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MEMORANDUM OF SUPPORT FOR REFORM LABOR LAW SECTION 224A

The New York State Pipe Trades Association, which represents 24,000 members who perform plumbing, steam-fitting, HVAC, and fire protection installation throughout the sixty-two counties of our state, from Niagara Falls to Montauk, strongly supports the reform of Labor Law Section 224a, which has failed in its current form to ensure that public financing of private projects creates prevailing wage jobs.

This legislation was enacted in 2020. The Governor and the Legislature realized that private sector construction projects were receiving significant public sector tax breaks and subsidies, but unlike public projects, the private projects were creating jobs that paid substandard wages, and were often rewarded to out of state contractors. Unfortunately, because of structural problems in 224a, it has not been able to accomplish its intended purpose, having only identified six projects in five years.

We look forward to working with the legislatures and the Governor to create clear thresholds, eliminate vague statutory definitions, and provide clear enforcement powers for the Department of Labor. Public financing of private construction projects must create prevailing wage jobs for New Yorkers. We need to ensure that Section 224a can, this time, accomplish this goal.

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MEMORANDUM OF SUPPORT

S.2356 (Jackson)/A.2747 (Bronson) - Custom Off-site Fabrication

Our labor organizations write to convey our strong support of legislation to close the loophole in prevailing wage law that allows employers on public works projects to avoid paying prevailing wage if custom work is being designed manufactured and assembled off the job site. (S.2356/A.2747). Passing this legislation and closing the loophole that allows government entities to undermine New York's prevailing wage requirements will create an even playing field for on-site and off-site workers and union contractors.

This legislation is a top priority for our organizations, and we hope that the legislature will work to pass it quickly in 2025. We were very encouraged by the progress made to get this legislation passed into law during last year's session. We are eager to build on that momentum in the coming weeks to pass this important measure once and for all!

For decades, off-site custom fabrication has been used to slowly undermine prevailing wage requirements that require New York's public works projects to ensure good, middle class, local jobs and apprenticeship opportunities for construction workers. Off-site custom fabrication includes everything from specially engineered and sized brick panel walls to the design of and pre-fabricated HVAC duct work, plumbing and electrical systems. At the project site, New York Labor Law Section 220 and Article 1, Section 17 of the New York State Constitution ensure that construction workers are paid the correct prevailing wages and benefits for their trade in the locality where the project is sited. However, the loophole allows public owners and contractors to move the work across the street and avoid the wage requirements. As custom fabrication processes have improved, New York's agencies and political subdivisions have gradually outsourced more and more kinds of customized construction trade work that was traditionally performed at the project site, thereby evading the central intent of the prevailing wage requirements and one of the key underlying economic assumptions about public works projects - that local public works projects help provide a source of good, middle class construction employment for trade workers.

New York's agencies and political subdivisions often claim that off-site, custom fabrication results in cost savings and efficiency. However, in many instances, the price differences are minor and the outsourcing of this work, especially to other jurisdictions without labor protections or robust training programs, often produces poorer quality work that must be corrected once at the job site – costing additional time and money. It is far from clear that off-site, custom fabrication will save either time or money. What is clear is that off-site custom fabrication creates an end-run around the state's prevailing wage requirement that has a devastating effect on the local construction workforce and dramatically reduces their numbers on any given project.

We urge you to continue your fight for New York's workers by sponsoring and being a champion to pass S.2356/A.2747 - to stop the circumvention of New York's prevailing wage law by requiring that workers in shops and factories performing custom off-site fabrication work for New York public works projects get paid the prevailing wages and benefits required for the same trade work performed at the site of the public work project.

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