (iii) of this paragraph.

34 (iii) Where the public entity fails to provide an estimated future
35 value of funds based on a reasonable methodology, the department shall
36 determine the estimated future value of funds by applying to the present
37 value of the funds an annual growth of not less than two percent and a
38 discounted present value rate of not more than seven percent.

39 (iv) The department shall issue guidance on this subdivision, includ-
40 ing the certification form and future benefit calculations, within thir-
41 ty days of the effective date of the chapter of the laws of two thousand
42 twenty-five that amended this paragraph.

43 e. The fiscal officer may issue rules and regulations governing the
44 provisions of this section. Violations of this section shall be grounds
45 for determinations and orders pursuant to section two hundred twenty-b
46 of this article.

47 ~~[9-]~~ 8. Each owner and developer subject to the requirements of this
48 section shall comply with the objectives and goals of minority and
49 women-owned business enterprises pursuant to article fifteen-A of the
50 executive law and service-disabled veteran-owned businesses pursuant to
51 article ~~[seventeen-B of the executive law]~~ three of the veterans'
52 services law. The department in consultation with the directors of the
53 division of minority and women's business development and of the divi-
54 sion of service-disabled veterans' business development shall make
55 training and resources available to assist minority and women-owned
56 business enterprises and service-disabled veteran-owned business enter-

prises on covered projects achieve and maintain compliance with prevailing wage requirements. The department shall make such training and resources available online and shall afford minority and women-owned business enterprises and service-disabled veteran-owned business enterprises an opportunity to submit comments on such training.

~~[10.]~~ 9. a. The fiscal officer shall report to the governor, the temporary president of the senate, and the speaker of the assembly by July first, two thousand twenty-two, and annually thereafter, on the participation of minority and women-owned business enterprises in relation to covered projects and contracts for public work subject to the provisions of this section and section two hundred twenty of this article respectively as well as the diversity practices of contractors and subcontractors employing laborers, workers, and mechanics on such projects.

b. Such reports shall include aggregated data on the utilization and participation of minority and women-owned business enterprises, the employment of minorities and women in construction-related jobs on such projects, and the commitment of contractors and subcontractors on such projects to adopting practices and policies that promote diversity within the workforce. The reports shall also examine the compliance of contractors and subcontractors with other equal employment opportunity requirements and anti-discrimination laws, in addition to any other employment practices deemed pertinent by the commissioner.

c. The fiscal officer may require any owner or developer to disclose information on the participation of minority and women-owned business enterprises and the diversity practices of contractors and subcontractors involved in the performance of any covered project. It shall be the duty of the fiscal officer to consult and to share such information in order to effectuate the requirements of this section.

~~[11. If construction work is not deemed to be a covered project, whether by virtue of an exclusion of such project under subdivision four of this section, or by virtue or not receiving sufficient public money to be deemed "paid for in whole or in part out of public funds", such project shall not be subject to the requirements of sections two hundred twenty and two hundred twenty-b of this article.]~~

§ 2. Section 224-c of the labor law is REPEALED.

§ 3. This act shall take effect immediately.