

HOUSE BILL 988

P2, K3

5lr2810
CF 5lr2928

By: **Delegate Frick**

Introduced and read first time: February 13, 2015

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Prevailing Wage Rate Law – Penalties and Liquidated Damages**

3 FOR the purpose of altering the penalty for certain violations of the prevailing wage rate
4 law related to the posting of certain statements of prevailing wage rates; altering the
5 amount of certain liquidated damages for which a certain contractor is liable for
6 certain violations of the prevailing wage rate law related to payroll records; altering
7 the amount of certain liquidated damages for which a certain contractor is liable
8 when certain laborers or certain other employees are paid less than certain
9 prevailing wage rates; and generally relating to the enforcement of the prevailing
10 wage rate law.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 17–219, 17–220, and 17–222
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2014 Supplement)

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

18 **Article – State Finance and Procurement**

19 17–219.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (c) Subject to § 10–1001 of the State Government Article, the Commissioner may
4 impose on a person that violates this section a civil penalty of up to ~~[\$50]~~ **\$750** per
5 violation.

6 17–220.

7 (a) Each contractor required to pay the prevailing wage rate shall:

8 (1) keep payroll records covering work performed directly at the work site
9 in accordance with regulations adopted by the Commissioner; and

10 (2) allow the Commissioner or the public body to inspect the records at any
11 reasonable time and as often as necessary.

12 (b) (1) Each contractor shall submit a complete copy of the payroll records of
13 the contractor and, for work performed at the work site, of the subcontractors in the form
14 that the Commissioner specifies by regulation to:

15 (i) the public body; and

16 (ii) the Commissioner.

17 (2) The Commissioner and the public body shall make payroll records
18 available for public inspection during regular business hours.

19 (c) Each copy of the payroll records shall be accompanied by a statement that is
20 signed by the contractor or, for the subcontractor's records, by the subcontractor and
21 indicates that:

22 (1) the payroll records are correct;

23 (2) the wage rates paid are not less than those established by the
24 Commissioner as set forth in the public work contract;

25 (3) the classification set forth for each employee conforms with the work
26 performed by that employee; and

27 (4) the contractor or subcontractor has complied with each requirement of
28 this subtitle.

29 (d) If a contractor is late in submitting copies of the payroll records required under
30 subsection (b) of this section:

1 (1) the public body may postpone the processing of partial payment
2 estimates under the public work contract pending receipt of the copies; and

3 (2) the contractor shall be liable to the public body for liquidated damages
4 of ~~[\$10]~~ **\$750** for each calendar day the records are late.

5 17-222.

6 (a) **(1)** A contractor under a public work contract is liable to the public body for
7 liquidated damages ~~[of \$20]~~ **EQUAL TO THE AMOUNT SPECIFIED IN PARAGRAPH (2) OF**
8 **THIS SUBSECTION** for each laborer or other employee for each day for which:

9 ~~[(1)]~~ **(I)** the laborer is paid less than the prevailing wage rate of a
10 mechanic while performing a task required to be performed by a mechanic or mechanic's
11 apprentice; or

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

13 **(2) THE LIQUIDATED DAMAGES UNDER PARAGRAPH (1) OF THIS**
14 **SUBSECTION SHALL EQUAL THE GREATER OF:**

15 **(I) \$750; OR**

16 **(II) THREE TIMES THE AMOUNT OF THE DIFFERENCE BETWEEN**
17 **THE PREVAILING WAGE DUE AND THE WAGE ACTUALLY PAID TO THE LABORER OR**
18 **EMPLOYEE.**

19 (b) (1) If a contractor or subcontractor pays an employee less than the amount
20 the employee is entitled to receive for the work performed, the contractor shall make
21 restitution to the employee.

22 (2) The contractor and the subcontractor shall be jointly and severally
23 liable for restitution to the subcontractor's employees.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2015.