
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1465 Session of
2023

INTRODUCED BY DELLOSO, MADDEN, McNEILL, PIELLI, McANDREW,
SANCHEZ, KRAJEWSKI, HILL-EVANS, NEILSON, KHAN, CIRESI,
HADDOCK AND KINSEY, JUNE 21, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 21, 2023

AN ACT

1 Providing for minimum wage standards in underground
2 infrastructure work, for application of Prevailing Wage Act,
3 for enforcement, for penalties and appeals and for protection
4 from retaliation; and creating a private right of action.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Underground
9 Infrastructure Works Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Department." The Department of Labor and Industry of the
15 Commonwealth.

16 "Prevailing Wage Act." The act of August 15, 1961 (P.L.987,
17 No.442), known as the Pennsylvania Prevailing Wage Act.

18 "Public utility." As defined by 66 Pa.C.S. § 102 (relating

1 to definitions).

2 "Underground infrastructure work." All construction,
3 reconstruction, demolition, alteration or repair work, other
4 than maintenance work, including traffic control, related to an
5 underground system of distribution, conveyance, transmission,
6 diversion, collection, treatment or storage that is owned, used
7 or maintained by a public utility.

8 "Workman." As defined under section 2(7) of the Prevailing
9 Wage Act.

10 Section 3. Minimum workplace standards required.

11 A public utility shall ensure that a contractor or
12 subcontractor that is engaged to perform underground
13 infrastructure work:

14 (1) Certifies that all workmen employed on an
15 underground infrastructure work have successfully completed
16 workplace safety and hazard mitigation training that
17 includes:

18 (i) A 10-hour construction safety training course
19 established by the Occupational Safety and Health
20 Administration of the United States Department of Labor.

21 (ii) An adult first-aid course that includes CPR/AED
22 that is deemed acceptable to the department in
23 consultation with the Department of Health.

24 (iii) If the project includes public roadways, an
25 onsite traffic control training course deemed acceptable
26 to the department, in consultation with Department of
27 Transportation.

28 (iv) Any other workplace safety or hazard mitigation
29 training that may be required by statute or regulation.

30 (2) Pays not less than the prevailing minimum wages and

1 fringe benefit rates as would be applicable to a project of
2 public work under the Prevailing Wage Act, and as specified
3 on a wage determination issued by the department, to each
4 workman employed to perform underground infrastructure work.

5 (3) Complies with applicable provisions of the
6 Prevailing Wage Act, including certification of payroll
7 records, as required by section 5.

8 (4) Maintains records demonstrating compliance with the
9 minimum requirements of this section for not less than two
10 years after the date of payment of wages.

11 Section 4. Application of Prevailing Wage Act.

12 (a) General rule.--The requirements of section 3(2) shall
13 apply to the prevailing minimum wages and fringe benefit rates
14 due and payable to and on behalf of any worker, in every trade
15 or craft, employed by a contractor, performing services on an
16 underground infrastructure work, and related certification of
17 payroll records, required by the Prevailing Wage Act.

18 (b) Duties of department.--

19 (1) The department shall enforce the requirements of
20 section 3(2) and (3) and this section and shall apply the
21 same administration and enforcement applicable to any project
22 undertaken under the requirements of the Prevailing Wage Act
23 to ensure compliance.

24 (2) The department shall, at the request of a public
25 utility, determine and make available the prevailing minimum
26 wage rates for underground infrastructure work.

27 (c) Duties of public utility.--

28 (1) A public utility and its contractors, engaged to
29 perform underground infrastructure work, shall comply with
30 all provisions and requirements of the Prevailing Wage Act

1 for all crafts and classifications of workmen who are
2 employed to perform work on an underground infrastructure
3 facility.

4 (2) A public utility shall, prior to entering into or
5 modifying a contract for underground infrastructure work,
6 request and obtain the prevailing minimum wage and benefit
7 rates determined by the department and make them available to
8 the public utility's contractors.

9 (3) A public utility shall perform the duties required
10 by a public body under the Prevailing Wage Act, including
11 requiring a contractor to file statements, in writing, in a
12 form or format prescribed by the department, certifying the
13 names of any and all workmen on underground infrastructure
14 work and the wages due to each workman.

15 (d) Duties of contractor and subcontractor.--A contractor or
16 subcontractor who performs underground infrastructure work shall
17 pay not less than the prevailing minimum wages and fringe
18 benefit rates determined by the department to every worker in
19 every trade or craft employed on an underground infrastructure
20 work.

21 Section 5. Enforcement.

22 In addition to the duties specified in section 4, the
23 department shall enforce and investigate alleged violations of
24 this act. In enforcing this act, the department may take any of
25 the following actions:

26 (1) Request the production of documents or inspect
27 records of a public utility or contractor at any reasonable
28 time for the purpose of an investigation that relates to
29 compliance with this act.

30 (2) If an entity fails to produce a record relating to

1 compliance with this act, petition Commonwealth Court to
2 enforce a subpoena or order issued by the department under
3 this act.

4 Section 6. Penalties and appeals.

5 (a) Power of department.--If the department determines that
6 a violation of this act has occurred, the department may:

7 (1) For a violation of section 3(1) or (4), require
8 corrective action and assess an administrative fine of \$2,500
9 for a first violation or \$5,000 for a subsequent violation.

10 (2) For a violation of section 3(2) or (3) or 4(d),
11 apply the same remedies and penalties contained under the
12 Prevailing Wage Act.

13 (b) Administrative procedure.--A finding of a violation
14 under subsection (a)(1) shall be subject to the provisions of 2
15 Pa.C.S. (relating to administrative law and procedure).

16 (c) Appeal.--A finding of a violation under subsection (a)
17 (2) may be appealed under section 2.2(e)(1) of the Prevailing
18 Wage Act and 34 Pa. Code § 213.3 (relating to appeals from
19 determinations of the Secretary). A final determination by the
20 appeals board under the Prevailing Wage Act may be appealed
21 under 2 Pa.C.S.

22 Section 7. Protection from retaliation.

23 (a) Retaliation prohibited.--A public utility or its
24 contractors may not discharge, threaten or otherwise retaliate
25 or discriminate against an employee regarding compensation or
26 other terms or conditions of employment because the employee
27 participates in an investigation, hearing or inquiry by the
28 department or reports an alleged violation of this act to the
29 department.

30 (b) Private right of action.--An employee who suffers

1 retaliation or discrimination under subsection (a) may bring an
2 action in a court of common pleas in accordance with the
3 Pennsylvania Rules of Civil Procedure. The action must be
4 brought within three years from the date the employee knew of
5 the retaliation or discrimination.

6 (c) Relief.--If an employee prevails in an action commenced
7 under subsection (b), the employee shall be entitled to the
8 following relief:

9 (1) Reinstatement of the employee, if applicable.

10 (2) Restitution equal to three times the amount of the
11 employee's wages and fringe benefits calculated from the date
12 of the retaliation or discrimination.

13 (3) Reasonable attorney fees and costs of the action.

14 (4) Any other legal and equitable relief the court deems
15 appropriate.

16 Section 8. Pennsylvania Public Utility Commission orders.

17 The Pennsylvania Public Utility Commission shall, in its
18 authority and oversight of public utilities under 66 Pa.C.S.
19 (relating to public utilities), consider and request information
20 on employees of contractors and subcontractors of public
21 utilities and may include conditions related to workplace safety
22 and hazard training, prevailing minimum wage standards and any
23 other safety or economic labor standard deemed of importance by
24 the commission in formal actions or decisions that it
25 undertakes.

26 Section 9. Applicability.

27 This act shall apply to underground infrastructure work by a
28 public utility that is performed under contract on or after the
29 effective date of this section.

30 Section 10. Effective date.

1 This act shall take effect in 180 days.