

HOUSE BILL 727

P2

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CF SB 232

By: Delegates Olszewski, Hucker, Barkley, Barnes, Braveboy, Burns, Carr, DeBoy, Frick, Frush, Glenn, Guzzone, Haynes, Holmes, Howard, Hubbard, Ivey, Jones, Kaiser, Kramer, Love, Luedtke, McHale, Minnick, Mitchell, Murphy, Niemann, Reznik, B. Robinson, Stukes, Swain, V. Turner, Valderrama, Valentino-Smith, Vaughn, A. Washington, M. Washington, Weir, ~~and Zucker~~ Zucker, and Fraser-Hidalgo

Introduced and read first time: January 31, 2014

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 12, 2014

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Prevailing Wage – Applicability**

3 FOR the purpose of ~~repealing a certain limitation on the applicability of the Prevailing~~
4 ~~Wage Law to the construction of a public work by revising a certain definition;~~
5 specifying the percentage of State money that must be used in an elementary or
6 a secondary school construction project before the Prevailing Wage Law applies
7 by altering certain definitions; providing for the application of this Act; and
8 generally relating to the applicability of the Prevailing Wage Law.

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 17–201
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2013 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 17–201.

2 (a) In this subtitle, unless the context indicates otherwise, the following
3 words have the meanings indicated.

4 (b) “Apprentice” means an individual who:

5 (1) is at least 16 years old;

6 (2) has signed with an employer or employer’s agent, an association of
7 employers, an organization of employees, or a joint committee from both, an
8 agreement including a statement of:

9 (i) the trade, craft, or occupation that the individual is learning;
10 and

11 (ii) the beginning and ending dates of the apprenticeship; and

12 (3) is registered in a program of the Council or the Bureau of
13 Apprenticeship and Training of the United States Department of Labor.

14 (c) “Commissioner” means:

15 (1) the Commissioner of Labor and Industry;

16 (2) the Deputy Commissioner of Labor and Industry; or

17 (3) an authorized representative of the Commissioner.

18 (d) “Construction” includes all:

19 (1) building;

20 (2) reconstructing;

21 (3) improving;

22 (4) enlarging;

23 (5) painting and decorating;

24 (6) altering;

25 (7) maintaining; and

26 (8) repairing.

1 (e) “Council” means the Apprenticeship and Training Council.

2 (f) (1) “Employee” means an apprentice or worker employed by a
3 contractor or subcontractor under a public work contract.

4 (2) “Employee” does not include an individual employed by a public
5 body.

6 (g) (1) “Locality” means the county in which the work is to be performed.

7 (2) If the public work is located within 2 or more counties, the locality
8 includes all counties in which the public work is located.

9 (h) “Prevailing wage rate” means the hourly rate of wages paid in the locality
10 as determined by the Commissioner under § 17–208 of this subtitle.

11 (i) (1) “Public body” means:

12 (i) the State;

13 (ii) except as provided in paragraph ~~[(2)(i)]~~ ~~(2)~~ of this
14 subsection, a unit of the State government or instrumentality of the State;

15 (iii) any political subdivision, agency, person, or ~~entity~~ ENTITY;

16 **1. WITH RESPECT TO THE CONSTRUCTION OF AN**
17 **ELEMENTARY OR A SECONDARY SCHOOL FOR WHICH 25% OR MORE OF THE**
18 **MONEY USED FOR CONSTRUCTION IS STATE MONEY; OR**

19 **2.** with respect to the construction of any **OTHER** public
20 work ~~for which 50% or more of the money used for construction is~~ ~~FUNDED IN~~
21 ~~WHOLE OR IN PART WITH~~ State money;

22 (iv) ~~notwithstanding paragraph (2)(ii) of this subsection,~~ a
23 political subdivision if its governing body:

24 1. provides by ordinance or resolution that the political
25 subdivision is covered by this subtitle; and

26 2. gives written notice of that ordinance or resolution to
27 the Commissioner; and

28 (v) the Washington Suburban Sanitary Commission.

29 (2) “Public body” does not include:

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(i) ~~1~~, except as provided in paragraph (1)(v) of this subsection, a unit of the State government or instrumentality of the State funded wholly from a source other than the State ~~1~~; or

(ii) any political subdivision, agency, person, or ~~entity~~ ENTITY:

1. WITH RESPECT TO THE CONSTRUCTION OF AN ELEMENTARY OR A SECONDARY SCHOOL FOR WHICH LESS THAN 25% OF THE MONEY USED FOR CONSTRUCTION IS STATE MONEY; OR

2. with respect to the construction of any OTHER public work for which less than 50% of the money used for construction is State money ~~1~~.

(j) (1) Subject to paragraph (2) of this subsection, “public work” means a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that:

(i) is constructed for public use or benefit; or

(ii) is paid for wholly or partly by public money.

(2) “Public work” does not ~~include,~~ **INCLUDE**:

~~(I) A STRUCTURE OR WORK WHOSE CONSTRUCTION IS PERFORMED BY A PRIVATE NONPROFIT INSTITUTION OF HIGHER EDUCATION, REGARDLESS OF PAYMENT WHOLLY OR PARTLY BY PUBLIC MONEY; OR~~

~~(H)~~ unless let to contract, a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority regardless of:

[(i)] **1.** public supervision or direction; or

[(ii)] **2.** payment wholly or partly from public money; **OR**

(II) AN ELEMENTARY OR A SECONDARY SCHOOL IF:

1. THE SCHOOL IS NOT IN A POLITICAL SUBDIVISION COVERED UNDER SUBSECTION (I)(1)(IV) OF THIS SECTION; AND

2. THE STATE PROVIDES LESS THAN 25% OF THE MONEY FOR CONSTRUCTION.

(k) “Public work contract” means a contract for construction of a public work.

1 (l) "Worker" means a laborer or mechanic.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only
3 to a procurement contract executed on or after July 1, 2014.

4 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect July 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.