



Legislation Text

File #: Res 0867-2019, **Version:** *

Res. No. 867

Resolution calling on the New York State Legislature to pass, and the New York State Governor to sign, S.1947/A.1261, in relation to hours, wages and supplements in contracts for public work.

By Council Members Moya, Koslowitz, Ampry-Samuel, Salamanca, Rivera, Ayala, Cabrera, Kallos, Gibson, Grodenchik and Holden

Whereas, New York State (NYS) Labor Law and the NYS Constitution mandate that contractors and subcontractors pay the prevailing rate of hours, wages and supplements (fringe benefits), known as the prevailing wage, to all workers under a public work contract, mainly regarding public work projects for construction and reconstruction (Article 8 of the NYS Labor Law), and building services contracts (Article 9 of the NYS Labor Law); and

Whereas, In New York City (NYC), the prevailing wage is set annually by the NYC Comptroller, however, in addition to public work projects that are included under NYS Labor Law, the NYC Administrative Code requires additional public work projects to be covered under the prevailing wage, including certain buildings receiving financial assistance from, or leasing space to, the NYC government, and food services or temporary office services for contracts with NYC government agencies; and

Whereas, Although NYS Labor Law and the NYC Administrative Code specify what types of trades are bound by the prevailing wage requirement, there is a persistent problem in the lack of a clear definition of “public work;” and

Whereas, This lack of a clear definition causes problems in the way in which certain projects are classified or not classified as a public work project, ultimately determining whether workers are required to receive the prevailing wage or not; and

Whereas, The New York State School of Industrial and Labor Relations at Cornell University (ILR School of Cornell University) exemplifies this problem by reporting that public work projects were typically defined in the past as construction projects of public facilities funded by public money and for public use, however, more recently, the definition of “public work” has been blurred, due to the comingling of various forms of public and private funding, which has caused uncertainty among many contractors and subcontractors regarding their obligation to provide the prevailing wage to their workers; and

Whereas, Further, neither NYS Labor Law nor the NYS Constitution defines “public work,” which has led to a number of court cases challenging certain projects’ status as public work projects, resulting in fewer projects and workers subject to the prevailing wage requirement, according to the NYS Building and Construction Trades Council; and

Whereas, Legislation has been introduced at the state level to ensure that workers on public work projects receive the prevailing wage and its’ associated benefits, which, according to the ILR School of Cornell University, include: increased consumer demand that supports local business-with every dollar spent on the prevailing wage generating \$1.50 for local economics; protection of communities, workers, and contractors from lower-paying, out-of-state competition; and increased incomes and tax revenues, among other things; and

Whereas, S.1947, introduced by Senator Jessica Ramos, and A.1261, introduced by Assemblymember Harry B. Bronson, provide: a clear definition of “public work” to include all projects paid for in whole or in part with public funds, certain construction work performed under private contract, and certain construction work performed as a condition of regulatory approval; exemptions to providing the prevailing wage for homeowners, certain non-profits, certain affordable housing projects, and projects eligible for benefits provided under section 421-a of the real property taxation law; and the NYS Labor Commissioner with the ability to issue a stop-work order if any person involved with public work projects fails to comply with or intentionally evades work requirements; and

Whereas, This legislation will remedy the present situation of uncertainty that exists in NYS regarding

which projects fit the definition of “public work” and are subject to the prevailing wage; and

Whereas, S.1947/A.1261 are specifically important to NYC because, according to a report by the New York Building Congress, government spending on public work projects in NYC is expected to increase to \$23 billion in 2019 and \$24 billion in 2020, meaning that there will be a large increase in public work projects and workers that are subject to the prevailing wage; and

Whereas, This legislation would effectively ensure that those workers on a public work project in NYS receive the wages, hours and supplements that they deserve, while also encouraging economic development and poverty reduction throughout NYS; now, therefore be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the New York State Governor to sign, S.1947/A.1261, in relation to hours, wages and supplements in contracts for public work.

KK
LS 10512
4/22/19