



House of Representatives

General Assembly

File No. 280

January Session, 2009

Substitute House Bill No. 6502

House of Representatives, March 26, 2009

The Committee on Labor and Public Employees reported through REP. RYAN of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE STANDARD WAGE FOR CERTAIN CONNECTICUT WORKERS.

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

1 Section 1. Section 31-57f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) As used in this section: (1) "Required employer" means any
4 provider of food, building, property or equipment services or
5 maintenance listed in this subdivision whose rate of reimbursement or
6 compensation is determined by contract or agreement with the state or
7 any state agent: (A) Building, property or equipment service
8 companies; (B) management companies providing property
9 management services; and (C) companies providing food preparation
10 or service, or both; (2) "state agent" means any state official, state
11 employee or other person authorized to enter into a contract or
12 agreement on behalf of the state; (3) "person" means one or more
13 individuals, partnerships, associations, corporations, business trusts,

14 legal representatives or organized groups of persons; [and] (4)
15 "building, property or equipment service" means any janitorial,
16 cleaning, maintenance or related service; (5) "prevailing rate of wages"
17 means the hourly wages paid for work performed within the city of
18 Hartford under the collective bargaining agreement covering the
19 largest number of hourly nonsupervisory employees employed within
20 the county of Hartford in each classification established by the Labor
21 Commissioner under subsection (e) of this section, provided the
22 collective bargaining agreement covers no less than five hundred
23 employees in the classification; (6) "prevailing rate of benefits" means
24 the total cost to the employer on an hourly basis for work performed
25 within the city of Hartford, under a collective bargaining agreement
26 that establishes the prevailing rate of wages, of providing health,
27 welfare and retirement benefits, including, but not limited to, (A)
28 medical, surgical or hospital care benefits; (B) disability or death
29 benefits; (C) benefits in the event of unemployment; (D) pension
30 benefits; (E) vacation and personal leave; (F) training benefits; and (G)
31 legal services benefits, and may include payment made directly to
32 employees, payments to purchase insurance, and the amount of
33 payment or contributions paid or payable by the employer on behalf of
34 each employee to any employee benefits fund; (7) "employee benefit
35 fund" means any trust fund established by one or more employers and
36 one or more labor organizations or one or more other third parties not
37 affiliated with such employers to provide, whether through the
38 purchase of insurance or annuity contracts or otherwise, benefits
39 under an employee health, welfare or retirement plan, but does not
40 include any such fund where the trustee or trustees are subject to
41 supervision by the Banking Commissioner of this state or of any other
42 state, or the Comptroller of the Currency of the United States or the
43 Board of Governors of the Federal Reserve System; and (8) "benefits
44 under an employee health, welfare or retirement plan" means one or
45 more benefits or services under any plan established or maintained for
46 employees or their families or dependents, or for both, including, but
47 not limited to, medical, surgical or hospital care benefits, benefits in
48 the event of sickness, accident, disability or death, benefits in the event

49 of unemployment, retirement benefits, vacation benefits, legal service
50 benefits or training benefits.

51 (b) On and after July 1, 2000, the wages paid on an hourly basis to
52 any employee of a required employer in the provision of food,
53 building, property or equipment services provided to the state
54 pursuant to a contract or agreement with the state or any state agent,
55 shall be at a rate not less than the standard rate determined by the
56 Labor Commissioner pursuant to subsection (g) of this section. In
57 addition, each hourly nonsupervisory employee shall be granted time
58 off with pay for any legal holiday. If a legal holiday falls on a Saturday
59 or Sunday, employees shall be granted equivalent time off with pay on
60 the Friday immediately preceding such Saturday or Sunday, or given
61 another day off in lieu thereof.

62 (c) Any required employer or agent of such employer that violates
63 subsection (b) of this section shall pay a civil penalty in an amount not
64 less than two thousand five hundred dollars but not more than five
65 thousand dollars for each offense. The contracting department of the
66 state that has imposed such civil penalty on the required employer or
67 agent of such employer shall, within two days after taking such action,
68 notify the Labor Commissioner, in writing, of the name of the
69 employer or agent involved, the violations involved and steps taken to
70 collect the fine.

71 (d) The Labor Commissioner may make complaint to the proper
72 prosecuting authorities for the violation of any provision of subsection
73 (b) of this section.

74 (e) For the purpose of predetermining the standard rate of covered
75 wages on an hourly basis, the Labor Commissioner shall establish
76 classifications for all hourly nonsupervisory employees based on the
77 applicable occupation codes and titles set forth in the federal Register
78 of Wage Determinations under the Service Contract Act of 1965, 41
79 USC 351, et seq., provided the Labor Commissioner shall classify all
80 grounds maintenance laborers and housekeeping aides as janitors. The
81 Labor Commissioner shall then determine the standard rate of wages

82 for each classification of hourly nonsupervisory employees which shall
83 be [equivalent to] (1) the prevailing rate of wages paid to employees in
84 each classification, or if there is no such prevailing rate of wages, the
85 minimum hourly wages set forth in the federal Register of Wage
86 Determinations under the Service Contract Act, plus (2) the prevailing
87 rate of benefits paid to employees in each classification, or if there is no
88 such prevailing rate of benefits, a thirty per cent surcharge on the
89 amount determined in subdivision (1) of this subsection to cover the
90 cost of any health, welfare and retirement [plans] benefits or, if no such
91 [plan is in effect between] benefits are provided to the employees, [and
92 the employer,] an amount equal to thirty per cent of the [hourly wage]
93 amount determined in subdivision (1) of this subsection, which shall
94 be paid directly to the employees. The standard rate of wages for any
95 employee, entitled to receive such rate on or before July 1, 2009, shall
96 not be less than the minimum hourly wage for the classification set
97 forth in the federal Register Of Wage Determinations under the Service
98 Contract Act plus the prevailing rate of benefits for such classification
99 for as long as that employee continues to work for a required
100 employer.

101 (f) Required employers with employees covered by collective
102 bargaining agreements which call for wages and benefits that are
103 reasonably related to the standard rate of wages shall not be
104 economically disadvantaged in the bidding process, provided the
105 collective bargaining agreement was arrived at through arms-length
106 negotiations.

107 (g) The Labor Commissioner shall, in accordance with subsection (e)
108 of this section, determine the standard rate of wages for each
109 classification on an hourly basis where any covered services are to be
110 provided, and the state agent empowered to let such contract shall
111 contact the Labor Commissioner at least ten days prior to the date such
112 contract will be advertised for bid, to ascertain the standard rate of
113 wages and shall include the standard rate of wages on an hourly basis
114 for all classifications of employment in the proposal for the contract.
115 The standard rate of wages on an hourly basis shall, at all times, be

116 considered the minimum rate for the classification for which it was
117 established. Where a required employer is awarded a contract to
118 perform services that are substantially the same as services that have
119 been rendered under a predecessor contract, such required employer
120 shall retain all employees who had been performing services under
121 such predecessor contract for at least ninety days following or after the
122 date of first performance of services under the successor service
123 contract. During such ninety-day period, the successor contract shall
124 not discharge without just cause an employee retained pursuant to this
125 subsection. If the performance of an employee retained pursuant to
126 this subsection or section 4a-82 is satisfactory during the ninety-day
127 period, the successor contractor shall offer the employee continued
128 employment for the duration of the successor contract. The provisions
129 of this subsection shall not apply to any contract covered by
130 subsections (o) and (p) of section 4a-82.

131 (h) Each required employer subject to the provisions of this section
132 shall (1) keep, maintain and preserve such records relating to the
133 wages and hours worked by each employee and a schedule of the
134 occupation or work classification at which each person is employed
135 during each work day and week in such manner and form as the Labor
136 Commissioner establishes to assure the proper payments due to such
137 employees, and (2) annually or upon written request, submit to the
138 contracting state agent a certified payroll which shall consist of a
139 complete copy of such records accompanied by a statement signed by
140 the employer which indicates that (A) such records are correct, (B) the
141 rate of wages paid to each employee is not less than the standard rate
142 of wages required by this section, (C) such employer has complied
143 with the provisions of this section, and (D) such employer is aware
144 that filing a certified payroll which it knows to be false is a class D
145 felony for which such employer may be fined not more than five
146 thousand dollars or imprisoned not more than five years, or both.
147 Notwithstanding the provisions of section 1-210, the certified payroll
148 shall be considered a public record and every person shall have the
149 right to inspect and copy such record in accordance with the
150 provisions of section 1-212. The provisions of subsections (a) and (b) of

151 section 31-59, section 31-66 and section 31-69 which are not
152 inconsistent with the provisions of this section shall apply. Any person
153 who files a false certified payroll in violation of subdivision (2) of this
154 subsection shall be guilty of a class D felony for which such person
155 may be fined not more than five thousand dollars or imprisoned not
156 more than five years, or both.

157 (i) This section shall not apply to contracts, agreements or grants
158 which do not exceed forty-nine thousand nine hundred ninety-nine
159 dollars per annum.

160 (j) On receipt of a complaint for nonpayment of the standard rate of
161 wages, the Labor Commissioner, the Director of Wage and Workplace
162 Standards and wage enforcement agents of the Labor Department shall
163 have power to enter, during usual business hours, the place of
164 business or employment of any employer to determine compliance
165 with this section, and for such purpose may examine payroll and other
166 records and interview employees, call hearings, administer oaths, take
167 testimony under oath and take depositions in the manner provided by
168 sections 52-148a to 52-148e, inclusive. The commissioner or the
169 director, for such purpose, may issue subpoenas for the attendance of
170 witnesses and the production of books and records. Any required
171 employer, an officer or agent of such employer, or the officer or agent
172 of any corporation, firm or partnership who wilfully fails to furnish
173 time and wage records as required by law to the commissioner, the
174 director or any wage enforcement agent upon request or who refuses
175 to admit the commissioner, the director or such agent to a place of
176 employment or who hinders or delays the commissioner, the director
177 or such agent in the performance of any duties in the enforcement of
178 this section shall be fined not less than twenty-five dollars nor more
179 than one hundred dollars, and each day of such failure to furnish time
180 and wage records to the commissioner, the director or such agent shall
181 constitute a separate offense, and each day of refusal of admittance, of
182 hindering or of delaying the commissioner, the director or such agent
183 shall constitute a separate offense.

184 (k) Notwithstanding subsection (i) of this section, any employer that
185 pays the state for a franchise to provide food preparation or service, or
186 both, for the state shall be required to certify that the wages and
187 benefits paid to its employees are not less than the standard rate
188 established pursuant to this section.

189 (l) The Labor Commissioner may adopt regulations, in accordance
190 with chapter 54, to carry out the provisions of this section.

191 (m) The provisions of this section and any regulation adopted
192 pursuant to subsection (l) of this section shall not apply to any contract
193 or agreement entered into before July 1, 2000.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2009</i>	31-57f

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 10 \$	FY 11 \$
Dept. of Administrative Services; Various State Agencies	GF - Cost	Potential Significant	Potential Significant

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill creates a new method for determining the hourly wage and benefits for employees under the standard wage law, which governs compensation for employees of contractors who do building and property maintenance, property management, and food service work in state buildings. Under the bill, these private contractor employees will be paid the same prevailing wage rates and receive the prevailing benefits as employees working under a specific private sector union contract.

The new wages and benefits affects standard wage contract workers hired after July 1, 2009. Those already working for standard wage employers on or before July 1, 2009 will be paid an hourly wage based on the current standard wage law, but after July 1, 2009 their benefits will be the same as those working under a certain union contract.

Providing employees of contractors who work in state buildings with benefits based on a private sector union contract is anticipated to increase the contractor’s personnel costs as the benefits package for the private sector union is more costly; these costs would most likely be passed onto the state in the form of higher contract costs. Under the bill, the wages for new employees hired after July 1, 2009 are expected to be lower than the current standard wage law. However, this is more than offset by the fact that employees hired before July 1, 2009 will be

paid a higher hourly wage based on the current standard wage law. Therefore, under this bill, it is anticipated that costs to the state for certain building service contracts will increase.

The bill also requires each standard wage employee to be given time off with pay for any legal holiday. It imposes a civil penalty of between \$2,500 to \$5,000 for each offense on any employer for not providing the paid holidays off.

The paid holiday provision impacts the state in two ways; 1) the state's cost to hire certain contractors will increase as it is expected that contractors will pass along their higher personnel costs, resulting from providing their employees with paid holidays, onto the state, and 2) the state may realize a minimal revenue gain if contractors are fined \$2,500 to \$5,000 for each offense of not providing their employees paid holidays off.

OLR Bill Analysis**sHB 6502*****AN ACT CONCERNING THE STANDARD WAGE FOR CERTAIN CONNECTICUT WORKERS.*****SUMMARY:**

This bill creates a new method for determining the hourly wage and benefits for employees under the standard wage law, which governs compensation for employees of contractors who do building and property maintenance, property management, and food service work in state buildings. Under the bill, these private contractor employees will be paid the same prevailing wage rates and receive the prevailing benefits as employees working under the union agreement covering the same work for the largest number of hourly nonsupervisory employees, as long as it covers at least 500 employees, in Hartford County. This ties the state pay and benefits for standard wage workers to those provided under the private sector union contract that meets the bill's criteria. (At least one union contract meets the criteria; see BACKGROUND.)

The new wages and benefits affect standard wage contract workers hired after July 1, 2009. Those already working for standard wage employers on or before July 1, 2009 will be paid an hourly wage based on the current standard wage law, but after July 1, 2009 their benefits will be the same as those working under a Hartford County union contract for the same type of work.

Under the bill, if there is no private sector union contract for at least 500 employees in Hartford County doing the same work, then the law's current standard wage rate will apply.

The bill also requires each standard wage employee to be given time

off with pay for any legal holiday. If the holiday falls on a Saturday or Sunday, the employee must be given the time off on the Friday before the holiday or another day. The bill imposes a civil penalty of between \$2,500 to \$5,000 for each offense on any employer for not providing the paid holidays off. The contracting state agency that imposes the penalty must notify the labor commissioner within two days of the penalty, the employer's name, and the steps taken to collect it.

The bill requires a new contractor that takes over an existing building service to keep the employees from the predecessor contract for at least 90 days after the date it begins service under the successor contract and permits it to fire them only for cause. If an employee performs satisfactorily during this period, the successor contractor must offer the person continued employment for the contract's duration.

The bill excludes people with disabilities or disadvantaged people working in the janitorial work pilot program under contracts with no more than four full-time workers from the provision requiring employees to be hired by a new contractor taking over a predecessor contract. This appears to apply whether the people under the janitorial pilot program work for the new contractor taking over a predecessor contract or for the predecessor contractor when the new contractor takes over. The bill also exempts employees under the janitorial work pilot program from the requirement that the standard wage be considered their minimum wage.

EFFECTIVE DATE: July 1, 2009

DETERMINING WAGES AND BENEFITS FOR STANDARD WAGE WORKERS

Definitions

Under the bill, "prevailing rate of wages" means the hourly wages paid for work performed in Hartford under the union contract covering the largest number of hourly nonsupervisory employees employed in Hartford County in each classification the labor commissioner establishes, as long as the union contract covers at least

500 employees. By law, the commissioner must base the classifications on occupation codes and titles in the federal Register of Wage Determinations under the Service Contract Act (41 USC § 351, *et seq.*). The bill specifies that the commissioner must classify all grounds maintenance laborers and housekeeping aides as janitors.

The bill defines “prevailing rate of benefits” as the total hourly cost to the employer for work performed in Hartford under a union contract that establishes the prevailing rate of wages for providing health, welfare, and retirement benefits, including benefits for :

1. medical, surgical, or hospital care;
2. disability or death;
3. unemployment;
4. pension;
5. vacation and personal leave;
6. training; and
7. legal services.

These benefits may include payment made directly to employees, payments to purchase insurance, and payments or contributions paid or payable by the employer on behalf of each employee to any employee benefits fund.

It defines “employee benefit fund” as any trust fund established by (1) one or more employers and one or more unions or (2) one or more other third-parties not affiliated with the employers to provide, whether through the purchase of insurance or annuity contracts or other means, benefits under an employee health, welfare, or retirement plan. The definition excludes funds whose trustee or trustees are subject to supervision by the banking commissioner of this state or of any other state, the U.S. comptroller of the currency, or the Federal Reserve Board. This description meets the federal Taft-Hartley Act

standard for an employee benefit fund.

Employees Pay Determined in Two Ways

The new wages and benefits affect standard wage contract workers hired after July 1, 2009. Employees already working for standard wage employers on or before that date will be paid an hourly wage based on the current standard wage law, but after July 1, 2009 their benefits will be the same as those under a Hartford County union contract for the same type of work.

Under the bill, if there is no private sector union contract for at least 500 employees in Hartford County doing the same work, then the wage rate determination in the current standard wage law will apply. Under the current standard wage law, the commissioner sets the hourly rate for all job classes based on those identified in the Federal Register of Wage Determinations, plus a 30% surcharge to represent the cost of health and retirement benefits. The employer either provides benefits equal to the 30% surcharge or pays the employees the additional 30% in pay.

BACKGROUND

Standard Wage Law

This law requires contractors that provide the state or its agents with building cleaning or maintenance; or food, property, or equipment services to pay their employees at least the standard wage rates as the commissioner determines. It also (1) prescribes how contracting agents inform potential bidders of standard wage rates to be met in preparing a contract proposal; (2) requires covered employers to maintain records of each employee's wages, hours, and classification and to make these records available to the contracting agent; (3) establishes penalties for filing a false certified payroll and fines for failing to pay the required rate; and (4) authorizes the labor department to investigate complaints and enforce the law.

SEIU Local 32BJ Contract

The Service Employees International Union's (SEIU) Local 32BJ

currently has a four-year contract with the Hartford Area Cleaning Contractors Association to provide building and janitorial services to a number of large office buildings in greater Hartford. The Local has more than 500 members.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 11 Nay 0 (03/12/2009)