

Auberti	Y	Christe	ER	Fitzpat	Y	Jeffrie	Y	McDonou	Y	Raia	Y	
Titone	Y											
Aubry	ER	Clark	Y	Gabrysz	NO	John	Y	McEneny	Y	Ramos	Y	Titus
Y												
Bacalle	NO	Cole	NO	Galef	Y	Kavanag	Y	McKevit	Y	Reilich	NO	
Tobacco	Y											
Ball	Y	Colton	Y	Gantt	Y	Kellner	Y	Miller	Y	Reilly	Y	Tonko
Y												
Barclay	NO	Conte	Y	Gianari	Y	Kirwan	Y	Millman	Y	Rive J	ER	Towns
Y												
Barra	Y	Cook	Y	Giglio	Y	Kolb	NO	Molinar	Y	Rive N	ER	
Townsen	Y											
Benedet	Y	Crouch	NO	Glick	Y	Koon	Y	Morelle	NO	Rive PM	Y	
Walker	Y											
Benjami	Y	Cusick	Y	Gord D	ER	Lafayet	Y	Nolan	Y	Robinso	Y	
Weinste	Y											
Bing	Y	Cymbrow	Y	Gord TP	Y	Lancman	Y	Oaks	NO	Rosenth	Y	
Weisenb	ER											
Boyland	ER	DelMont	Y	Gottfri	Y	Latimer	Y	O`Donne	Y	Saladin	Y	
Weprin	Y											
Boyle	Y	Destito	Y	Greene	Y	Lavine	Y	O`Mara	NO	Sayward	ER	
Wright	Y											
Bradley	Y	Diaz LM	ER	Gunther	Y	Lentol	Y	Ortiz	ER	Scarbor	Y	Young
Y												
Brennan	Y	Diaz R	ER	Hawley	NO	Lifton	Y	Parment	Y	Schimel	Y	
Zebrows	Y											
Brodsky	Y	Dinowit	Y	Hayes	NO	Lope PD	NO	Paulin	Y	Schimmi	NO	Mr
Spkr	Y											
Brook-K	Y	Duprey	Y	Heastie	ER	Lope VJ	Y	Peoples	Y	Schroed	Y	
Burling	NO	Eddingt	Y	Hevesi	Y	Lupardo	Y	Peralta	ER	Scozzaf	ER	
Butler	NO	Englebr	Y	Hikind	ER	Magee	NO	Perry	ER	Seminer	Y	
Cahill	Y	Errigo	NO	Hooper	Y	Magnare	Y	Pheffer	Y	Spano	Y	

A09204 Memo:

BILL NUMBER: A9204

TITLE OF BILL : An act to amend the general municipal law, the state finance law, the public housing law, the education law, the public authorities law, chapter 560 of the laws of 1980 authorizing the city of New York to adopt a solid waste management law and chapter 892 of the laws of 1971 amending the public authorities law and other laws relating to enabling the dormitory authority to construct and finance dormitories, buildings and health facilities, in relation to separate specifications for public works contracts; to amend the general municipal law and the state finance law, in relation to payment by contractors to subcontractors; and to amend the labor law, in relation to public works contracts

PURPOSE :

This bill reforms the Wicks laws, which require four separate specifications and contracts for certain public work contracts, to ease the burden this mandate imposes on local governments.

SUMMARY OF PROVISIONS :

Sections 1 and 2 through 14 of the bill amend various provisions of

the General Municipal Law, State Finance Law, Public Housing Law, Education Law and Public Authorities Law, as well as Chapter 560 of the Laws of 1980 and Chapter 892 of the Laws of 1971, to increase the current Wicks Law thresholds for separate specifications from \$50,000 (\$75,000 for certain public authorities) to \$3,000,000 for projects in New York City, \$1,500,000 for projects in Nassau, Suffolk and Westchester Counties, and \$500,000 for projects in all other counties. In addition, each bidder on a public works contract will be required to submit with its bid a sealed list naming each subcontractor on such project and the amount to be paid to each. The sealed bid of the accepted low bidder will be opened and, thereafter, any changes to that list will require the approval of the public owner upon a showing of legitimate construction need for the change. All other sealed lists will be returned unopened after the contract is awarded.

Section 1-a of the bill authorizes counties, school districts and other municipalities with populations over 50,000 to pre-qualify bidders on public work projects considering factors such as the prospective bidders' experience and record of performance, financial capability, compliance with existing labor standards, compliance with equal employment opportunity and anti-discrimination laws, demonstrated commitment to working with minority and women-owned businesses, and record of protecting the health and safety of workers. School districts and local governments with populations under 50,000 will be authorized to use a list of pre-qualified bidders maintained by their counties, if any.

Sections 15 through 17 of the bill amend General Municipal Law S 106-b(2) and State Finance Law SS 139-f(2) and 137(1) to require a contractor on a public works project to pay subcontractors within seven days of receiving a payment from the public owner. In addition, these sections are amended to provide for the calculation of interest due on late payments to subcontractors in accordance with General Business Law S 756b(1)(b), which requires the payment of interest at the rate of one percent per month or fraction of a month.

Section 18 of the bill adds a new section 222 to Article 8 of the Labor Law authorizing the use of project labor agreements in lieu of separate specifications in public works contracts that would otherwise be subject to the Wicks Law. The contracting entity would be required to make a determination that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, and other considerations, are best met by requiring a project labor agreement. Contracts entered into pursuant to a project labor agreement under this section would be subject to requirements including public owner design approval, performance bonds and participation in approved apprenticeship programs.

Section 19 of the bill empowers the Commissioner of Labor to issue a stop-bid order to enforce compliance with the Wicks Law separate specifications requirements.

Section 20 of the bill sets forth the effective date for this bill.

EXISTING LAW :

The Wicks Law currently requires the preparation of separate specifications for public works contracts over \$50,000. Under current laws, public works contractors are required to pay subcontractors within 15 days of receiving a payment from the public owner. The

interest rate applicable to late payments is the overpayment/underpayment interest rate set by the Commissioner of Taxation and Finance or, if no such rate is set, 6% per year.

STATEMENT IN SUPPORT :

The Wicks Law requires the preparation of separate specifications for the electrical, plumbing and HVAC components of public works contracts. When originally enacted in 1921, the Wicks Law required separate specifications for all public works contracts over \$25,000. The current \$50,000 threshold for separate specifications was adopted in 1961 for State contracts and in 1964 for local government contracts.

In the four decades since this threshold was last adjusted, the costs of real estate, labor and materials for public works projects have risen dramatically, subjecting an ever increasing number of Public works contracts to the separate specifications requirements. This bill will recalibrate this threshold to \$3,000,000 for New York City projects, \$1,500,000 for projects in Nassau, Suffolk and Westchester Counties, and \$500,000 for projects in all the remaining counties - allowing smaller projects to proceed without separate specifications. At the same time, the Commissioner of Labor will be empowered to issue stop-bid orders to enforce compliance with the bid requirements for these new thresholds.

This bill also introduces several subcontractor protections - including requiring the submission of sealed lists of subcontractors with each bid and payments to subcontractors within seven days of receipt by a contractor - to help assure that subcontractors are treated fairly in non-Wicks projects. The bill also authorizes project labor agreements, which standardize the terms and conditions of employment for labor on public works contracts, instead of separate specifications when the public interest promoted by competitive bidding will be served by such agreements.

LEGISLATIVE HISTORY :

Similar proposals were included in the 2007-08 Executive Budget, and in Senate Bill Number 5828.

BUDGET IMPLICATIONS :

This bill will provide fiscal relief and increased flexibility for local governments, including saving New York City over \$136 million in the first year alone.

EFFECTIVE DATE :

This bill shall take effect 90 days after enactment and shall control all contracts advertised or solicited for bid on or after the effective date of the bill under the provisions of any law requiring contracts to be let pursuant to provisions of law amended by the bill.