



Senate

General Assembly

February Session, 2004

File No. 310

Senate Bill No. 57

Senate, March 30, 2004

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the 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 Section 31-53a of the general statutes is repealed and the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, 2004*):

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

14 31-76c to employees and subcontractors on public works projects or to
15 have been barred from federal government contracts in accordance
16 with the provisions of the Davis-Bacon Act, 49 Stat. 1011 (1931), 40
17 USC 276a-2.

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

26 (2) No general contractor that enters into a contract with the state or
27 any of its agents, or with any political subdivision of the state or any of
28 its agents, for the construction, remodeling, refinishing, refurbishing,
29 rehabilitation, alteration or repair of any public works project subject
30 to the provisions of section 31-53, as amended, or for any state
31 highway project that falls under the provisions of section 31-54, shall
32 award any work under such contract to the persons or firms appearing
33 on the list distributed by the Labor Commissioner pursuant to
34 subsection (a) of this section or to any firm, corporation, partnership or
35 association in which such persons or firms have an interest until a
36 period of up to three years, as determined by the Labor Commissioner,
37 has elapsed from the date of publication of the list containing the
38 names of such persons or firms.

39 (3) Prior to performing any work under a contract for the
40 construction, remodeling, refinishing, refurbishing, rehabilitation,
41 alteration or repair of any public works project subject to the
42 provisions of section 31-53, as amended, or for any state highway
43 project that falls under the provisions of section 31-54, each person,
44 firm, corporation, partnership or association engaged by a general
45 contractor to perform such work shall submit a sworn affidavit to the
46 general contractor attesting that such person, firm, corporation,

47 partnership or association does not hold an interest of ten per cent or
48 greater in a firm appearing on the list distributed by the Labor
49 Commissioner pursuant to subsection (a) of this section. The receipt
50 and retention by a general contractor of such sworn affidavit shall
51 fulfill the general contractor's obligation under subdivision (2) of this
52 subsection.

53 (4) Any person or firm that appears on the list distributed by the
54 Labor Commissioner pursuant to subsection (a) of this section, for a
55 period of up to three years from the date of publication of such list,
56 shall be liable to the Labor Department for a civil penalty of one
57 thousand dollars for each day or part of a day in which such person or
58 firm performs any work under any contract with the state or any of its
59 agents, or with any political subdivision of the state or any of its
60 agents, for the construction, remodeling, refinishing, refurbishing,
61 rehabilitation, alteration or repair of any public works project subject
62 to the provisions of section 31-53, as amended, or any state highway
63 project that falls under the provisions of section 31-54. The Attorney
64 General, upon complaint of the Labor Commissioner, shall institute a
65 civil action to recover such civil penalty. Any amount recovered shall
66 be deposited in the General Fund and credited to a separate
67 nonlapsing appropriation to the Labor Department, for other current
68 expenses, and may be used by the Labor Department to enforce the
69 provisions of part III of chapter 557. As used in this subdivision,
70 "person or firm" includes any firm, corporation, partnership or
71 association in which a person or firm appearing on the list distributed
72 by the Labor Commissioner pursuant to subsection (a) of this section
73 holds an interest of ten per cent or greater.

74 [(b)] (c) If the accrued payments withheld under the terms of a
75 contract terminated pursuant to subsection (b) of section 31-53 are
76 insufficient to reimburse all the mechanics, laborers and [workmen]
77 workers with respect to whom there has been a failure to pay the
78 wages required pursuant to said section 31-53, such mechanics,
79 laborers and [workmen] workers shall have the right of action and of
80 intervention against the contractor and [his] the contractor's sureties

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:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Labor Dept.	GF - Revenue Gain	Potential	Potential
Attorney General	GF - None	None	None
Various State Agencies	Various - Savings	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Savings	Potential	Potential

Explanation

It is anticipated that as a result of the bill's provisions, the Department of Labor will require no additional resources. To the extent that a penalty is recovered as a result of the bill's debarment provision, the department for the purpose of enforcement would utilize the funding (as identified in the bill from the restricted nonlapsing account). However, it is anticipated that there will not be a noticeable change in debarment activity. The bill is not expected to have a substantial impact on the workload of the Office of the Attorney General and therefore additional appropriations would not be necessary.

There is a potential savings to the overall state and municipal contract costs to the extent that a subcontractor, whose work on a project may have resulted in avoidable costs, is filtered out.

OLR Bill Analysis

SB 57

AN ACT CONCERNING DEBARMENT REFORM**SUMMARY:**

This bill expands the state's debarment law, which prohibits state and municipal agencies from awarding construction contracts to firms that have violated the prevailing wage law, by barring general contractors on public projects from awarding work to subcontractors who have violated the prevailing wage law.

It also establishes a \$1,000-per-day civil penalty for prevailing wage violators who perform work on a public construction project.

EFFECTIVE DATE: October 1, 2004

CONTRACTOR DEBARMENT

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

The bill bars general contractors that enter into state or municipal public works or highway contracts subject to state prevailing wage from awarding any work to a subcontractor 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, he must submit a sworn affidavit to the general contractor that he does not hold an interest of 10% or more in any firm on the list. The bill specifies that the general contractor satisfies the bill's requirement not to hire debarred subcontractors when he obtains and holds such

affidavit from each hired subcontractor.

PENALTY

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

Yea 11 Nay 2

Government Administration and Elections Committee

Joint Favorable Report

Yea 17 Nay 0