

# LABOR AND EMPLOYMENT

## INFORMATION MEMO

FEBRUARY 13, 2026

### Key 2025 Changes to New York's Prevailing Wage Law

Throughout 2025, New York enacted several significant amendments to the state's labor law, impacting contractors and subcontractors working on covered prevailing wage projects.

#### Expanding Coverage of Off-Site Custom Fabrication

On Dec. 20, 2025, Governor Hochul signed legislation amending New York's prevailing wage law to expand coverage of off-site fabrication work.

Prior to this amendment, New York state regulators advised that prevailing wage requirements applied to off-site fabrication only if the work was "usually and customarily performed at the project site." Under this framework, off-site fabricators frequently could be treated appropriately as material suppliers and therefore falling outside the statute's coverage. In recent years, however, there has been a growing number of disputes over the coverage of off-site fabrication on public works projects in New York. The 2025 amendment is expected to put to rest some of these prior issues but may raise other new disputes based on the legislative drafting.

In any event, the new law expressly expands the scope of "public work" to now include certain "custom fabrication" performed off-site, even if that fabrication work takes place in a different state or jurisdiction. This extraterritorial application of the amendment is particularly notable, considering the limited authority and jurisdiction of state regulators in New York.

Nevertheless, under the amendment, workers performing covered off-site fabrication work must be paid the prevailing wage rate and fringe benefits established for the New York county where the project is located. (Note: The amendment appears to exempt projects falling under federal Davis-Bacon prevailing wage requirements.)

The statute defines "custom fabrication" as work that is solely and specifically designed and engineered for a covered public works building or work. Under the new law, covered custom fabrication includes, but is not limited to:

- exterior and interior wall panel systems;
- woodwork;
- electrical systems;
- plumbing systems;
- heating, cooling, ventilation or exhaust duct systems;
- rebar cages; and
- mechanical insulation.

To be covered custom fabrication, the work must also constitute a "significant portion of the building or work" as delivered for installation or assembly. Under the new law, a "significant portion of the building or work" means portions or modules of the building or work – as opposed to smaller prefabricated components – that are delivered to the project site with minimal construction work remaining, other than the installation and assembly of such portions or modules.

It remains to be seen how effectively these cross-referenced definitions and (at times somewhat vague) terms can be applied in the real world on a construction project.

The amendment also impose new, extensive certified payroll obligations on contractors and subcontractors performing covered off site custom fabrication work. Further, the statute requires municipalities and state entities – the project

owners – to report the following information to the Commissioner of the New York State Department of Labor (NYSDOL): (a) the name and address of off-site fabricators; (b) identification of the custom materials and quantities manufactured; (c) estimated and actual costs of fabricated materials; and (d) the number of workers used in fabrication.

The Governor's Approval Memo noted an agreement with the legislature to clarify the scope of this bill, including exemptions for certain transportation and affordable housing related projects to mitigate costs associated with these essential projects. So, we expect to see further legislation addressing these points.

This new law becomes effective on June 18, 2026 (180 days from Dec. 20, 2025). In preparation for implementation, business entities should assess the impact and increased costs which will be associated with off-site fabrication work, as well as ensure compliance with heightened certified payroll documentation requirements and anticipate closer bid stage and construction phase scrutiny of whether off-site prefabricated work is covered under New York's prevailing wage law.

### **Prevailing Wage Coverage for Delivery and Hauling of Concrete and Asphalt in NYC and Certain Other Counties**

On Dec. 12, 2025, Governor Hochul signed legislation, requiring payment of prevailing wages and fringe benefits to drivers who are delivering and hauling concrete and asphalt to and from certain public worksites.

The law applies to covered activities in the five boroughs of New York City, as well as the counties of Nassau, Putnam, Suffolk, and Westchester. Covered activities include delivery, hauling, return trips (whether loaded or empty) and time spent loading and unloading.

(This amendment expands on prior recent changes to Section 220(3-a) of the New York labor law, which extended prevailing wage requirements to the hauling of "aggregates," i.e., sand, gravel, stone, crushed stone, dirt, soil, millings and fill to and from project sites. Historically such hauling had only been covered in limited circumstances.)

The 2025 legislation explicitly extends comparable coverage to now also includes concrete and asphalt hauling in the specified jurisdictions. The law took effect immediately on Dec. 12, 2025.

Contractors, subcontractors and hauling providers engaged in public works in the covered regions must comply with these new requirements. And they should anticipate potential cost impacts, bid adjustments and heightened scrutiny of certified payrolls and hauling arrangements from New York regulators. Among other things, businesses working in this area should consider:

- Updating procurement and contracting workflows to appropriately incorporate the new prevailing wage obligations for concrete and asphalt hauling in the covered jurisdictions;
- Ensuring certified payroll processes capture loading and unloading time and return hauls;
- Reviewing subcontractor and trucking agreements to require prevailing wage compliance and adequate recordkeeping; and
- Revisiting bid pricing, project budgets and schedules to account for the expanded coverage.

### **New Apprenticeship Requirements for Covered Renewable Energy Systems**

Another new law - which took effect immediately upon Governor Hochul's signature on Sept. 5, 2025 - imposes new apprenticeship requirements on all contractors and subcontractors performing construction work on "covered renewable energy systems," which include:

- Renewable energy systems (including solar and photovoltaic installations) of 1 MW or greater that receive renewable energy credits;
- Offshore wind supply chain projects receiving funding from the New York State Energy Research & Development Authority (NYSERDA);
- Certain "thermal energy networks"; and
- Major utility transmission facilities.

This legislation extends the apprenticeship requirement – previously applicable only to thermal energy networks – to a broader renewable energy sector. For thermal energy networks specifically, the new law additionally requires the use of pre-apprenticeship direct entry providers registered with NYSDOL.

All covered contractors and subcontractors must use apprenticeship agreements as defined under Article 23 of the New York Labor Law. Among other things, such apprenticeship programs and agreements are subject to review and approval from NYSDOL.

This is a significant requirement for many contractors and subcontractors who have limited access to apprentices and approved apprenticeship programs in New York.

The Governor's Approval Memo acknowledged that the immediate effective date "poses challenges" and indicated that the state Legislature agreed to enact subsequent amendments to provide flexibility where apprentice availability may be insufficient. We intend to report on this issue.

Owners, developers and contractors engaged in covered renewable energy projects should verify that all contractors and subcontractors hold compliant apprenticeship agreements for construction work as necessary. For thermal energy network projects, these entities must additionally confirm the use of NYSDOL registered pre-apprenticeship direct entry providers.

We expect further changes to New York's prevailing wage law in the future. Impacted businesses should work with legal counsel to assess their potential compliance obligations arising under the above amendments. If you have questions about the legislation discussed above, please also feel free to contact [Andy Bobrek](#) or [Rebecca J. LaPoint](#).

