

## 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  
19 locality, the locality may be extended to include adjoining

1 political subdivisions where such workmen are employed in those  
2 crafts or trades for which there are no workmen employed in the  
3 locality as otherwise herein defined.

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

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

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

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

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

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

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

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

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

1 and employe contributions for bona fide employe benefits are  
2 considered an integral part of the wage rate for the purpose of  
3 determining the minimum wage rate under this act.

4 (b) Administration shall be as follows:

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

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

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

28 (ii) have a field survey conducted by a staff representative  
29 of the secretary for the purpose of obtaining additional  
30 information to make a determination of the wage rates and the

1 customs, usages and practices as to the type of work applicable  
2 to the wage rates.

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

13 (4) The secretary shall:

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

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

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

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

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

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

28 (6) Wage rate data submitted under this subsection must  
29 reflect the wages paid to workmen for work in the same trade or  
30 occupation on a project that is not subject to this act or a

1 Federal or other state's prevailing wage law; however, if no  
2 comparable project or covered job function similar in work type  
3 to that needed by a public body exists, the secretary may  
4 utilize a wage rate promulgated under 40 U.S.C. Ch. 31 Subch. IV  
5 (relating to wage rate requirements) for the work.

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

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

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

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

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