



House of Representatives

General Assembly

File No. 251

January Session, 2013

Substitute House Bill No. 5756

House of Representatives, March 28, 2013

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE STANDARD WAGE AND EMPLOYERS RECEIVING ASSISTANCE FROM STATE ECONOMIC DEVELOPMENT AGENCIES.

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

1 Section 1. (NEW) (*Effective January 1, 2014, and applicable to any*
2 *agreement for financial assistance entered into on or after said date*) (a) On
3 and after January 1, 2014, if the Department of Economic and
4 Community Development or Connecticut Innovations, Incorporated,
5 provides financial assistance to any business organization in an
6 amount equal to or greater than five hundred thousand dollars within
7 one calendar year, such providing agency shall require, as a condition
8 of receiving such financial assistance, that (1) the business organization
9 pay, or require to be paid, to each employee providing food
10 preparation or service, or both, or building, property or equipment
11 services, as defined in section 31-57f of the general statutes, for ten
12 years from the date the business organization received such assistance,
13 or for any longer duration to which the business organization and

14 providing agency may agree, wages equal to or greater than the
15 standard rate of wages paid by a required employer, as defined in said
16 section 31-57f, to an employee performing such services pursuant to
17 said section 31-57f, and (2) any contract entered into by the business
18 organization for the provision of food preparation or service, or both,
19 or building, property or equipment services, as defined in said section
20 31-57f, for ten years from the date the business organization received
21 such assistance, or for any longer duration to which the business
22 organization and providing agency may agree, shall contain the
23 following provision: "The wages paid on an hourly basis to any person
24 providing food preparation or service, or both, or building, property or
25 equipment services and the amount of payment or contribution paid
26 or payable on behalf of each such person to any employee benefit fund,
27 as defined in section 31-57f of the Connecticut general statutes, shall be
28 at a rate equal to or greater than the standard rate of wages paid by a
29 required employer, as defined in said section 31-57f, to an employee
30 performing such services pursuant to said section 31-57f."

31 (b) If a business organization receiving financial assistance in an
32 amount equal to or greater than five hundred thousand dollars within
33 one calendar year from the Department of Economic and Community
34 Development or Connecticut Innovations, Incorporated, or an
35 independent contractor of such business organization, fails to pay any
36 employee providing such services at a rate equal to or greater than the
37 standard rate of wages, as required by subdivision (1) of subsection (a)
38 of this section, or fails to contract for the payment of employees at a
39 rate equal to or greater than the standard rate of wages, as required by
40 subdivision (2) of subsection (a) of this section, the Labor
41 Commissioner may require such business organization to repay the
42 full amount of any financial assistance received to the providing
43 agency. In addition, if the commissioner finds that such business
44 organization knowingly failed to (1) pay, or cause to be paid, any
45 employee providing such services at a rate equal to or greater than the
46 standard rate of wages, or (2) contract for the payment of any
47 employee at a rate equal to or greater than the standard rate of wages,
48 the commissioner may require such business organization to pay a

49 civil penalty of five per cent of the full amount of any financial
50 assistance received to the providing agency. For purposes of this
51 section, "financial assistance" includes, but is not limited to, all forms
52 of loans, grants, guarantees and tax abatements.

53 Sec. 2. (NEW) (*Effective January 1, 2014, and applicable to any agreement*
54 *for financial assistance entered into on or after said date*) (a) On receipt of a
55 complaint for nonpayment of the standard rate of wages by a business
56 organization receiving financial assistance pursuant to section 1 of this
57 act, or an independent contractor of such business organization, the
58 Labor Commissioner, the Director of Wage and Workplace Standards
59 and wage enforcement agents of the Labor Department shall have
60 power to enter, during usual business hours, the place of business or
61 employment of such business organization, or independent contractor
62 of such business organization, to determine compliance with this
63 section, and for such purpose may examine payroll and other records
64 and interview employees, call hearings, administer oaths, take
65 testimony under oath and take depositions in the manner provided by
66 sections 52-148a to 52-148e, inclusive, of the general statutes. The
67 commissioner or the director, for such purpose, may issue subpoenas
68 for the attendance of witnesses and the production of books and
69 records. Any business organization, an officer or agent of such
70 business organization, or the officer or agent of any corporation, firm
71 or partnership who wilfully fails to furnish time and wage records as
72 required by law to the commissioner, the director or any wage
73 enforcement agent upon request or who refuses to admit the
74 commissioner, the director or such agent to such business
75 organization's place of employment or who hinders or delays the
76 commissioner, the director or such agent in the performance of any
77 duties in the enforcement of this section shall be fined not less than
78 twenty-five dollars nor more than one hundred dollars, and each day
79 of such failure to furnish time and wage records to the commissioner,
80 the director or such agent shall constitute a separate offense, and each
81 day of refusal of admittance, of hindering or of delaying the
82 commissioner, the director or such agent shall constitute a separate
83 offense.

84 (b) Any employee aggrieved by a violation of subsection (b) of
 85 section 1 of this act may file a complaint with the Labor Commissioner
 86 alleging violation of the provisions of said subsection. Upon receipt of
 87 any such complaint, the commissioner shall hold a hearing. After the
 88 hearing, the commissioner shall send each party a written copy of the
 89 commissioner's decision. The commissioner may (1) award the
 90 employee all appropriate relief, including payment of back wages to
 91 which the employee otherwise would have been eligible if a violation
 92 of subsection (b) of section 1 of this act had not occurred, and (2)
 93 require the business organization to repay the full amount of financial
 94 assistance received plus a civil penalty of five per cent of such sum, if
 95 applicable, to the providing agency. Any party aggrieved by the
 96 decision of the commissioner may appeal the decision to the Superior
 97 Court in accordance with the provisions of chapter 54 of the general
 98 statutes.

99 (c) The Labor Commissioner may adopt regulations, in accordance
 100 with chapter 54 of the general statutes, to carry out the provisions of
 101 this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2014, and applicable to any agreement for financial assistance entered into on or after said date</i>	New section
Sec. 2	<i>January 1, 2014, and applicable to any agreement for financial assistance entered into on or after said date</i>	New section

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Department of Economic & Community Development; CT Innovations Inc. (quasi-public)	GF; GO Bonds - Savings	See Below	See Below
Labor Dept.	GF - Potential Revenue	Minimal	Minimal

Municipal Impact: None

Explanation

The bill imposes standard wage requirements on business organizations that agree to receive \$500,000 or more in state financial assistance from the Department of Economic and Community Development or Connecticut Innovations, Inc. on or after January 1, 2014. Additionally, the bill allows the labor commissioner to require businesses to pay back assistance provided plus a 5% penalty of the assistance if such a business fails to meet this requirement. To the extent that a business violates the provisions of the bill, there could be potential savings to the state's financial assistance programs.

The bill also requires the Department of Labor (DOL) to investigate complaints concerning violations of the bill's provisions, and allows DOL to impose fines of between \$25 and \$100 for each day a business fails to cooperate with an investigation. To the extent DOL would levy these penalties; there is a potential revenue increase.

The Out Years

The annualized ongoing fiscal impact identified above would

continue into the future subject to inflation.

OLR Bill Analysis**sHB 5756*****AN ACT CONCERNING THE STANDARD WAGE AND EMPLOYERS RECEIVING ASSISTANCE FROM STATE ECONOMIC DEVELOPMENT AGENCIES.*****SUMMARY:**

This bill requires a business to pay certain service workers (those providing food service, building maintenance, and property or equipment services) at least the “standard wage” for their particular occupations if it receives \$500,000 or more of financial assistance from the Department of Economic and Community Development (DECD) or Connecticut Innovations, Inc. (CI) within one calendar year. If the business contracts with an independent contractor providing service worker services, the contract between them must require the contractor to pay all of its service worker employees at least the standard wage. The bill’s requirements last for 10 years from the date the business receives the financial assistance, although the business can agree to longer terms with DECD or CI. Financial assistance includes all forms of loans, grants, and tax abatements.

Under the standard wage law, private contractors operating in state buildings must pay their service workers a standard wage determined by the labor commissioner for each worker’s occupation, including an added amount to cover the cost of any health, welfare, or retirement plans (see BACKGROUND).

The bill requires the labor commissioner to enforce the requirements and establishes a procedure for complaints, investigations, and appeals. The commissioner can require a business to repay the full amount of financial assistance it received if it, or its contractor, failed to (1) pay any of its service workers the standard wage or (2) include the required standard wage provision in a contract to provide service

worker services. The commissioner can assess an additional 5% penalty on the business if it knowingly failed to (1) pay its service workers at least the standard wage or (2) contract for any employee to be paid at least the standard wage.

The bill also allows the labor commissioner to adopt implementing regulations.

EFFECTIVE DATE: January 1, 2014, and applicable to any agreement for financial assistance entered into on or after that date.

ENFORCEMENT

The bill allows an employee who was not paid the required standard wage by a covered business or its independent contractor to file a complaint with the labor commissioner, who must then hold a hearing. Upon receiving the complaint, the bill gives the commissioner, the Wage and Workplace Standards director, and Labor Department wage enforcement agents the same investigatory powers that they have under the standard wage law. They can enter the business or contractor's place of business during usual business hours to examine records and interview employees. They can also call hearings, administer oaths, and take testimony and depositions. The commissioner or director can issue subpoenas for witnesses and records. A business that willfully fails to furnish records, permit entrance, or hinders or delays the investigation can be fined between \$25 and \$100 per day.

The bill requires the commissioner to issue each party a written decision after the hearing and allows her to award the employee all appropriate relief, including back wages. If the commissioner finds that the business or its independent contractor failed to (1) pay the required standard wage to an employee or (2) include the bill's required standard wage provisions in a contract for service worker services, the commissioner can require the business to repay the full amount of financial assistance it received. The commissioner can require the business to pay an additional penalty of 5% of any financial

assistance the business received if she finds that the business knowingly failed to (1) pay an employee the required standard wage or (2) contract for any employee to be paid the standard wage.

BACKGROUND

The Standard Wage

The standard wage law requires private contractors providing food, building, property, or equipment services in state buildings to pay workers providing those services a standard wage determined by the labor commissioner (CGS § 31-57f). In general, the commissioner establishes the standard wage for each job classification by adopting the minimum hourly wages set in the federal “Register of Wage Determinations under the Service Contract Act,” plus the prevailing rate of benefits paid to employees in each classification. If there is no prevailing rate of benefits, a 30% surcharge is added to cover the cost of any health, welfare, or retirement plans. An employer must either put an amount equal to the surcharge in a benefit plan or pay it directly to the employee as additional wages.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 4 (03/12/2013)