
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1191 Session of
2013

INTRODUCED BY DELOZIER, AUMENT, BENNINGHOFF, BLOOM, CAUSER,
CLYMER, COX, DUNBAR, GINGRICH, GROVE, HICKERNELL, KAUFFMAN,
M. K. KELLER, LAWRENCE, MILLER, MOUL, PICKETT, REGAN, ROSS,
SWANGER AND TALLMAN, APRIL 15, 2013

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 15, 2013

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," raising the threshold for applicability.

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

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

1 locality, the locality may be extended to include adjoining
2 political subdivisions where such workmen are employed in those
3 crafts or trades for which there are no workmen employed in the
4 locality as otherwise herein defined.

5 (3) "Maintenance work" means the repair of existing
6 facilities when the size, type or extent of such facilities is
7 not thereby changed or increased.

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

12 (5) "Public work" means construction, reconstruction,
13 demolition, alteration and/or repair work other than maintenance
14 work, done under contract and paid for in whole or in part out
15 of the funds of a public body where the estimated cost of the
16 total project is in excess of [twenty-five thousand dollars
17 (\$25,000)] five hundred thousand dollars (\$500,000) as adjusted
18 on March 1 of each year to conform to increases or decreases in
19 the Consumer Price Index for the previous calendar year for
20 urban wage earners in the Pennsylvania, New Jersey, Delaware and
21 Maryland area combined, but shall not include work performed
22 under a rehabilitation or manpower training program.

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

25 (7) "Workman" includes laborer, mechanic, skilled and semi-
26 skilled laborer and apprentices employed by any contractor or
27 subcontractor and engaged in the performance of services
28 directly upon the public work project, regardless of whether
29 their work becomes a component part thereof, but does not
30 include material suppliers or their employes who do not perform

1 services at the job site.

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

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

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

10 Section 7. Duty of Secretary.--[The secretary shall, after
11 consultation with the advisory board, determine the general
12 prevailing minimum wage rate in the locality in which the public
13 work is to be performed for each craft or classification of all
14 workmen needed to perform public work contracts during the
15 anticipated term thereof: Provided, however, That employer and
16 employe contributions for employe benefits pursuant to a bona
17 fide collective bargaining agreement shall be considered an
18 integral part of the wage rate for the purpose of determining
19 the minimum wage rate under this act. Nothing in this act,
20 however, shall prohibit the payment of more than the general
21 prevailing minimum wage rate to any workman employed on public
22 work. The secretary shall forthwith give notice by mail of all
23 determinations of general prevailing minimum wage rates made
24 pursuant to this section to any representative of any craft, any
25 employer or any representative of any group of employers, who
26 shall in writing request the secretary so to do.] (a) After
27 consulting with the advisory board, the secretary shall
28 determine the general prevailing minimum wage rate in the county
29 where the public work is to be performed for a craft or
30 classification of the workmen needed to perform public work

1 contracts during the anticipated term as long as the employer
2 and employe contributions for bona fide employe benefits are
3 considered an integral part of the wage rate for the purpose of
4 determining the minimum wage rate under this act.

5 (b) Administration shall be as follows:

6 (1) The secretary shall conduct a continuing program for
7 obtaining and compiling wage rate information and shall
8 encourage the voluntary submission of wage rate data for
9 specified representative work weeks, from contractors,
10 contractors' associations, labor organizations, public officials
11 and other interested parties, which reflect wage rates paid to
12 workmen in the various types of construction in the locality
13 during the representative periods. Rates must be determined
14 annually for varying types of projects within the entire range
15 of work performed by the building and construction industry.
16 Information submitted must reflect not only the specified wage
17 rate paid to a particular craft in the locality but also the
18 type of projects on which the wage rate or rates were paid. At a
19 minimum, a submission must specify the type of project being
20 reported, including whether the project is commercial,
21 institutional, residential or for a highway or road and whether
22 the contracted project exceeded the threshold of this act.

23 (2) If the secretary deems the data at hand is insufficient
24 to make a determination regarding the crafts or classifications
25 necessary to perform the proposed public work in a particular
26 county, the secretary may:

27 (i) utilize wage data from an adjoining county with a
28 comparable labor market; or

29 (ii) have a field survey conducted by a staff representative
30 of the secretary for the purpose of obtaining additional

1 information to make a determination of the wage rates and the
2 customs, usages and practices as to the type of work applicable
3 to the wage rates.

4 (3) The identifying information, including names and
5 addresses of contractors or employes, submitted by parties
6 participating in a wage survey under this subsection must remain
7 confidential and not subject to the requirements of the act of
8 February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know
9 Law," or other law requiring public disclosure. If the
10 information must be disclosed in response to a subpoena, court
11 order or other lawful directive, the information must be
12 redacted in a way to ensure the confidentiality of the
13 submitting contractor and the employes of the contractor.

14 (4) The secretary shall:

15 (i) ensure the wage rate data submitted under this
16 subsection is accurate;

17 (ii) require statements signed by parties submitting data
18 certifying that the information is accurate; and

19 (iii) to the maximum extent possible, conduct random audits
20 to ensure accuracy of data.

21 (5) After notice and hearing, a party found to have
22 intentionally submitted false wage data under this subsection is
23 subject to debarment, for a period of up to three years as
24 determined by the secretary, from:

25 (i) public work as provided for under section 11(e), in the
26 case of a contractor; and

27 (ii) a submission of wage data, in the case of another
28 party.

29 (6) Wage rate data submitted under this subsection must
30 reflect the wages paid to workmen for work in the same trade or

1 occupation on a project that is not subject to this act or a
2 Federal or other state's prevailing wage law; however, if no
3 comparable project or covered job function similar in work type
4 to that needed by a public body exists, the secretary may
5 utilize a wage rate promulgated under 40 U.S.C. Ch. 31 Subch. IV
6 (relating to wage rate requirements) for the work.

7 (c) The secretary shall give notice electronically, or by
8 mail if requested, of a determination of a general prevailing
9 minimum wage rate made under this section to a representative of
10 a craft or an employer or representative of a group of
11 employers. The request must be made in writing.

12 Section 2. Section 15 of the act is amended to read:

13 Section 15. Application of Act.--This act shall have no
14 application to any public works subject to the Walsh-Healey Act,
15 the act of June 30, 1936, chapter 881, 49 Stat. 2036, 41 USCA
16 sections 35-45, or [the Davis Bacon Act, the act of March 3,
17 1931, 40 U. S. Code 276 (a)] 40 U.S.C. Ch. 31 Subch. IV
18 (relating to wage rate requirements).

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

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