

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1191 Session of 2021

INTRODUCED BY DELOZIER, KAUFFMAN, MENTZER, METCALFE, MOUL, ROWE AND RYAN, APRIL 15, 2021

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 15, 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," raising the threshold for applicability.

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

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

11 Section 7. Duty of Secretary.--[The secretary shall, after
 12 consultation with the advisory board, determine the general
 13 prevailing minimum wage rate in the locality in which the public
 14 work is to be performed for each craft or classification of all
 15 workmen needed to perform public work contracts during the
 16 anticipated term thereof: Provided, however, That employer and
 17 employe contributions for employe benefits pursuant to a bona
 18 fide collective bargaining agreement shall be considered an
 19 integral part of the wage rate for the purpose of determining

1 the minimum wage rate under this act. Nothing in this act,
2 however, shall prohibit the payment of more than the general
3 prevailing minimum wage rate to any workman employed on public
4 work. The secretary shall forthwith give notice by mail of all
5 determinations of general prevailing minimum wage rates made
6 pursuant to this section to any representative of any craft, any
7 employer or any representative of any group of employers, who
8 shall in writing request the secretary so to do.] (a) After
9 consulting with the advisory board, the secretary shall
10 determine the general prevailing minimum wage rate in the county
11 where the public work is to be performed for a craft or
12 classification of the workmen needed to perform public work
13 contracts during the anticipated term as long as the employer
14 and employe contributions for bona fide employe benefits are
15 considered an integral part of the wage rate for the purpose of
16 determining the minimum wage rate under this act.

17 (b) Administration shall be as follows:

18 (1) The secretary shall conduct a continuing program for
19 obtaining and compiling wage rate information and shall
20 encourage the voluntary submission of wage rate data for
21 specified representative work weeks, from contractors,
22 contractors' associations, labor organizations, public officials
23 and other interested parties, which reflect wage rates paid to
24 workmen in the various types of construction in the locality
25 during the representative periods. Rates must be determined
26 annually for varying types of projects within the entire range
27 of work performed by the building and construction industry.
28 Information submitted must reflect not only the specified wage
29 rate paid to a particular craft in the locality but also the
30 type of projects on which the wage rate or rates were paid. At a

1 minimum, a submission must specify the type of project being
2 reported, including whether the project is commercial,
3 institutional, residential or for a highway or road and whether
4 the contracted project exceeded the threshold of this act.

5 (2) If the secretary deems the data at hand is insufficient
6 to make a determination regarding the crafts or classifications
7 necessary to perform the proposed public work in a particular
8 county, the secretary may:

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

11 (ii) have a field survey conducted by a staff representative
12 of the secretary for the purpose of obtaining additional
13 information to make a determination of the wage rates and the
14 customs, usages and practices as to the type of work applicable
15 to the wage rates.

16 (3) The identifying information, including names and
17 addresses of contractors or employes, submitted by parties
18 participating in a wage survey under this subsection must remain
19 confidential and not subject to the requirements of the act of
20 February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know
21 Law," or other law requiring public disclosure. If the
22 information must be disclosed in response to a subpoena, court
23 order or other lawful directive, the information must be
24 redacted in a way to ensure the confidentiality of the
25 submitting contractor and the employes of the contractor.

26 (4) The secretary shall:

27 (i) ensure the wage rate data submitted under this
28 subsection is accurate;

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

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

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

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

9 (ii) a submission of wage data, in the case of another
10 party.

11 (6) Wage rate data submitted under this subsection must
12 reflect the wages paid to workmen for work in the same trade or
13 occupation on a project that is not subject to this act or a
14 Federal or other state's prevailing wage law; however, if no
15 comparable project or covered job function similar in work type
16 to that needed by a public body exists, the secretary may
17 utilize a wage rate promulgated under 40 U.S.C. Ch. 31 Subch. IV
18 (relating to wage rate requirements) for the work.

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

24 Section 15. Application of Act.--This act shall have no
25 application to any public works subject to the Walsh-Healey Act,
26 the act of June 30, 1936, chapter 881, 49 Stat. 2036, 41 USCA
27 sections 35-45, or [the Davis Bacon Act, the act of March 3,
28 1931, 40 U. S. Code 276 (a)] 40 U.S.C. Ch. 31 Subch. IV
29 (relating to wage rate requirements).

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