

SENATE BILL 1029

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EMERGENCY BILL

6lr3710
CF HB 859

By: **Senator Hough**

Introduced and read first time: February 17, 2016

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Prevailing Wage Rate – Applicability to Public School**
3 **Construction Projects in Frederick County**

4 FOR the purpose of providing that certain provisions of law governing the prevailing wage
5 rate that became effective on a certain date do not apply to procurement contracts
6 executed on or after the effective date of this Act for certain public school construction
7 projects in Frederick County; authorizing Frederick County and certain contractors
8 voluntarily to renegotiate and agree to be bound by the prevailing wage rate in effect
9 on a certain prior date with regard to procurement contracts executed on or after a
10 certain date for a certain public school construction project in Frederick County;
11 making this Act an emergency measure; and generally relating to the applicability
12 of certain provisions of law concerning the prevailing wage rate to certain public
13 school construction projects in Frederick County.

14 BY repealing and reenacting, without amendments,
15 Article – State Finance and Procurement
16 Section 17–201
17 Annotated Code of Maryland
18 (2015 Replacement Volume)

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

21 **Article – State Finance and Procurement**

22 17–201.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) is at least 16 years old;

2 (2) has signed with an employer or employer's agent, an association of
3 employers, an organization of employees, or a joint committee from both, an agreement
4 including a statement of:

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

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

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

9 (c) "Commissioner" means:

10 (1) the Commissioner of Labor and Industry;

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

12 (3) an authorized representative of the Commissioner.

13 (d) "Construction" includes all:

14 (1) building;

15 (2) reconstructing;

16 (3) improving;

17 (4) enlarging;

18 (5) painting and decorating;

19 (6) altering;

20 (7) maintaining; and

21 (8) repairing.

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

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

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

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

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

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

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

7 (i) the State;

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

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

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

14 2. with respect to the construction of any other public work
15 for which 50% or more of the money used for construction is State money;

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

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

20 2. gives written notice of that ordinance or resolution to the
21 Commissioner; and

22 (v) the Washington Suburban Sanitary Commission.

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

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

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

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

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

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

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

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

8 (2) “Public work” does not include:

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

12 1. public supervision or direction; or

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

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

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

17 2. the State provides less than 25% of the money for
18 construction.

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That:

22 (a) (1) This subsection applies to the following school construction public
23 works in Frederick County:

24 (i) the new replacement facility for Frederick High School in
25 Frederick, Maryland;

26 (ii) the new Sugarloaf Elementary School in Urbana, Maryland; and

27 (iii) the new Butterfly Ridge Elementary School in Frederick,
28 Maryland.

29 (2) As to a school construction public work subject to this section:

1 (i) the change in the prevailing wage rate in § 17–201 of the State
2 Finance and Procurement Article under Chapter 281 and Chapter 282 of the Acts of the
3 General Assembly of 2014 that became effective July 1, 2014, does not apply to a
4 procurement contract executed between Frederick County and a contractor on or after the
5 effective date of this Act; but

6 (ii) the prevailing wage rate in § 17–201 of the State Finance and
7 Procurement Article in effect on June 30, 2014, before the taking effect of Chapter 281 and
8 Chapter 282 of the Acts of the General Assembly of 2014 shall apply to a procurement
9 contract executed between Frederick County and a contractor on or after the effective date
10 of this Act.

11 (b) With regard to any procurement contract executed on or after July 1, 2014, for
12 the new replacement facility for Frederick High School in Frederick, Maryland, Frederick
13 County and a contractor voluntarily may renegotiate and agree to be bound by the
14 prevailing wage rate for school construction public works in effect on June 30, 2014, under
15 § 17–201 of the State Finance and Procurement Article instead of the change in the
16 prevailing wage rate that became effective on July 1, 2014, under Chapter 281 and Chapter
17 282 of the Acts of the General Assembly of 2014.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
19 measure, is necessary for the immediate preservation of the public health or safety, has
20 been passed by a ye and nay vote supported by three–fifths of all the members elected to
21 each of the two Houses of the General Assembly, and shall take effect from the date it is
22 enacted.