



## Senate

General Assembly

**File No. 315**

February Session, 2002

Substitute Senate Bill No. 61

*Senate, April 4, 2002*

The Committee on Government Administration and Elections reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING DEBARMENT REFORM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-53a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 (a) The State Comptroller or the contracting authority acting  
4 pursuant to section 31-53 is hereby authorized and directed to pay to  
5 mechanics, laborers and [workmen] workers from any accrued  
6 payments withheld under the terms of a contract terminated pursuant  
7 to subsection (b) of said section 31-53 any wages found to be due such  
8 mechanics, laborers and [workmen] workers pursuant to said section  
9 31-53. The Labor Commissioner is further authorized and directed to  
10 distribute a list to all departments of the state and political  
11 subdivisions [thereof] of the state giving the names of persons or firms  
12 whom [he] the Labor Commissioner has found to have disregarded  
13 their obligations under said section 31-53 and section 31-76c to

14 employees and subcontractors on public works projects or to have  
15 been barred from federal government contracts in accordance with the  
16 provisions of the Davis-Bacon Act, 49 Stat. 1011 (1931), 40 USC 276a-2.

17 (b) (1) No contract shall be awarded by the state or any of its  
18 political subdivisions to the persons or firms appearing on [this] such  
19 list or to any firm, corporation, partnership, or association in which  
20 such persons or firms have an interest until a period of up to three  
21 years, as determined by the Labor Commissioner, has elapsed from the  
22 date of publication of the list containing the names of such persons or  
23 firms.

24 (2) No general contractor that enters into a contract with the state or  
25 any of its agents, or with any political subdivision of the state or any of  
26 its agents, for the construction, remodeling, refinishing, refurbishing,  
27 rehabilitation, alteration or repair of any public works project that  
28 meets the requirements of subsection (g) of section 31-53, shall award  
29 any work under such contract to the persons or firms appearing on the  
30 list distributed by the Labor Commissioner pursuant to subsection (a)  
31 of this section or to any firm, corporation, partnership or association in  
32 which such persons or firms have an interest until a period of up to  
33 three years, as determined by the Labor Commissioner, has elapsed  
34 from the date of publication of the list containing the names of such  
35 persons or firms.

36 (3) Prior to performing any work under a contract for the  
37 construction, remodeling, refinishing, refurbishing, rehabilitation,  
38 alteration or repair of any public works project that meets the  
39 requirements of subsection (g) of section 31-53, each person, firm,  
40 corporation, partnership or association engaged by a general  
41 contractor to perform such work shall submit a sworn affidavit to the  
42 general contractor attesting that such person, firm, corporation,  
43 partnership or association does not hold an interest of ten per cent or  
44 greater in a firm appearing on the list distributed by the Labor  
45 Commissioner pursuant to subsection (a) of this section.

46 (4) Any person or firm that appears on the list distributed by the

47 Labor Commissioner pursuant to subsection (a) of this section, for a  
 48 period of up to three years from the date of publication of such list,  
 49 shall be liable to the Labor Department for a civil penalty of one  
 50 thousand dollars for each day or part of a day in which such person or  
 51 firm performs any work under any contract with the state or any of its  
 52 agents, or with any political subdivision of the state or any of its  
 53 agents, for the construction, remodeling, refinishing, refurbishing,  
 54 rehabilitation, alteration or repair of any public works project that  
 55 meets the requirements of subsection (g) of section 31-53 or any state  
 56 highway project that falls under the provisions of section 31-54. The  
 57 Attorney General, upon complaint of the Labor Commissioner, shall  
 58 institute a civil action to recover such civil penalty. Any amount  
 59 recovered shall be deposited in the General Fund and credited to a  
 60 separate nonlapsing appropriation to the Labor Department, for other  
 61 current expenses, and may be used by the Labor Department to  
 62 enforce the provisions of part III of chapter 557.

63 [(b)] (c) If the accrued payments withheld under the terms of a  
 64 contract terminated pursuant to subsection (b) of section 31-53 are  
 65 insufficient to reimburse all the mechanics, laborers and [workmen]  
 66 workers with respect to whom there has been a failure to pay the  
 67 wages required pursuant to said section 31-53, such mechanics,  
 68 laborers and [workmen] workers shall have the right of action and of  
 69 intervention against the contractor and [his] the contractor's sureties  
 70 conferred by law upon persons furnishing labor or materials, and in  
 71 such proceedings it shall be no defense that such mechanics, laborers  
 72 and [workmen] workers accepted or agreed to accept less than the  
 73 required wages or that such persons voluntarily made refunds.

|  |                 |
|--|-----------------|
| This act shall take effect as follows: |                 |
| Section 1                              | October 1, 2002 |

**LAB**      *Joint Favorable Subst. C/R*      GAE  
**GAE**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

| Fund-Type         | Agency Affected | Current FY \$ | FY 03 \$  | FY 04 \$  |
|-------------------|-----------------|---------------|-----------|-----------|
| GF - Revenue Gain |                 | -             | potential | potential |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill could result in a revenue gain for the state. The bill allows the Department of Labor to impose civil penalties of up to \$1,000 per day on firms who are on the labor commissioner’s list of contractors that have violated prevailing wage provisions of the statutes and perform work under any state contract with the state or any of the state’s agents.

**OLR Bill Analysis**

sSB 61

***AN ACT CONCERNING DEBARMENT REFORM*****SUMMARY:**

This bill expands the applicability of the state's debarment law, which prohibits state and municipal agencies from awarding construction contracts to firms that have violated the prevailing wage law. It establishes a civil penalty of up to \$1,000 per day for violators.

EFFECTIVE DATE: October 1, 2002

**CONTRACTOR DEBARMENT**

By law, the labor commissioner must maintain a list of contractors who have violated state or federal laws that require that they pay prevailing wages to employees and subcontractors employed on state and municipal public works contracts. The list must include firms that have an ownership interest (a 10% or more) in such firms. State and municipal agencies are prohibited from awarding contracts to listed firms. The debarment runs for three years from the date the contractor's name is published on the list.

The bill bars general contractors that enter into state or municipal public works contracts subject to state prevailing wage from awarding any work to a subcontractor who is on the list. This prohibition runs for three years, the same period as the prohibition that applies to public agencies.

Before a subcontractor can perform any work on a prevailing wage project, it must submit a sworn affidavit to the general contractor that it does not hold an interest of 10% or more in a firm on the list.

**PENALTY**

The bill imposes a civil penalty of up \$1,000 per day on any contractor on the list that performs any work on prevailing wage project. The attorney general, at the request of the labor commissioner, must sue to

recover the civil penalty. The penalties must go to the General Fund as a nonlapsing appropriation to the Labor Department for other current expenses. The department can use the money to enforce the provisions of the prevailing wage laws and other employment regulations.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 14    Nay 0

Government Administration and Elections Committee

Joint Favorable Report

Yea 19    Nay 0