



General Assembly

February Session, 2006

**Raised Bill No. 5741**

LCO No. 2648

\*02648\_\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

***AN ACT CONCERNING THE PREVAILING WAGE THRESHOLDS.***

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

1 Section 1. Section 31-53 of the 2006 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2006*):

4 (a) Each contract for the construction, remodeling, refinishing,  
5 refurbishing, rehabilitation, alteration or repair of any public works  
6 project by the state or any of its agents, or by any political subdivision  
7 of the state or any of its agents, shall contain the following provision:  
8 "The wages paid on an hourly basis to any person performing the  
9 work of any mechanic, laborer or worker on the work herein  
10 contracted to be done and the amount of payment or contribution paid  
11 or payable on behalf of each such person to any employee welfare  
12 fund, as defined in subsection (h) of this section, shall be at a rate equal  
13 to the rate customary or prevailing for the same work in the same  
14 trade or occupation in the town in which such public works project is  
15 being constructed. Any contractor who is not obligated by agreement  
16 to make payment or contribution on behalf of such persons to any such  
17 employee welfare fund shall pay to each mechanic, laborer or worker

18 as part of such person's wages the amount of payment or contribution  
19 for such person's classification on each pay day.".

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

52 contractor and the contractor's sureties shall be liable to the state or the  
53 contracting political subdivision for any excess costs occasioned the  
54 state or the contracting political subdivision thereby, or (B) withhold  
55 payment of money to the contractor or subcontractor. The contracting  
56 department of the state or the political subdivision of the state shall,  
57 not later than two days after taking such action, notify the Labor  
58 Commissioner, in writing, of the name of the contractor or  
59 subcontractor, the project involved, the location of the work, the  
60 violations involved, the date the contract was terminated, and steps  
61 taken to collect the required wages.

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

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

79 (e) The Labor Commissioner shall determine the prevailing rate of  
80 wages on an hourly basis and the amount of payment or contributions  
81 paid or payable on behalf of such person to any employee welfare  
82 fund, as defined in subsection (h) of this section, in each locality where  
83 any such public work is to be constructed, and the agent empowered

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

108 (f) Each employer subject to the provisions of this section or section  
109 31-54 shall (1) keep, maintain and preserve such records relating to the  
110 wages and hours worked by each person performing the work of any  
111 mechanic, laborer and worker and a schedule of the occupation or  
112 work classification at which each person performing the work of any  
113 mechanic, laborer or worker on the project is employed during each  
114 work day and week in such manner and form as the Labor  
115 Commissioner establishes to assure the proper payments due to such  
116 persons or employee welfare funds under this section or section 31-54,  
117 regardless of any contractual relationship alleged to exist between the

118 contractor and such person, and (2) submit monthly to the contracting  
119 agency a certified payroll that shall consist of a complete copy of such  
120 records accompanied by a statement signed by the employer that  
121 indicates (A) such records are correct; (B) the rate of wages paid to  
122 each person performing the work of any mechanic, laborer or worker  
123 and the amount of payment or contributions paid or payable on behalf  
124 of each such person to any employee welfare fund, as defined in  
125 subsection (h) of this section, are not less than the prevailing rate of  
126 wages and the amount of payment or contributions paid or payable on  
127 behalf of each such person to any employee welfare fund, as  
128 determined by the Labor Commissioner pursuant to subsection (d) of  
129 this section, and not less than those required by the contract to be paid;  
130 (C) the employer has complied with the provisions of this section and  
131 section 31-54; (D) each such person is covered by a workers'  
132 compensation insurance policy for the duration of such person's  
133 employment, which shall be demonstrated by submitting to the  
134 contracting agency the name of the workers' compensation insurance  
135 carrier covering each such person, the effective and expiration dates of  
136 each policy and each policy number; (E) the employer does not receive  
137 kickbacks, as defined in 41 USC 52, from any employee or employee  
138 welfare fund; and (F) pursuant to the provisions of section 53a-157a,  
139 the employer is aware that filing a certified payroll which the  
140 employer knows to be false is a class D felony for which the employer  
141 may be fined up to five thousand dollars, imprisoned for up to five  
142 years, or both. This subsection shall not be construed to prohibit a  
143 general contractor from relying on the certification of a lower tier  
144 subcontractor, provided the general contractor shall not be exempted  
145 from the provisions of section 53a-157a if the general contractor  
146 knowingly relies upon a subcontractor's false certification.  
147 Notwithstanding the provisions of section 1-210, as amended, the  
148 certified payroll shall be considered a public record and every person  
149 shall have the right to inspect and copy such records in accordance  
150 with the provisions of section 1-212. The provisions of subsections (a)  
151 and (b) of section 31-59 and sections 31-66 and 31-69 that are not

152 inconsistent with the provisions of this section or section 31-54 apply  
153 to this section. Failing to file a certified payroll pursuant to subdivision  
154 (2) of this subsection is a class D felony for which the employer may be  
155 fined up to five thousand dollars, imprisoned for up to five years, or  
156 both.

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

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

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2006	31-53
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**Statement of Purpose:**

To increase the prevailing wage thresholds.

*[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.]*