

Legislative Information

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A11831-A Rules (Nolan) Same as [S 7791-A](#) VELELLA

BILL TEXT:**STATE OF NEW YORK**

11831--A

IN ASSEMBLY

June 20, 2002

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Nolan, McEneny) -- read once and referred to the Committee on Labor -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law and the state finance law, in relation to enacting the New York state apparel workers fair labor conditions and procurement act and to amend the labor law, the state finance law and the education law, in relation to authorizing SUNY and CUNY, as state agencies, to consider certain labor standards and working conditions when purchasing apparel; and providing for the repeal of certain provisions of the labor law and the state finance law relating thereto

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state apparel workers fair labor conditions and procure-
3 ment act".

4 § 2. Legislative intent. It is the sense of this legislature that the
5 state of New York, as a major purchaser of goods and services, must be
6 cognizant of fair labor conditions in its actions as a market partic-
7 ipant. Many consumers have legitimately revised their own purchase deci-
8 sions in the face of revelations about sweatshop labor and conditions.
9 The city of New York has recently enacted legislation to ensure that the

10 labor standards utilized in the manufacture of its apparel are decent
11 and just. It is therefore incumbent that the state exercise appropriate
12 awareness regarding the working conditions in which its extensive
13 apparel purchases are made. The uniformed employees of our state often
14 embody, and indeed represent, the high ideals which have made New York
15 great. It is the intent and purpose of this legislation to ensure that
16 through its market participation, the state continues to uplift economic
17 standards of the workforce.

18 § 3. Section 347 of the labor law, as added by chapter 764 of the laws
19 of 1986, is amended to read as follows:

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

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1 § 347. Report. Two years after the date on which this article takes
2 effect, and on or before the thirty-first of January of each year there-
3 after, the special task force shall issue a report on its activities and
4 on the apparel industry in New York state. This report shall be deliv-
5 ered to the labor committees and ways and means and finance committees
6 of the legislature. The special task force shall report on a regular
7 basis to the apparel industry advisory committee of the department, or
8 its successor.

9 § 4. The labor law is amended by adding a new section 349 to read as
10 follows:

11 § 349. Special September eleventh bidders registry. 1. The department
12 is authorized to promulgate the necessary rules and regulations to
13 establish a registry of apparel manufacturers and contractors adversely
14 impacted by the September eleventh, two thousand one attack on the
15 United States of America. For purposes of this section, "the September
16 eleventh, two thousand one attack on the United States of America" shall
17 consist of the attack on the World Trade Center, the attack on the
18 Pentagon and the hijackings and crashes of United Airlines flights 93
19 and 175 and American Airlines flights 11 and 77.

20 2. In order to be registered, the manufacturer or contractor shall
21 substantiate that:

22 a. such manufacturer or contractor was registered with the department
23 pursuant to section three hundred forty-one of this article, as of
24 September eleventh, two thousand, and had been continuously doing busi-
25 ness until and including September eleventh, two thousand one;

26 b. such manufacturer or contractor has demonstrated, through cooper-
27 ative labor management efforts, a commitment to improving the economic
28 well-being of their employees; and

29 c. neither the business entity, nor any owner or partner of such enti-
30 ty, has in the previous five years been found in violation of the work-
31 ers' compensation law or any other state or federal labor law, rule or
32 regulation.

33 3. For purposes of this section, the term "adversely impacted" shall
34 mean that a manufacturer or contractor was forced to shut production,
35 lay off employees or otherwise diminish their economic worthiness
36 because of their location, the loss of access to employees, production
37 equipment, utilities or other factors which occurred in the aftermath of
38 the September eleventh, two thousand one attack on the United States of
39 America.

40 4. For purposes of procurements of apparel and textiles, the depart-
41 ment shall make the registry available to any state agency, department,
42 board, bureau, commission, division, or any public benefit corporation,
43 public authority, a majority of whose members are appointed by the
44 governor, and if requested, to political subdivisions.

45 5. Manufacturers and contractors may be removed from the registry in
46 the discretion of and as determined by the department. Any manufacturer

47 or contractor who knowingly submits false or misleading information in
48 order to qualify for placement on the list under this section shall be:
49 (a) guilty of a class A misdemeanor;
50 (b) be subject to a civil penalty of not more than five hundred
51 dollars; or
52 (c) guilty of a class A misdemeanor and subject to such civil penalty
53 as provided in paragraph (b) of this subdivision.

54 § 5. Subdivision 1 of section 162 of the state finance law, as added
55 by chapter 83 of the laws of 1995, is amended to read as follows:

1 1. Purpose. To advance special social and economic goals, selected
2 providers shall have preferred source status for the purposes of
3 procurement in accordance with the provisions of this section. Procure-
4 ment from these providers, except those defined in paragraph f of subdi-
5 vision two of this section, shall be exempted from the competitive
6 procurement provisions of section one hundred sixty-three of this arti-
7 cle and other competitive procurement statutes. Such exemption shall
8 apply to commodities produced, manufactured or assembled, including
9 those repackaged to meet the form, function and utility required by
10 state agencies, in New York state and, where so designated, services
11 provided by those sources in accordance with this section.

12 § 6. Subdivision 2 of section 162 of the state finance law is amended
13 by adding a new paragraph f to read as follows:

14 f. Commodities provided by any qualified apparel manufacturer and
15 contractor on the special September eleventh bidders registry, as added
16 by section three hundred forty-nine of the labor law, approved for such
17 purposes by the commissioner of labor, provided, however, that nothing
18 in this paragraph shall affect or displace the preferences and priori-
19 ties established in paragraphs a, b, c, d and e of this subdivision.

20 § 7. Subdivision 3 of section 162 of the state finance law is amended
21 by adding a new paragraph d to read as follows:

22 d. Paragraphs a, b and c of this subdivision shall not apply to
23 commodities provided by any qualified apparel manufacturer and contrac-
24 tor on the special September eleventh bidders registry, as added by
25 section three hundred forty-nine of the labor law, or approved for such
26 purposes by the commissioner of labor. The commissioner of labor shall
27 periodically provide the commissioner of general services with the
28 special September eleventh bidders registry, as added by section three
29 hundred forty-nine of the labor law, of qualified apparel manufacturers
30 and contractors. The commissioner of labor shall also make the registry
31 available upon request to other state agencies, public benefit corpo-
32 rations, public authorities, and, if requested, to political subdivi-
33 sions.

34 § 8. Section 162 of the state finance law is amended by adding a new
35 subdivision 4-a to read as follows:

36 4-a. Priority in purchasing requirements for apparel or textiles. a.
37 Definitions. As used in this section, the following terms shall have the
38 following meanings:

39 (i) "Apparel" or "textiles" shall mean all articles of clothing or
40 goods produced by weaving, knitting, or felting or any similar
41 production processes for such articles of clothing and shall include all
42 goods produced by the apparel industry as defined by subdivision (c) of
43 section three hundred forty of the labor law.

44 (ii) "State" shall mean any New York state agency, department, board,
45 bureau, commission, division, or any public benefit corporation or
46 public authority a majority of whose members are appointed by the gover-

47 nor.

48 b. Notwithstanding anything to the contrary, political subdivisions
49 may adopt and apply the priority established herein by specifically
50 including the provisions of this subdivision in their bid specifica-
51 tions.

52 c. Conditions for participation in certain state contracts. In the
53 event the state, as defined in subparagraph (ii) of paragraph a of this
54 subdivision, seeks to purchase apparel or textiles pursuant to a compet-
55 itive bid pursuant to section one hundred sixty-three of this article or

1 other applicable competitive procurement statutes, the following addi-
2 tional conditions shall apply:

3 (i) the bid shall include a statement that a state agency shall not
4 enter into a contract to purchase or obtain for any purpose any apparel
5 from a bidder unable or unwilling to provide documentation as part of
6 its bid:

7 (A) attesting that such apparel was manufactured in compliance with
8 all applicable labor and occupational safety laws, including, but not
9 limited to, child labor laws, wage and hour laws and workplace safety
10 laws;

11 (B) stating, if known, the name and address of each subcontractor to
12 be utilized; and

13 (C) stating, if known, all manufacturing plants utilized by the bidder
14 or subcontractor.

15 (ii) manufacturers and contractors identified on the special September
16 eleventh bidders registry, as added by section three hundred forty-nine
17 of the labor law, shall be a preferred source for purposes of a compet-
18 itive bid and the associated contract award for apparel or textile
19 procurements where the price bid by such participating qualified regis-
20 trant bidder is not greater than fifteen percent more than the lowest
21 price bid by an otherwise responsive and responsible bidder. Where there
22 is more than one participating qualified registrant bidder, the state
23 shall make the contract award based upon the lowest price bid among such
24 bidders.

25 (iii) where no qualified bidders under subparagraph (ii) of this para-
26 graph participate in the competitive bid for the specified apparel or
27 textiles the state shall award the contract to the otherwise lowest
28 responsive and responsible bidder pursuant to section one hundred
29 sixty-three of this article or other applicable competitive procurement
30 statutes.

31 d. Waiver. The provisions of this section may be waived by the head of
32 any state agency, department, board, bureau, commission, division, or
33 any public benefit corporation or public authority a majority of whose
34 members are appointed by the governor where it is determined in writing
35 and included in the procurement record that it is in the best interests
36 of the state to do so.

37 § 9. The labor law is amended by adding a new section 213-a to read as
38 follows:

39 § 213-a. Special provisions regarding the purchasing of apparel by the
40 state university of New York and the city university of New York.

41 1. Notwithstanding any other provision of law, the various units of
42 the state university of New York, the city university of New York and
43 community colleges shall have the authority to:

44 a. Determine that a bidder on a contract for the purchase of apparel
45 is not a responsible bidder as defined in section one hundred sixty-
46 three of the state finance law based upon either of the following

47 considerations:

48 (i) the labor standards applicable to the manufacture of the apparel,
49 including but not limited to employee compensation, working conditions,
50 employee rights to form unions, and the use of child labor, or

51 (ii) the bidder's failure to provide information sufficient for the
52 state agency or corporation to determine the labor conditions applicable
53 to the manufacture of the apparel.

54 b. Include in the internal policies and procedures governing procure-
55 ment of apparel, where such procurement is not further required to be
56 made pursuant to the competitive bidding requirements of section one

1 hundred sixty-three of the state finance law, a prohibition against the
2 purchase of apparel from any vendor based upon either or both of the
3 following considerations:

4 (i) the labor standards applicable to the manufacture of the apparel,
5 including but not limited to employee compensation, working conditions,
6 employee rights to form unions, and the use of child labor, or

7 (ii) the bidder's failure to provide sufficient information for said
8 state agencies to determine the labor standards applicable to the manu-
9 facture of the apparel.

10 2. For the purposes of this section, "apparel" shall mean goods, such
11 as, but not limited to, sports uniforms, including gym uniforms,
12 required school uniforms, shoes, including, but not limited to, athletic
13 shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether
14 or not imprinted with a school's name or logo, academic regalia, lab
15 coats and staff uniforms.

16 § 10. Section 165 of the state finance law is amended by adding a new
17 subdivision 7 to read as follows:

18 7. Special provisions regarding the purchasing of apparel by the state
19 university of New York and the city university of New York.

20 a. Notwithstanding any other provision of law, the various units of
21 the state university of New York, the city university of New York and
22 community colleges shall have authority to:

23 (i) Determine that a bidder on a contract for the purchase of apparel
24 is not a responsible bidder as defined in section one hundred sixty-
25 three of this article based upon either of the following considerations:

26 (A) the labor standards applicable to the manufacture of the apparel,
27 including but not limited to employee compensation, working conditions,
28 employee rights to form unions, and the use of child labor, or

29 (B) the bidder's failure to provide information sufficient for the
30 state agency or corporation to determine the labor conditions applicable
31 to the manufacture of the apparel.

32 (ii) Include in the internal policies and procedures governing
33 procurement of apparel, where such procurement is not further required
34 to be made pursuant to the competitive bidding requirements of section
35 one hundred sixty-three of this article, a prohibition against the
36 purchase of apparel from any vendor based upon either or both of the
37 following considerations:

38 (A) the labor standards applicable to the manufacture of the apparel,
39 including but not limited to employee compensation, working conditions,
40 employee rights to form unions, and the use of child labor, or

41 (B) the bidder's failure to provide sufficient information for said
42 state agencies to determine the labor standards applicable to the manu-
43 facture of the apparel.

44 b. For the purposes of this subdivision, "apparel" shall mean goods,
45 such as, but not limited to, sports uniforms, including gym uniforms,
46 required school uniforms, shoes, including, but not limited to, athletic

47 shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether
48 or not imprinted with a school's name or logo, academic regalia, lab
49 coats and staff uniforms.

50 § 11. Section 6302 of the education law is amended by adding a new
51 subdivision 6 to read as follows:

52 6. a. Notwithstanding any other provision of law, community colleges
53 established under this article shall have the authority to:

54 (i) Determine that the bidder on a contract for the purchase of
55 apparel is not an acceptable bidder based on either of the following
56 considerations:

1 (A) the labor standards applicable to the manufacture of the apparel,
2 including but not limited to employee compensation, working conditions,
3 employee rights to form unions, and the use of child labor, or

4 (B) the bidder's failure to provide information sufficient for the
5 state agency or corporation to determine the labor conditions applicable
6 to the manufacture of the apparel.

7 (ii) Include in the internal policies and procedures governing
8 procurement of apparel a prohibition against the purchase of apparel
9 from any vendor based upon either or both of the following consider-
10 ations:

11 (A) the labor standards applicable to the manufacture of the apparel,
12 including but not limited to employee compensation, working conditions,
13 employee rights to form unions, and the use of child labor; or

14 (B) the bidder's failure to provide sufficient information for said
15 state agencies to determine the labor standards applicable to the manu-
16 facture of the apparel.

17 b. For the purposes of this subdivision, "apparel" shall mean goods,
18 such as, but not limited to, sports uniforms, including gym uniforms,
19 required school uniforms, shoes, including, but not limited to, athletic
20 shoes or sneakers, sweatshirts, caps, hats, and other clothing, whether
21 or not imprinted with a school's name or logo, academic regalia, lab
22 coats and staff uniforms.

23 § 12. This act shall take effect on September 1, 2002 and shall
24 respectively apply to bids issued after such date; provided, however,
25 that effective immediately, the addition, amendment and/or repeal of any
26 rule or regulation necessary for the implementation of this act on its
27 effective date are authorized and directed to be made and completed on
28 or before such effective date; provided, however, that sections four
29 through eight of this act shall be deemed repealed on September 1, 2005.