

# HOUSE BILL 611

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CF SB 259

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By: **Delegates Valderrama, Rogers, Brooks, Charkoudian, Fennell, Harrison, Healey, Jackson, Johnson, Luedtke, Pena–Melnik, Qi, Stein, and Turner**

Introduced and read first time: January 31, 2022

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 11, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement – Prevailing Wage – Applicability**

3 FOR the purpose of applying the Prevailing Wage Law to a certain contract for the  
4 construction of a public work under certain circumstances; and generally relating to  
5 the applicability of the Prevailing Wage Law.

6 BY repealing and reenacting, with amendments,  
7 Article – State Finance and Procurement  
8 Section 17–201 and 17–202  
9 Annotated Code of Maryland  
10 (2021 Replacement Volume)

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

13 **Article – State Finance and Procurement**

14 17–201.

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

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

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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 (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; **AND**

22 **(9) SERVICES PROVIDED UNDER A MECHANICAL SYSTEMS SERVICE**  
23 **CONTRACT.**

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

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

1 (2) “Employee” does not include an individual employed by a public body.

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

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

5 (H) “MECHANICAL SYSTEMS SERVICE CONTRACT” MEANS A CONTRACT FOR:

6 (1) HVAC SYSTEMS, INCLUDING HEATING, VENTILATION,  
7 DUCTWORK, AND COOLING/AIR-CONDITIONING EQUIPMENT;

8 (2) REFRIGERATION SYSTEMS;

9 (3) PLUMBING SYSTEMS, INCLUDING PIPES, TANKS, FITTINGS, AND  
10 OTHER ELEMENTS THAT CONTROL THE WATER AND GAS SUPPLY, HEATING, AND  
11 SANITATION OF A BUILDING;

12 (4) ELECTRICAL SYSTEMS, INCLUDING ELECTRICAL COMPONENTS  
13 THAT SUPPLY, DISTRIBUTE, GENERATE, AND USE ELECTRICAL POWER, OVERHEAD  
14 AND UNDERGROUND LINES, POLES, TRANSFORMERS, AND OTHER RELATED  
15 EQUIPMENT; AND

16 (5) ELEVATOR SYSTEMS, INCLUDING ESCALATORS, MOVING  
17 WALKWAYS, AND OTHER CONVEYANCES.

18 [(h)] (I) “Prevailing wage rate” means the hourly rate of wages paid in the  
19 locality as determined by the Commissioner under § 17-208 of this subtitle.

20 [(i)] (J) (1) “Public body” means:

21 (i) the State;

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

24 (iii) any political subdivision, agency, person, or entity with respect  
25 to the construction of any public work for which 25% or more of the money used for  
26 construction is State money;

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

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

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

3 (v) the Washington Suburban Sanitary Commission.

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

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

8 (ii) any political subdivision, agency, person, or entity with respect  
 9 to the construction of any public work for which less than 25% of the money used for  
 10 construction is State money.

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

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

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

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

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

20 1. public supervision or direction; or

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

22 (ii) a capital project that receives State funds in the annual State  
 23 capital budget as:

24 1. a local House of Delegates initiative; or

25 2. a local Senate initiative.

26 **[(k)] (L)** "Public work contract" means a contract for construction of a public  
 27 work.

28 **[(l)] (M)** "Worker" means a laborer or mechanic.

29 17-202.

1 (a) This subtitle does not limit:

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

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

6 (b) **[This] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THIS**  
7 subtitle does not apply to:

8 (1) a public work contract of less than \$250,000; or

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

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

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

17 (2) that entire public work contract.

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

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

28 **(E) THIS SUBTITLE APPLIES TO A MECHANICAL SYSTEMS SERVICE**  
29 **CONTRACT THAT IS PART OF A PUBLIC WORK CONTRACT WITH A VALUE IN EXCESS**  
30 **OF THE THRESHOLD SPECIFIED IN 41 U.S.C. 6702(A)(2), THE MCNAMARA–O’HARA**  
31 **SERVICE CONTRACT ACT OF 1965 (SCA).**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2022.