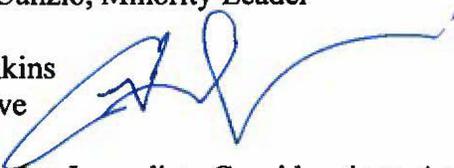


March 2, 2026

TO: Hon. Vedat Gashi, Chair
Hon. Terry Clements, Vice Chair
Hon. Judah Holstein, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: Kenneth W. Jenkins
County Executive 

RE: **Message Requesting Immediate Consideration: Act – Westchester
County Lessor Prevailing Wage.**

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators March 2, 2026 Agenda.

Transmitted herewith for your review and approval is an Act, as referenced above.

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for March 2, 2026 “blue sheet” calendar.

Thank you for your prompt attention to this matter.



Kenneth W. Jenkins
County Executive

March 2, 2026

Westchester County Board of Legislators
Michaelian Office Building
148 Martine Avenue, 8th Floor
White Plains, New York 10601

Dear Honorable Members of the Board:

I respectfully request that your Honorable Board adopt the attached “Act requiring lessors of County-leased property to use contractors and subcontractors that pay prevailing wage for certain construction projects that are undertaken for the County.”

As you know, the New York State Labor Law requires that prevailing wages be paid to workers on municipal public work projects. Where there is a question about whether the prevailing wage applies, New York courts look at three factors to determine whether the project is a public work: (1) whether the project is paid for with public money, (2) whether the work is done on public land or for a public facility, and (3) whether the project primarily benefits the public rather than a private party. No single factor controls, and courts look at the overall reality of the project to decide whether all the elements are met to qualify the project as a public work.

While Westchester County currently requires prevailing wages to be paid on public work projects consistent with the State Labor Law as described above, the County does not require that such prevailing wage be paid to workers on construction projects on County-leased space when the project does not amount to a public work under the Labor Law.

I believe that this creates a gap in the law, leaving construction workers on projects that benefit the County, but are not considered public works, vulnerable to being paid lower wages. This gap also exposes the County—and the lessor—to the potential of lower quality, safety, and efficiency on construction projects. This proposed legislation plugs that gap by requiring the County to contract with lessors who use contractors and subcontractors that pay prevailing wages to their workers. This requirement will apply to any leases for a term that is 10 years or more, where construction projects are performed on the County-leased premises at the request of, or on behalf of, the County, and when the project’s cost amounts to more than \$250,000. This will help ensure that projects are completed in a timely, safe, and equitable manner, all while protecting the workers, the County, and the lessor.

This proposed Act does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 9, 2026, which is on file with the Clerk of the Board of Legislators.

For the foregoing reasons, I respectfully request that your Honorable Board adopt the attached Act.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. W. Jenkins', with a long, sweeping horizontal flourish extending to the right.

KENNETH W. JENKINS
County Executive

Enclosure

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “An Act requiring lessors of County-leased property to use contractors and subcontractors that pay prevailing wage for certain construction projects that are undertaken for the County.”

Your Committee is aware that the New York State Labor Law requires that prevailing wages be paid to workers on municipal public work projects. Where there is a question about whether the prevailing wage applies, New York courts look at three factors to determine whether the project is a public work: (1) whether the project is paid for with public money, (2) whether the work is done on public land or for a public facility, *and* (3) whether the project primarily benefits the public rather than a private party. No single factor controls, and courts look at the overall reality of the project to decide whether all the elements are met to qualify the project as a public work.

Your Committee understands that, while Westchester County currently requires prevailing wages to be paid on public work projects consistent with the State Labor Law as described above, the County does not require that such prevailing wage be paid to workers on construction projects on County-leased space when the project does not amount to a public work under the Labor Law.

Your Committee believes that this creates a gap in the law, leaving construction workers on projects that benefit the County, but are not considered public works, vulnerable to being paid lower wages. This gap also exposes the County—and the lessor—to the potential of lower quality, safety, and efficiency on construction projects. This legislation plugs that gap by requiring the County to contract with lessors who use contractors and subcontractors that pay prevailing wages to their

workers. This requirement will apply to any leases for a term that is 10 years or more, where construction projects are performed on the County-leased premises at the request of, or on behalf of, the County, and when the project's cost amounts to more than \$250,000. This will help ensure that projects are completed in a timely, safe, and equitable manner, all while protecting the workers, the County, and the lessor.

Finally, your Committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated January 9, 2026, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee recommends adoption of this Act.

Dated: _____, 2026
White Plains, New York

COMMITTEE ON

An Act requiring lessors of County-leased property to use contractors and subcontractors that pay prevailing wage for certain construction projects that are undertaken for the County.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Short Title.

This Act shall be known and may be cited as the “Westchester County Lessor Prevailing Wage Act.”

Section 2. Definitions.

- A. “Construction” means the construction, reconstruction, improvement, rehabilitation, repair, furnishing, equipping of or otherwise providing for any building, facility, or physical structure.
- B. “Contractor” means any entity that contracts with the Lessor to perform Construction on the Leased Premises.
- C. “County” means the County of Westchester, including any of its departments or agencies.
- D. “Landlord” or “Lessor” means any person or entity that holds title to and/or is the owner of the real property leased to the County pursuant to a Lease, and that executes the Lease with the County.
- E. “Lease” means any lease agreement, for a term that is 10 years or more, together with any amendments thereto or other related agreements, pursuant to which the County leases real property for the County’s own purposes or for the general public’s use.
- F. “Leased Premises” means the real property, or portion thereof, that is the subject of the Lease.
- G. “Prevailing Rate of Wage” shall mean all wages, benefits, and supplements that are equivalent to those as defined in New York Labor Law § 220, regardless of whether New York Labor

Law § 220 would otherwise apply to the Construction under the Lease—i.e., regardless of whether that Construction would otherwise constitute a public work.

- H. “Subcontractor” means any entity engaged by a Contractor or another subcontractor to perform Construction on the Leased property.

Section 3. Lease Provisions & Applicability.

A. All Leases shall contain language in substantially similar form to the following:

1. This Lease, for a term that is 10 years or more, is subject to the Westchester County Lessor Prevailing Wage Act.
2. Lessor agrees that any and all Construction in excess of \$250,000 performed on the Leased Premises at the request of or on behalf of the County shall be performed by Contractors that agree to (i) pay their employees the Prevailing Rate of Wage for the Construction; and (ii) engage Subcontractors that agree to pay their employees the Prevailing Rate of Wage for the Construction. This obligation applies regardless of whether the Construction is: funded by the County or with other public money, subject to competitive bidding, or subject to New York State’s Prevailing Wage Laws. The County and Lessor acknowledge that this covenant is a material inducement to the County entering into this Lease.
3. The obligations stated in Lease provision No. 2, above, shall not apply to contracts entered into between a Lessor and a Contractor for Construction that must be performed in response to an emergency.

B. Lessor shall include in all contracts with Contractors for Construction in excess of \$250,000 on the Leased Premises a provision requiring the Contractor to:

1. Pay the Prevailing Rate of Wage;

2. Maintain and submit certified payroll records to Lessor and the County upon request;
and
 3. Indemnify and hold harmless the County from any claims, liabilities, or penalties arising out of the Contractor's noncompliance.
- C. The County may request certified payroll records from the Lessor or its Contractors to verify compliance.
- D. The requirements stated in Sections 3(A) and 3(B) of this Act, above, shall not apply to any Lease entered into on an emergency basis where the requirements of Sections 3(A) or 3(B) would cause an unreasonable delay in securing the Leased Premises or performing Construction. Nor shall the requirements apply to any portion of the premises not leased by the County.

Section 4. Effective Date.

This Act shall apply to Leases entered into beginning 120 days after its adoption.