

CF 7r1087

By: Senators Derr, Madden, and Astle

Introduced and read first time: January 31, 1997

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 1997

CHAPTER _____

1 AN ACT concerning

2 **Prevailing Wage - Overtime**

3 FOR the purpose of altering certain requirements for overtime compensation for certain
 4 employees on certain public works projects; establishing certain penalties for certain
 5 violations of the prevailing wage law; increasing certain penalties for certain
 6 violations of the prevailing wage law; requiring the Governor to include an
 7 appropriation in the annual budget to fund certain positions; providing for the
 8 application of this Act; authorizing a certain contractor or subcontractor to
 9 designate a certain day as a make-up day; altering the threshold for determining if
 10 a public work contract is subject to the prevailing wage law; and generally relating to
 11 overtime compensation for employees under the prevailing wage law.

12 BY repealing and reenacting, with amendments,
 13 Article - State Finance and Procurement
 14 Section ~~17-214~~ 17-202, 17-214, 17-219, 17-222, and 17-226
 15 Annotated Code of Maryland
 16 (1995 Replacement Volume and 1996 Supplement)

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

19 **Article - State Finance and Procurement**20 17-202.21 (a) This subtitle does not limit:22 (1) the hours of work an employee may work in a particular period of time;23 or

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

3 (b) This subtitle does not apply to:

4 (1) a public work contract of less than [\$500,000] \$400,000; or

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

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

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

13 (2) that entire public work contract.

14 17-214.

15 (A) Each contractor and subcontractor under a public work contract shall pay not
16 less than the prevailing wage rate of:

17 (1) straight time to an employee who works:

18 (I) [8] 10 hours or less in a single calendar day except a SATURDAY,
19 Sunday, or legal holiday; and

20 (II) 40 HOURS OR LESS DURING 1 WORKWEEK; AND

21 (2) overtime to an employee for each hour the employee works:

22 (i) in excess of [8] 10 hours in any single calendar day;

23 (II) IN EXCESS OF 40 HOURS DURING 1 WORKWEEK; ~~and~~ OR

24 [(ii)] (III) on a SATURDAY, Sunday, or legal holiday.

25 (B) A CONTRACTOR OR SUBCONTRACTOR UNDER A PUBLIC WORK
26 CONTRACT MAY DESIGNATE FRIDAY AS A MAKE-UP DAY.

27 17-219.

28 (a) Each contractor under a public work contract subject to this subtitle shall:

29 (1) post a clearly legible statement of each prevailing wage rate to be paid
30 under the public work contract; and

31 (2) keep the statement posted during the full time that any employee is
32 employed on the public work contract.

33 (b) The statement of prevailing wage rates shall be posted in a prominent and
34 easily accessible place at the site of the public work.

1 (C) SUBJECT TO § 10-1001 OF THE STATE GOVERNMENT ARTICLE, THE
2 COMMISSIONER MAY IMPOSE ON A CONTRACTOR THAT VIOLATES THIS SECTION A
3 CIVIL PENALTY OF UP TO \$50 PER VIOLATION.

4 17-222.

5 (a) A contractor under a public work contract is liable to the public body for
6 liquidated damages of [§10] \$20 for each laborer or other employee for each day for
7 which:

8 (1) the laborer is paid less than the prevailing wage rate of a mechanic while
9 performing a task required to be performed by a mechanic or mechanic's apprentice; or

10 (2) the employee is paid less than the prevailing wage rate.

11 (b) If a contractor or subcontractor pays an employee less than the amount the
12 employee is entitled to receive for the work performed, the contractor or subcontractor
13 shall make restitution to the employee.

14 17-226.

15 (a) (1) After investigation and entry of an order in accordance with § 17-221 of
16 this subtitle, the Commissioner shall file with the Secretary of State a list of the
17 contractors and any subcontractors who persistently and willfully violate the provisions of
18 this subtitle.

19 (2) Filing under this subsection shall be notice to a public body and its
20 representatives.

21 (b) (1) If the name of a contractor or any subcontractor appears on the list, that
22 contractor or subcontractor shall be prohibited from entering into a contract for
23 construction of a public work directly or indirectly for [1 year] 2 YEARS from the day on
24 which the list is filed.

25 (2) A public body may not award a contract for construction of a public
26 work to a person who is prohibited from entering into a contract under this section.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall include
28 in the annual budget for each fiscal year beginning with Fiscal Year 1999 an
29 appropriation which provides for at least five Wage and Hour Investigators, with a grade
30 of at least Grade 9, in the Prevailing Wage Unit of the Division of Labor and Industry in
31 the Department of Labor, Licensing, and Regulation. The appropriation for each fiscal
32 year of the Wage and Hour Investigators shall be consistent with the salary and
33 classification plans in effect for that function.

34 SECTION 2- 3. AND BE IT FURTHER ENACTED, That this Act shall be
35 construed prospectively and may be applied only to contracts resulting from a request for
36 proposals made after the effective date of this Act.

37 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1997.

