



# Senate

General Assembly

**File No. 13**

January Session, 2005

Substitute Senate Bill No. 847

*Senate, March 3, 2005*

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING REPORTING REQUIREMENTS ON PREVAILING WAGE PROJECTS.**

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

1 Section 1. Section 31-53 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Each contract for the construction, remodeling, refinishing,  
4 refurbishing, rehabilitation, alteration or repair of any public works  
5 project by the state or any of its agents, or by any political subdivision  
6 of the state or any of its agents, shall contain the following provision:  
7 "The wages paid on an hourly basis to any person performing the  
8 work of any mechanic, laborer or [workman employed upon] worker  
9 on the work herein contracted to be done and the amount of payment  
10 or contribution paid or payable on behalf of each such [employee]  
11 person to any employee welfare fund, as defined in subsection (h) of  
12 this section, shall be at a rate equal to the rate customary or prevailing

13 for the same work in the same trade or occupation in the town in  
14 which such public works project is being constructed. Any contractor  
15 who is not obligated by agreement to make payment or contribution  
16 on behalf of such [employees] persons to any such employee welfare  
17 fund shall pay to each [employee] mechanic, laborer or worker as part  
18 of [his] such person's wages the amount of payment or contribution for  
19 [his] such person's classification on each pay day."

20 (b) Any [person] contractor or subcontractor who knowingly or  
21 wilfully employs any mechanic, laborer or [workman] worker in the  
22 construction, remodeling, refinishing, refurbishing, rehabilitation,  
23 alteration or repair of any public works project for or on behalf of the  
24 state or any of its agents, or any political subdivision of the state or any  
25 of its agents, at a rate of wage on an hourly basis [which] that is less  
26 than the rate customary or prevailing for the same work in the same  
27 trade or occupation in the town in which such public works project is  
28 being constructed, remodeled, refinished, refurbished, rehabilitated,  
29 altered or repaired, or who fails to pay the amount of payment or  
30 contributions paid or payable on behalf of each such [employee]  
31 person to any employee welfare fund, or in lieu thereof to the  
32 [employee] person, as provided by subsection (a) of this section, shall  
33 be fined not less than two thousand five hundred dollars but not more  
34 than five thousand dollars for each offense and (1) for the first  
35 violation, shall be disqualified from bidding on contracts with the state  
36 or any political subdivision until the contractor or subcontractor has  
37 made full restitution of the back wages owed to such persons and for  
38 an additional six months thereafter and (2) for subsequent violations,  
39 shall be disqualified from bidding on contracts with the state or any  
40 political subdivision until the contractor or subcontractor has made  
41 full restitution of the back wages owed to such persons and for not less  
42 than an additional two years thereafter. In addition, if it is found by  
43 the contracting officer representing the state or political subdivision  
44 [thereof] of the state that any mechanic, laborer or [workman] worker  
45 employed by the contractor or any subcontractor directly on the site  
46 for the work covered by the contract has been or is being paid a rate of  
47 wages less than the rate of wages required by the contract to be paid as

48 required by this section, the state or contracting political subdivision  
49 [thereof] of the state may (A) by written notice to the contractor,  
50 terminate such contractor's right to proceed with the work or such part  
51 of the work as to which there has been a failure to pay said required  
52 wages and to prosecute the work to completion by contract or  
53 otherwise, and the contractor and [his] the contractor's sureties shall be  
54 liable to the state or the contracting political subdivision for any excess  
55 costs occasioned the state or the contracting political subdivision  
56 thereby, or (B) withhold payment of money to the contractor or  
57 subcontractor. The contracting department of the state or the political  
58 subdivision [thereof] of the state shall, [within] not later than two days  
59 after taking such action, notify the Labor Commissioner, in writing, of  
60 the name of the contractor or subcontractor, the project involved, the  
61 location of the work, the violations involved, the date the contract was  
62 terminated, and steps taken to collect the required wages.

63 (c) The Labor Commissioner may make complaint to the proper  
64 prosecuting authorities for the violation of any provision of subsection  
65 (b).

66 (d) For the purpose of predetermining the prevailing rate of wage  
67 on an hourly basis and the amount of payment or contributions paid or  
68 payable on behalf of each [employee] person to any employee welfare  
69 fund, as defined in subsection (h) of this section, in each town where  
70 such contract is to be performed, the Labor Commissioner shall (1)  
71 hold a hearing at any required time to determine the prevailing rate of  
72 wages on an hourly basis and the amount of payment or contributions  
73 paid or payable on behalf of each person to any employee welfare  
74 fund, as defined in subsection (h) of this section, upon any public work  
75 within any specified area, and shall establish classifications of skilled,  
76 semiskilled and ordinary labor, or (2) adopt and use such appropriate  
77 and applicable prevailing wage rate determinations as have been made  
78 by the Secretary of Labor of the United States under the provisions of  
79 the Davis-Bacon Act, as amended.

80 (e) The Labor Commissioner shall determine the prevailing rate of

81 wages on an hourly basis and the amount of payment or contributions  
82 paid or payable on behalf of such [employee] person to any employee  
83 welfare fund, as defined in subsection (h) of this section, in each  
84 locality where any such public work is to be constructed, and the agent  
85 empowered to let such contract shall contact the Labor Commissioner,  
86 at least ten but not more than twenty days prior to the date such  
87 contracts will be advertised for bid, to ascertain the proper rate of  
88 wages and amount of employee welfare fund payments or  
89 contributions and shall include such rate of wage on an hourly basis  
90 and the amount of payment or contributions paid or payable on behalf  
91 of each [employee] person to any employee welfare fund, as defined in  
92 subsection (h) of this section, or in lieu thereof the amount to be paid  
93 directly to each [employee] person for such payment or contributions  
94 as provided in subsection (a) of this section for all classifications of  
95 labor in the proposal for the contract. The rate of wage on an hourly  
96 basis and the amount of payment or contributions to any employee  
97 welfare fund, as defined in subsection (h) of this section, or cash in lieu  
98 thereof, as provided in subsection (a) of this section, shall, at all times,  
99 be considered as the minimum rate for the classification for which it  
100 was established. Prior to the award of any contract subject to the  
101 provisions of this section, such agent shall certify in writing to the  
102 Labor Commissioner the total dollar amount of work to be done in  
103 connection with such public works project, regardless of whether such  
104 project consists of one or more contracts. Upon the award of any  
105 contract subject to the provisions of this section, the contractor to  
106 whom such contract is awarded shall certify, under oath, to the Labor  
107 Commissioner the pay scale to be used by such contractor and any of  
108 [his] the contractor's subcontractors for work to be performed under  
109 such contract.

110 (f) Each employer subject to the provisions of this section or section  
111 31-54 shall (1) keep, maintain and preserve such records relating to the  
112 wages and hours worked by each [employee] person performing the  
113 work of any mechanic, laborer and worker and a schedule of the  
114 occupation or work classification at which each person performing the  
115 work of any mechanic, laborer or [workman] worker on the project is

116 employed during each work day and week in such manner and form  
117 as the Labor Commissioner establishes to assure the proper payments  
118 due to such [employees] persons or employee welfare funds under this  
119 section or section 31-54, regardless of any contractual relationship  
120 alleged to exist between the contractor and such person, and (2) submit  
121 monthly to the contracting agency a certified payroll [which] that shall  
122 consist of a complete copy of such records accompanied by a statement  
123 signed by the employer [which] that indicates [that] (A) such records  
124 are correct; (B) the rate of wages paid to each person performing the  
125 work of any mechanic, laborer or [workman] worker and the amount  
126 of payment or contributions paid or payable on behalf of each such  
127 [employee] person to any employee welfare fund, as defined in  
128 subsection (h) of this section, are not less than the prevailing rate of  
129 wages and the amount of payment or contributions paid or payable on  
130 behalf of each such [employee] person to any employee welfare fund,  
131 as determined by the Labor Commissioner pursuant to subsection (d)  
132 of this section, and not less than those required by the contract to be  
133 paid; (C) the employer has complied with the provisions of this section  
134 and section 31-54; (D) each such [employee] person is covered by a  
135 workers' compensation insurance policy for the duration of [his] such  
136 person's employment, which shall be demonstrated by submitting to  
137 the contracting agency the name of the workers' compensation  
138 insurance carrier covering each such [employee] person, the effective  
139 and expiration dates of each policy and each policy number; (E) the  
140 employer does not receive kickbacks, as defined in 41 USC 52, from  
141 any employee or employee welfare fund; and (F) pursuant to the  
142 provisions of section 53a-157a, the employer is aware that filing a  
143 certified payroll which [he] the employer knows to be false is a class D  
144 felony for which the employer may be fined up to five thousand  
145 dollars, imprisoned for up to five years, or both. This subsection shall  
146 not be construed to prohibit a general contractor from relying on the  
147 certification of a lower tier subcontractor, provided the general  
148 contractor shall not be exempted from the provisions of section 53a-  
149 157a if [he] the general contractor knowingly relies upon a  
150 subcontractor's false certification. Notwithstanding the provisions of

151 section 1-210, the certified payroll shall be considered a public record  
152 and every person shall have the right to inspect and copy such records  
153 in accordance with the provisions of section 1-212. The provisions of  
154 [sections 31-59(a), 31-59(b),] subsections (a) and (b) of section 31-59 and  
155 sections 31-66 and 31-69 [which] that are not inconsistent with the  
156 provisions of this section or section 31-54 [shall] apply to this section.  
157 Failing to file a certified payroll pursuant to subdivision (2) of this  
158 subsection is a class D felony for which the employer may be fined up  
159 to five thousand dollars, imprisoned for up to five years, or both.

160 (g) The provisions of this section [shall] do not apply where the total  
161 cost of all work to be performed by all contractors and subcontractors  
162 in connection with new construction of any public works project is less  
163 than four hundred thousand dollars or where the total cost of all work  
164 to be performed by all contractors and subcontractors in connection  
165 with any remodeling, refinishing, refurbishing, rehabilitation,  
166 alteration or repair of any public works project is less than one  
167 hundred thousand dollars.

168 (h) As used in this section, section 31-54 and section 31-89a,  
169 "employee welfare fund" means any trust fund established by one or  
170 more employers and one or more labor organizations or one or more  
171 other third parties not affiliated with the employers to provide from  
172 moneys in the fund, whether through the purchase of insurance or  
173 annuity contracts or otherwise, benefits under an employee welfare  
174 plan; provided such term shall not include any such fund where the  
175 trustee, or all of the trustees, are subject to supervision by the Banking  
176 Commissioner of this state or any other state or the Comptroller of the  
177 Currency of the United States or the Board of Governors of the Federal  
178 Reserve System, and "benefits under an employee welfare plan" means  
179 one or more benefits or services under any plan established or  
180 maintained for [employees] persons performing the work of any  
181 mechanics, laborers or workers or their families or dependents, or for  
182 both, including, but not limited to, medical, surgical or hospital care  
183 benefits; benefits in the event of sickness, accident, disability or death;  
184 benefits in the event of unemployment, or retirement benefits.

|   |                        |       |
|---|------------------------|-------|
| This act shall take effect as follows and shall amend the following sections: |                        |       |
| Section 1   | <i>October 1, 2005</i> | 31-53 |

**LAB**      *Joint Favorable Subst.*

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 06 \$ | FY 07 \$ |
|-----------------|-------------|----------|----------|
| Labor Dept.     | GF - None   | None     | None     |

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

This bill, which clarifies language regarding people doing the work of mechanics, laborers, or workers on prevailing wage projects, will not result in any cost to the state.

**OLR Bill Analysis**

sSB 847

**AN ACT CONCERNING REPORTING REQUIREMENTS ON  
PREVAILING WAGE PROJECTS****SUMMARY:**

This bill specifies the state prevailing wage law applies to people *doing the work of* mechanics, laborers, or workers on prevailing wage projects. The change means that these employees will be paid for the type of work they do whether or not they are independent contractors. Current law covers any mechanic, laborer, or workman who is employed on the project. By law, contractors must pay the prevailing hourly wage, as determined by the state Labor Department, to all employees on state and municipal construction jobs above a certain dollar threshold.

Furthermore, the bill changes the word "employee" to "person" in the same statute to cover any person doing work covered by the prevailing wage law. The bill only covers those doing the type of work covered by the existing law: mechanical, laborer, or worker. People employed on the project in other capacities, such as architect or manager, are not covered.

EFFECTIVE DATE: October 1, 2005

**BACKGROUND*****Prevailing Wage Law***

The state prevailing wage law applies to state and municipal (1) new construction projects that cost \$400,000 or more, and (2) repair or remodeling jobs that cost \$100,000 or more. The law's punishments include fines and suspension from bidding on future public projects.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute  
Yea 10    Nay 1