

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1685 Session of  
2011

INTRODUCED BY BEAR, TURZAI, SAYLOR, MILLER, AUMENT, BLOOM, BOYD,  
CAUSER, COX, CREIGHTON, CUTLER, DELOZIER, DENLINGER, EVERETT,  
GILLESPIE, GINGRICH, GRELL, GROVE, HELM, HENNESSEY,  
HICKERNELL, KAUFFMAN, MARSICO, METCALFE, MILNE, MOUL, PERRY,  
PICKETT, RAPP, ROAE, ROCK, ROSS, SCHRODER, SWANGER, TALLMAN,  
TOEPEL AND VULAKOVICH, JUNE 17, 2011

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, OCTOBER 3, 2011

## 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 ~~administration~~; AND PROVIDING FOR DUTIES OF DEPARTMENT. ←

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

9 ~~Section 1. Sections 2 and 7 of the act of August 15, 1961~~ ←  
10 ~~(P.L.987, No.442), known as the Pennsylvania Prevailing Wage~~  
11 ~~Act, amended August 9, 1963 (P.L.653, No.342), are amended to~~  
12 ~~read:~~

13 SECTION 1. SECTION 2 OF THE ACT OF AUGUST 15, 1961 (P.L.987, ←  
14 NO.442), KNOWN AS THE PENNSYLVANIA PREVAILING WAGE ACT, AMENDED  
15 AUGUST 9, 1963 (P.L.653, NO.342), IS AMENDED TO READ:

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

17 "Advisory Board" means the board created by section 2.1 of

1 this act.

2 "Appeals Board" means the board created by section 2.2 of  
3 this act.

4 [(1)] "Department" means Department of Labor and Industry of  
5 the Commonwealth of Pennsylvania.

6 "Federal occupational classifications" means the Occupational  
7 Outlook Handbook of the Federal Bureau of Labor Statistics,  
8 published under 40 U.S.C § 3142(b) (relating to rate of wages  
9 for laborers and mechanics).

10 [(2)] "Locality" means any political subdivision, or  
11 combination of the same, within the county in which the public  
12 work is to be performed. When no workmen for which a prevailing  
13 minimum wage is to be determined hereunder are employed in the  
14 locality, the locality may be extended to include adjoining  
15 political subdivisions where such workmen are employed in those  
16 crafts or trades for which there are no workmen employed in the  
17 locality as otherwise herein defined.

18 [(3)] "Maintenance work" means the repair of existing  
19 facilities when the size, type or extent of such facilities is  
20 not thereby changed or increased.

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

25 [(5)] "Public work" means construction, reconstruction,  
26 demolition, alteration and/or repair work other than maintenance  
27 work, done under contract and paid for in whole or in part out  
28 of the funds of a public body where the estimated cost of the  
29 total project is in excess of twenty-five thousand dollars  
30 (\$25,000), but shall not include work performed under a

1 rehabilitation or manpower training program.

2 [(6)] "Secretary" means the Secretary of Labor and Industry  
3 or his duly authorized deputy or representative.

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

11 [(8)] "Work performed under a rehabilitation program," means  
12 work arranged by and at a State institution primarily for  
13 teaching and upgrading the skills and employment opportunities  
14 of the inmates of such institutions.

15 [(9)] "Advisory Board" means the board created by section 2.1  
16 of this act.

17 (10) "Appeals Board" means the board created by section 2.2  
18 of this act.]

19 ~~Section 7. Duty of Secretary. The secretary shall, after~~ ←  
20 ~~consultation with the advisory board, determine the general~~  
21 ~~prevailing minimum wage rate in the locality in which the public~~  
22 ~~work is to be performed for each craft or classification of all~~  
23 ~~workmen needed to perform public work contracts during the~~  
24 ~~anticipated term thereof: Provided, however, That employer and~~  
25 ~~employee contributions for employee benefits pursuant to a bona~~  
26 ~~fide collective bargaining agreement shall be considered an~~  
27 ~~integral part of the wage rate for the purpose of determining~~  
28 ~~the minimum wage rate under this act. Nothing in this act,~~  
29 ~~however, shall prohibit the payment of more than the general~~  
30 ~~prevailing minimum wage rate to any workman employed on public~~

~~work. The secretary shall forthwith give notice by mail of all determinations of general prevailing minimum wage rates made pursuant to this section to any representative of any craft, any employer or any representative of any group of employers, who shall in writing request the secretary so to do. Unless otherwise authorized by statute, the secretary shall base the scope of a craft or classification of workmen under this section on the most recent version of the Federal occupational classifications, utilizing the description of the craft or classification in the "nature of work" subsection for each rate category.~~

SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 7.1. DUTIES OF DEPARTMENT.-- (A) THE DEPARTMENT SHALL DEVELOP OR ADOPT A COMPLETE LISTING OF WORKER CLASSIFICATIONS AND THEIR RESPECTIVE DEFINITIONS, AND SHALL MAKE THE LISTINGS AVAILABLE TO THE PUBLIC IN A CONSPICUOUS LOCATION ON THE DEPARTMENT'S INTERNET WEBSITE. THE LISTING SHALL, AT ALL TIMES, BE AVAILABLE FOR PUBLIC VIEWING, AND SHALL BE MAINTAINED ON A STATEWIDE BASIS FOR EACH WORKER CLASSIFICATION. IN DEVELOPING THE LIST, THE DEPARTMENT MAY CONSIDER THE FOLLOWING SOURCES:

- (1) COLLECTIVE BARGAINING AGREEMENTS;
- (2) FEDERAL OCCUPATIONAL CLASSIFICATIONS;
- (3) INPUT FROM THE ADVISORY BOARD;
- (4) OPINIONS OF REPRESENTATIVES FROM ORGANIZED LABOR AND THE OPINIONS OF CONTRACTORS AND CONTRACTOR ASSOCIATIONS AS THEY RELATE TO THE CUSTOM AND USAGE APPLICABLE TO THE CONSTRUCTION INDUSTRY IN THIS COMMONWEALTH; AND
- (5) ANY OTHER INFORMATION THAT THE DEPARTMENT DEEMS PERTINENT.

1 THE DEFINITIONS FOR EACH CLASSIFICATION IN THIS SUBSECTION SHALL  
2 BE UNIFORM THROUGHOUT THIS COMMONWEALTH.

3 (B) WORKER CLASSIFICATIONS AS DEFINED BY THE DEPARTMENT AT  
4 THE TIME OF THE BEGINNING OF A PROJECT SHALL BE USED THROUGHOUT  
5 COMPLETION OF THAT PROJECT, AND SHALL BE CONTROLLING FOR  
6 PURPOSES OF ANY DISPUTE. FOR PURPOSES OF THIS SUBSECTION, THE  
7 BEGINNING OF A PROJECT SHALL BE DEEMED TO BE THE EARLIER OF THE  
8 ACCEPTANCE OF BIDS OR OFFERS OR THE EXECUTION OF A CONTRACT.

9 (C) THE DEPARTMENT SHALL PUBLISH THE COMPLETE LISTING OF  
10 WORKER CLASSIFICATIONS AND THEIR RESPECTIVE DEFINITIONS, AS  
11 REQUIRED IN SUBSECTION (A) WITHIN ONE HUNDRED EIGHTY DAYS AFTER  
12 THE EFFECTIVE DATE OF THIS SECTION, PROVIDED THAT AFTER THE  
13 INITIAL WORK DESCRIPTIONS ARE PUBLISHED, THE DEPARTMENT MAY  
14 CHANGE THE DESCRIPTIONS FROM TIME TO TIME IN ACCORDANCE WITH THE  
15 CRITERIA IN SUBSECTION (A).

16 Section 2 3. This act shall take effect in 60 days.

