

SENATE BILL 35

P2

(PRE-FILED)

1r0757
CF HB 37

By: **Senator Feldman**

Requested: September 17, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

A BILL ENTITLED

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 altering the application of the Prevailing Wage Law to certain public work contracts
6 by reducing a certain contract threshold to a certain amount; and generally relating
7 to the applicability of the Prevailing Wage Law.

8 BY repealing and reenacting, with amendments,
9 Article – State Finance and Procurement
10 Section 17–201 and 17–202
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2020 Supplement)

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

15 **Article – State Finance and Procurement**

16 17–201.

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

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

20 (1) is at least 16 years old;

21 (2) has signed with an employer or employer’s agent, an association of
22 employers, an organization of employees, or a joint committee from both, an agreement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 including a statement of:

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

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

4 (3) is registered in a program of the Council or the Office of Apprenticeship
5 of the United States Department of Labor.

6 (c) "Commissioner" means:

7 (1) the Commissioner of Labor and Industry;

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

9 (3) an authorized representative of the Commissioner.

10 (d) "Construction" includes all:

11 (1) building;

12 (2) reconstructing;

13 (3) improving;

14 (4) enlarging;

15 (5) painting and decorating;

16 (6) altering;

17 (7) maintaining; and

18 (8) repairing.

19 (e) "Council" means the Apprenticeship and Training Council.

20 (f) (1) "Employee" means an apprentice or worker employed by a contractor or
21 subcontractor under a public work contract.

22 (2) "Employee" does not include an individual employed by a public body.

23 (g) (1) "Locality" means the county in which the work is to be performed.

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

1 (h) "Prevailing wage rate" means the hourly rate of wages paid in the locality as
2 determined by the Commissioner under § 17–208 of this subtitle.

3 (i) (1) "Public body" means:

4 (i) the State;

5 (ii) except as provided in paragraph (2)(i) of this subsection, a unit of
6 the State government or instrumentality of the State;

7 (iii) any political subdivision, agency, person, or entity:

8 1. with respect to the construction of an elementary or a
9 secondary school for which 25% or more of the money used for construction is State money;
10 or

11 2. with respect to the construction of any other public work
12 [for which 50% or more of the money used for construction is] **FUNDED IN WHOLE OR IN**
13 **PART WITH** State money;

14 (iv) notwithstanding paragraph (2)(ii) of this subsection, a political
15 subdivision if its governing body:

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

18 2. gives written notice of that ordinance or resolution to the
19 Commissioner; and

20 (v) the Washington Suburban Sanitary Commission.

21 (2) "Public body" does not include:

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

25 (ii) any political subdivision, agency, person, or entity[:

26 1.] with respect to the construction of an elementary or a
27 secondary school for which less than 25% of the money used for construction is State
28 money[; or

29 2. with respect to the construction of any other public work
30 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
2 structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage
3 disposal plant, that:

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

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

6 (2) “Public work” does not include:

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

10 1. public supervision or direction; or

11 2. payment wholly or partly from public money; or

12 (ii) an elementary or a secondary school if:

13 1. the school is not in a political subdivision covered under
14 subsection (i)(1)(iv) of this section; and

15 2. the State provides less than 25% of the money for
16 construction.

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

18 (l) “Worker” means a laborer or mechanic.

19 17–202.

20 (a) This subtitle does not limit:

21 (1) the hours of work an employee may work in a particular period of time;
22 or

23 (2) the right of a contractor to pay an employee under a public work
24 contract more than the prevailing wage rate.

25 (b) This subtitle does not apply to:

26 (1) a public work contract of less than ~~[\$500,000]~~ **\$250,000**; or

27 (2) the part of a public work contract for which the federal government
28 provides money if, as to that part, the contractor is required to pay the prevailing wage rate
29 as determined by the United States Secretary of Labor.

1 (c) If this subtitle and the federal Davis–Bacon Act apply and the federal act is
2 suspended, the Governor may declare this subtitle suspended for the same period for:

3 (1) the part of that public work contract for which the United States
4 Secretary of Labor would have been required to make a determination of a prevailing wage
5 rate; or

6 (2) that entire public work contract.

7 (d) (1) Subject to paragraph (2) of this subsection, this subtitle applies to the
8 construction of a structure or work, including a bridge, a building, a ditch, a road, an alley,
9 a waterwork, or a sewage disposal plant, funded with bond proceeds from bonds issued in
10 accordance with Title 12, Subtitle 2 of the Economic Development Article that is located in
11 a designated tax increment financing development district created on or after July 1, 2018,
12 established under State or local law.

13 (2) This subsection applies to the construction of a structure or work only
14 if a political subdivision of the State, Baltimore City, or the Revenue Authority of Prince
15 George’s County authorizes that the construction of the structure or work is subject to this
16 subtitle.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2021.