STATE OF NEW YORK

8833

IN SENATE

January 8, 2026

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

AN ACT to amend the labor law, in relation to certain off-site custom fabrication public works projects and the payment of prevailing wage

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

Section 1. Paragraph (f) of subdivision 3 of section 220 of the labor law, as added by a chapter of the laws of 2025 amending the labor law relating to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage, as proposed in legislative bills numbers S. 2536-A and A. 2747-A, is amended 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~~] **and such pay** shall be a condition of the contract concerning all such custom fabrication work [~~that~~] **involving** the contractor or employer awarded the public work contract, except where the project includes federal funding that triggers federal rules for wage requirements, 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.

(ii) 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

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

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with [~~section~~] sections two hundred twenty-i and two hundred twenty-j of this article[~~, as applicable~~].

(iii) 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~~] a specified public work project. The term "custom fabrication" does not include components, portions, modules, or materials that are otherwise stocked or readily available absent a specified public work project.

[~~(ii)~~] (iv) The provisions of this paragraph shall not include any highway, structure, vehicle or watercraft used to support transporting persons; the foregoing notwithstanding, this paragraph shall include electrical, plumbing, heating, cooling, ventilation or mechanical insulation work in rest areas, transit stations or depots.

(v) Nothing in this paragraph shall be construed to apply the requirements set forth in section two hundred twenty-four-a of this article to any custom fabrication associated with the creation or rehabilitation of any residential dwelling units or manufactured home parks that are exempted from the definition of "covered projects" as set forth in section two hundred twenty four-a of this article.

(vi) The contractor awarded a public work contract, or a subcontractor thereto, shall be required to report to the department of jurisdiction the intent to utilize custom fabrication in a form and manner prescribed by the fiscal officer. Such reports shall identify the public work contract, the name and location of the custom fabrication entity, and description of the custom fabrication work. The contractor awarded a public work contract, or subcontractor thereto, shall notify any additional party contracted with for custom fabrication that the contract is subject to this subdivision. 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~~] in a form and manner prescribed by the fiscal officer. Such reports shall identify the public work contract, the name and location of the custom fabrication entity, and description of the custom fabrication work. Reports submitted to the fiscal officer

shall be subject to disclosure pursuant to article six of the public officers law.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 3. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2025 amending the labor law relating to inclusion of certain off-site custom fabrication as public work for the purposes of payment of prevailing wage, as proposed in legislative bills numbers S. 2536-A and A. 2747-A, takes effect.