

SENATE BILL 556

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P2

1999 Regular Session
9r2200

By: **Senators Hooper, Harris, Mooney, and Jacobs**
Introduced and read first time: February 5, 1999
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Prevailing Wage Rates**

3 FOR the purpose of increasing the amount of a public work contract that is exempt
4 from certain prevailing wage requirements; altering a certain basis for
5 determining a certain prevailing wage rate; requiring the Commissioner of
6 Labor and Industry to make a certain determination concerning certain
7 unpublished jurisdictional work rules and to publish certain work rules;
8 requiring the Commissioner to give notice of certain work rules for certain wage
9 determinations; making certain liability of a contractor under a public work
10 contract contingent on an obligation of the Commissioner to give a certain
11 notice; and generally relating to prevailing wage rates for public work contracts.

12 BY repealing and reenacting, with amendments,
13 Article - State Finance and Procurement
14 Section 17-202(b), 17-208(c)(1), 17-209(a), 17-210, and 17-222
15 Annotated Code of Maryland
16 (1995 Replacement Volume and 1998 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 (b) This subtitle does not apply to:

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

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

1 17-208.

2 (c) (1) If fewer than 50% of the workers in the locality working in the same
3 classification receive the same wage [rate:] RATE,

4 [(i) the prevailing wage rate shall be the rate paid to at least 40% of
5 those workers; or

6 (ii) if fewer than 40% receive the same wage rate,] the rate shall be
7 a weighted average rate obtained by:

8 [1.] (I) adding the products obtained by multiplying each
9 hourly rate paid to workers in the classification by the number of workers receiving
10 that rate; and

11 [2.] (II) dividing that sum by the total number of workers in
12 the classification.

13 17-209.

14 (a) (1) One time per year, the Commissioner shall determine the prevailing
15 wage rate for a classification of worker in a locality by considering among other
16 things:

17 [(1)] (I) any other payroll information relevant to the
18 determination; and

19 [(2)] (II) wage rates established by collective bargaining
20 agreements.

21 (2) IN MAKING A DETERMINATION UNDER PARAGRAPH (1)(II) OF THIS
22 SUBSECTION, THE COMMISSIONER SHALL:

23 (I) DETERMINE WHETHER THERE ARE ANY UNPUBLISHED
24 JURISDICTIONAL WORK RULES THAT DEFINE THE TYPE OF WORK THAT A WORKER
25 IN A PARTICULAR JOB CLASSIFICATION MAY PERFORM; AND

26 (II) PUBLISH THE WORK RULES FOR THE BENEFIT OF ANY PUBLIC
27 UNIT THAT SEEKS THE PERFORMANCE OF THAT WORK.

28 17-210.

29 (a) Before a public body advertises for bids or proposals for a public work
30 contract, it shall request the Commissioner to determine the prevailing wage rate for
31 each classification of worker required to perform the public work contract.

32 (b) (1) The Commissioner shall give notice of each prevailing wage rate
33 determination for a public work contract under this subtitle.

1 (2) On written request, the Commissioner shall mail to any
2 representative of any classification, any employer, or any representative of any group
3 of employers notice:

4 (i) that a determination will be made, at least 60 days before
5 making the determination; and

6 (ii) of the determination, after making the determination.

7 (3) FOR EACH PREVAILING WAGE DETERMINATION THE COMMISSIONER
8 MAKES THAT IS BASED ON A WAGE RATE ESTABLISHED BY A COLLECTIVE
9 BARGAINING AGREEMENT, AND FOR WHICH THERE ARE UNPUBLISHED
10 JURISDICTIONAL WORK RULES DEFINING THE TYPE OF WORK THAT A WORKER IN
11 THE PARTICULAR JOB CLASSIFICATION MAY PERFORM, THE COMMISSIONER SHALL
12 GIVE NOTICE OF THE WORK RULES APPLICABLE TO EACH PUBLIC WORK CONTRACT
13 UNDER THIS SUBTITLE.

14 (c) After a determination has been made, the public body shall include each
15 prevailing wage rate for straight time and overtime:

16 (1) in any call for bids or proposals;

17 (2) in the specifications for the public work contract; and

18 (3) in the public work contract.

19 17-222.

20 (a) (1) THIS SUBSECTION APPLIES IF THE COMMISSIONER HAS GIVEN
21 PROPER NOTICE OF THE WAGE DETERMINATION APPLICABLE TO WORKERS IN EACH
22 CLASSIFICATION WHO ARE EXPECTED TO PERFORM WORK ON A PROJECT
23 INCLUDING, AS SPECIFIED IN §§ 17-209(A)(2) AND 17-210(B)(3) OF THIS SUBTITLE, ANY
24 PREVIOUSLY UNPUBLISHED JURISDICTIONAL WORK RULES DEFINING THE TYPE OF
25 WORK THAT WORKERS IN THE PARTICULAR JOB CLASSIFICATION MAY PERFORM.

26 (2) A contractor under a public work contract is liable to the public body
27 for liquidated damages of \$20 for each laborer or other employee for each day for
28 which:

29 [(1)] (I) the laborer is paid less than the prevailing wage rate of a
30 mechanic while performing a task required to be performed by a mechanic or
31 mechanic's apprentice; or

32 [(2)] (II) the employee is paid less than the prevailing wage rate.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1999.