

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2682 Session of
2006

INTRODUCED BY MCILHINNEY, MAY 15, 2006

REFERRED TO COMMITTEE ON LABOR RELATIONS, MAY 15, 2006

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 remedies and penalties.

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

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

11 Section 11. Remedies and Penalties.--(a) The fiscal or
12 financial officer, or any public body having public work
13 performed under which any workman shall have been paid less than
14 the prevailing wage, shall forthwith notify the secretary, in
15 writing, of the name of the person or firm failing to pay the
16 prevailing wages.

17 (b) Any workman may, within three months from the date of
18 the occurrence of the incident complained of, file a protest, in
19 writing, with the secretary objecting to the amount of wages

1 paid for services performed by him on public work as being less
2 than the prevailing wages for such services.

3 (c) Whenever a fiscal or financial officer of any public
4 body shall notify the secretary that any person or firm required
5 to pay its workmen the prevailing wage under this act has failed
6 so to do, or whenever any workman employed upon public work
7 shall have filed a timely protest objecting that he has been
8 paid less than prevailing wages as required by this act, it
9 shall be the duty of and the secretary shall forthwith
10 investigate the matter and determine whether or not there has
11 been a failure to pay the prevailing wages and whether such
12 failure was intentional or otherwise. In any such investigation,
13 the secretary shall provide for an appropriate hearing upon due
14 notice to interested parties including the workmen, the employer
15 and their respective representative, if any.

16 (d) In the event that the secretary shall determine, after
17 notice and hearing as required by this section, that any person
18 or firm has failed to pay the prevailing wages and that such
19 failure was not intentional, he shall afford such person or firm
20 a reasonable opportunity to adjust the matter by making payment
21 or providing adequate security for the payment of the amounts
22 required to be paid under this act as prevailing wages to the
23 workmen affected on such terms and conditions as shall be
24 approved by the secretary.

25 (e) In the event that the secretary [shall determine, after
26 notice and hearing as required by this section,] has reason to
27 believe that any person or firm has failed to pay the prevailing
28 wages and that such failure was intentional, [he] the secretary
29 shall thereupon refer the matter to the Attorney General for
30 investigation. If the investigation warrants, the Attorney

1 General shall initiate an appropriate action to recover the
2 penalties for the Commonwealth which are payable under
3 subsection (f) of this section and, if the court orders, to
4 notify all public bodies of the name or names of such persons or
5 firms; and no contract shall be awarded to such persons or firms
6 or to any firm, corporation or partnership in which such persons
7 or firms have an interest until three years have elapsed from
8 the date of the notice to the public bodies aforesaid. [The
9 secretary may in addition thereto request the Attorney General
10 to proceed to recover the penalties for the Commonwealth of
11 Pennsylvania which are payable under subsection (f) of this
12 section.]

13 (f) Whenever it shall be determined by the secretary, after
14 notice and hearing as required by this section, that any person
15 or firm has failed to pay the prevailing wages and that such
16 failure was intentional, such persons or firm shall be liable to
17 the Commonwealth of Pennsylvania for liquidated damages, in
18 addition to damages for any other breach of the contract in the
19 amount of the underpayment of wages due any workman engaged in
20 the performance of such contract.

21 (g) It shall not constitute a failure to pay the prevailing
22 wage rates for the work of a particular craft or classification
23 where the prevailing wage rates determined for a specific craft
24 or classification has been paid, and it is asserted that one or
25 more bona fide craft unions contend that the work should have
26 been assigned to their members instead of the members of the
27 specific craft to whom it was assigned or by whom it was
28 performed.

29 (h) The following shall constitute substantial evidence of
30 intentional failure to pay prevailing wage rates:

1 (1) Any acts of omission or commission done wilfully or with
2 a knowing disregard of the rights of workmen resulting in the
3 payment of less than prevailing wage rates.

4 (2) After there has been a finding by the secretary in the
5 manner required by this section that any person or firm has
6 failed to pay the prevailing wages prescribed by this act and
7 thereafter there shall be a failure by such person or firm to
8 pay the prevailing wages prescribed by this act, or there shall
9 be a subsequent failure of such person or firm to comply with
10 any opportunity to adjust any differences which shall be
11 afforded him by the secretary.

12 Section 2. This act shall take effect in 60 days.