

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1745 Session of
2021

INTRODUCED BY RYAN, FEE, KAUFFMAN, KEEFER, CAUSER, METCALFE,
COX, MOUL AND GLEIM, JULY 30, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JULY 30, 2021

AN ACT

1 Amending the act of August 15, 1961 (P.L.987, No.442), entitled
2 "An act relating to public works contracts; providing for
3 prevailing wages; imposing duties upon the Secretary of Labor
4 and Industry; providing remedies, penalties and repealing
5 existing laws," further providing for definitions and for
6 specifications; and providing for protection of workmen.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Sections 2 and 3 of the act of August 15, 1961
10 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage
11 Act, are amended to read:

12 Section 2. Definitions.--As used in this act--

13 (1) "Department" means Department of Labor and Industry of
14 the Commonwealth of Pennsylvania.

15 (2) "Locality" means any political subdivision, or
16 combination of the same, within the county in which the public
17 work is to be performed. When no workmen for which a prevailing
18 minimum wage is to be determined hereunder are employed in the
19 locality, the locality may be extended to include adjoining
20 political subdivisions where such workmen are employed in those

crafts or trades for which there are no workmen employed in the locality as otherwise herein defined.

(3) "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased. The term includes the following actions taken on roads:

(i) Replacement in kind, or compliance with current Department of Transportation design criteria and standards, of guide rails, curbs, pipes, line painting and other related road equipment.

(ii) Repair of pavement surface by:

(A) laying bituminous material up to three and one-half inches thick or up to four hundred twenty pounds per square yard on asphalt pavement, cement concrete or other hard surface, including associated milling, and related work raising existing paved shoulders to new grade; or

(B) patching of cement concrete surface to include joint spalling and repair work.

(iii) Widening of existing alignment which does not result in additional lanes or new shoulders.

(iv) Bridge cleaning, washing, resurfacing with blacktop, minor nonstructural repairs or improvements and painting, except when combined with complete bridge rehabilitation.

(4) "Public body" means the Commonwealth of Pennsylvania, any of its political subdivisions, any authority created by the General Assembly of the Commonwealth of Pennsylvania and any instrumentality or agency of the Commonwealth of Pennsylvania.

(5) "Public work" means construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, done under contract and paid for in whole or in part out

1 of the funds of a public body where the estimated cost of the
2 total project is in excess of twenty-five thousand dollars
3 (\$25,000), but shall not include work performed under a
4 rehabilitation or manpower training program. The term includes
5 combination maintenance/rehabilitation/reconstruction road
6 projects on existing alignment in which nonmaintenance items
7 exceed fifteen percent (15%) of the total project cost.

8 (6) "Secretary" means the Secretary of Labor and Industry or
9 his duly authorized deputy or representative.

10 (7) "Workman" includes laborer, mechanic, skilled and semi-
11 skilled laborer and apprentices employed by any contractor or
12 subcontractor and engaged in the performance of services
13 directly upon the public work project, regardless of whether
14 their work becomes a component part thereof, but does not
15 include material suppliers or their employees who do not perform
16 services at the job site.

17 (8) "Work performed under a rehabilitation program," means
18 work arranged by and at a State institution primarily for
19 teaching and upgrading the skills and employment opportunities
20 of the inmates of such institutions.

21 (9) "Advisory Board" means the board created by section 2.1
22 of this act.

23 (10) "Appeals Board" means the board created by section 2.2
24 of this act.

25 Section 3. Specifications.--(a) The specifications for
26 every contract for any public work to which any public body is a
27 party, shall contain a provision stating the minimum wage rate
28 that must be paid to the workmen employed in the performance of
29 the contract.

30 (b) No person shall intentionally divide a construction

1 project into multiple parts for the purposes of circumventing
2 this act.

3 Section 2. The act is amended by adding a section to read:

4 Section 13.1. Protection of Workmen.--(a) No contractor or
5 subcontractor may discharge, threaten or otherwise discriminate
6 or retaliate against a workman regarding the employee's
7 compensation, terms, conditions, location or privileges of
8 employment because the workman exercised his rights under
9 section 11(b) or 13.

10 (b) No contractor or subcontractor may discharge, threaten
11 or otherwise discriminate or retaliate against an employe
12 regarding the employe's compensation, terms, conditions,
13 location or privilege of employment because the employe is
14 requested by the secretary to participate in an investigation,
15 hearing or inquiry held by the secretary or in a court action.

16 (c) (1) A workman who alleges a violation of this act may
17 bring a civil action in a court of competent jurisdiction for
18 appropriate injunctive relief or damages, or both, within one
19 hundred eighty days after the occurrence of the alleged
20 violation.

21 (2) It shall be a defense to an action under this section if
22 the defendant proves by a preponderance of the evidence that the
23 action by the employer occurred for separate and legitimate
24 reasons, which are not merely pretextual.

25 (d) A court, in rendering a judgment in an action brought
26 under this act, shall order, as the court considers appropriate,
27 reinstatement of the employe, the payment of back wages, full
28 reinstatement of fringe benefits and seniority rights, damages
29 or a combination of the remedies. A court may also award the
30 complainant all or a portion of the costs of litigation,

1 including reasonable attorney fees and witness fees, if the
2 court determines that the award is appropriate.

3 Section 3. The amendment of section 2 of the act shall apply
4 to contracts entered into on or after the effective date of this
5 section.

6 Section 4. This act shall take effect in 60 days.