



General Assembly

January Session, 2005

Raised Bill No. 847

LCO No. 2690

02690_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

**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 Section 31-53 of the general statutes is repealed and the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 mechanic, laborer or
8 [workman employed upon] worker performing the work herein
9 contracted to be done and the amount of payment or contribution paid
10 or payable on behalf of each such [employee] person to any employee
11 welfare fund, as defined in subsection (h) of this section, shall be at a
12 rate equal to the rate customary or prevailing for the same work in the
13 same trade or occupation in the town in which such public works
14 project is being constructed. Any contractor who is not obligated by
15 agreement to make payment or contribution on behalf of such
16 [employees] persons to any such employee welfare fund shall pay to

17 each [employee] mechanic, laborer or worker as part of [his] such
18 person's wages the amount of payment or contribution for [his] such
19 person's classification on each pay day."

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

51 to which there has been a failure to pay said required wages and to
52 prosecute the work to completion by contract or otherwise, and the
53 contractor and [his] the contractor's sureties shall be liable to the state
54 or the contracting political subdivision for any excess costs occasioned
55 the state or the contracting political subdivision thereby, or (B)
56 withhold payment of money to the contractor or subcontractor. The
57 contracting department of the state or the political subdivision
58 [thereof] of the state shall, [within] not later than two days after taking
59 such action, notify the Labor Commissioner, in writing, of the name of
60 the contractor or subcontractor, the project involved, the location of the
61 work, the violations involved, the date the contract was terminated,
62 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] mechanic, laborer and
113 worker and a schedule of the occupation or work classification at
114 which each mechanic, laborer or [workman] worker on the project is
115 employed during each work day and week in such manner and form
116 as the Labor Commissioner establishes to assure the proper payments

117 due to such [employees] persons or employee welfare funds under this
118 section or section 31-54, regardless of any contractual relationship
119 alleged to exist between the contractor and such person, and (2) submit
120 monthly to the contracting agency a certified payroll [which] that shall
121 consist of a complete copy of such records accompanied by a statement
122 signed by the employer [which] that indicates [that] (A) such records
123 are correct; (B) the rate of wages paid to each mechanic, laborer or
124 [workman] worker and the amount of payment or contributions paid
125 or payable on behalf of each such [employee] person to any employee
126 welfare fund, as defined in subsection (h) of this section, are not less
127 than the prevailing rate of wages and the amount of payment or
128 contributions paid or payable on behalf of each such [employee]
129 person to any employee welfare fund, as determined by the Labor
130 Commissioner pursuant to subsection (d) of this section, and not less
131 than those required by the contract to be paid; (C) the employer has
132 complied with the provisions of this section and section 31-54; (D) each
133 such [employee] person is covered by a workers' compensation
134 insurance policy for the duration of [his] such person's employment,
135 which shall be demonstrated by submitting to the contracting agency
136 the name of the workers' compensation insurance carrier covering each
137 such [employee] person, the effective and expiration dates of each
138 policy and each policy number; (E) the employer does not receive
139 kickbacks, as defined in 41 USC 52, from any [employee] person or
140 employee welfare fund; and (F) pursuant to the provisions of section
141 53a-157a, the employer is aware that filing a certified payroll which
142 [he] the employer knows to be false is a class D felony for which the
143 employer may be fined up to five thousand dollars, imprisoned for up
144 to five years, or both. This subsection shall not be construed to prohibit
145 a general contractor from relying on the certification of a lower tier
146 subcontractor, provided the general contractor shall not be exempted
147 from the provisions of section 53a-157a if [he] the general contractor
148 knowingly relies upon a subcontractor's false certification.
149 Notwithstanding the provisions of section 1-210, the certified payroll
150 shall be considered a public record and every person shall have the

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

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

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

Statement of Purpose:

To bring section 31-53 of the general statutes in conformity with federal prevailing wage laws by requiring that all "persons" instead of all "employees" performing work on state-funded projects be paid prevailing wages and be listed on the certified payrolls.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]