

SENATE BILL 35

P2

(PRE-FILED)

11r0757
CF HB 37

By: **Senator Feldman**

Requested: September 17, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 27, 2021

Returned to second reading: March 1, 2021

Senate action: Adopted with floor amendments

Read second time: March 1, 2021

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Prevailing Wage – Applicability**

3 FOR the purpose of ~~repealing~~ altering a certain limitation on the applicability of the
4 Prevailing Wage Law to the construction of a public work by revising a certain
5 definition; altering the application of the Prevailing Wage Law to certain public work
6 contracts by reducing a certain contract threshold to a certain amount; providing for
7 the application of this Act; making conforming changes; and generally relating to the
8 applicability of the Prevailing Wage Law.

9 BY repealing and reenacting, with amendments,
10 Article – State Finance and Procurement
11 Section 17–201 and 17–202
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2020 Supplement)

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

16 **Article – State Finance and Procurement**

17 17–201.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

4 (1) is at least 16 years old;

5 (2) has signed with an employer or employer’s agent, an association of
6 employers, an organization of employees, or a joint committee from both, an agreement
7 including a statement of:

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

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

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

12 (c) “Commissioner” means:

13 (1) the Commissioner of Labor and Industry;

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

15 (3) an authorized representative of the Commissioner.

16 (d) “Construction” includes all:

17 (1) building;

18 (2) reconstructing;

19 (3) improving;

20 (4) enlarging;

21 (5) painting and decorating;

22 (6) altering;

23 (7) maintaining; and

24 (8) repairing.

25 (e) “Council” means the Apprenticeship and Training Council.

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

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

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

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

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

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

10 (i) the State;

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

13 (iii) any political subdivision, agency, person, or entity~~;~~

14 ~~1. with respect to the construction of an elementary or a~~
15 ~~secondary school for which 25% or more of the money used for construction is State money;~~
16 ~~or~~

17 ~~2. with respect to the construction of any other public work~~
18 ~~for which 50% 25% or more of the money used for construction is~~ FUNDED IN WHOLE
19 ~~OR IN PART WITH~~ State money;

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

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

24 2. gives written notice of that ordinance or resolution to the
25 Commissioner; and

26 (v) the Washington Suburban Sanitary Commission.

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

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

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(ii) any political subdivision, agency, person, or entity~~;~~

~~1.1 with respect to the construction of an elementary or a secondary school for which less than 25% of the money used for construction is State money;~~ or

~~2.~~ with respect to the construction of any ~~other~~ public work for which less than ~~50%~~ 25% of the money used for construction is State money~~;~~.

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

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

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

(2) "Public work" does not ~~include:~~

~~(i)~~ **INCLUDE, INCLUDE:**

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

~~1. (H) 1.~~ public supervision or direction; or

~~2. (H) 2.~~ payment wholly or partly from public money; **OR**

(II) A CAPITAL PROJECT THAT RECEIVES MORE THAN 25% IN STATE FUNDS AND IS FUNDED IN THE ANNUAL STATE CAPITAL BUDGET AS:

1. A MISCELLANEOUS GRANT PROGRAM;

2. A LOCAL HOUSE OF DELEGATES INITIATIVE; OR

3. A LOCAL SENATE INITIATIVE; ~~or~~

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

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

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

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

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

3 17–202.

4 (a) This subtitle does not limit:

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

6 or

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

9 (b) This subtitle does not apply to:

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

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

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

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

19 (2) that entire public work contract.

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply only to a
31 public work contract executed on or after October 1, 2021.

1 SECTION ~~2~~ 3 AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.