



Senate

General Assembly

File No. 280

February Session, 2014

Substitute Senate Bill No. 318

Senate, April 2, 2014

The Committee on Labor and Public Employees reported through SEN. HOLDER-WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ELECTRONIC PREVAILING WAGE NOTICES, INFORMATION AND RECORDS.

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

1 Section 1. Section 31-53 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2015*):

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 (i) 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 or electronic notice to the contractor,

49 terminate such contractor's right to proceed with the work or such part
50 of the work as to which there has been a failure to pay said required
51 wages and to prosecute the work to completion by contract or
52 otherwise, and the contractor and the contractor's sureties shall be
53 liable to the state or the contracting political subdivision for any excess
54 costs occasioned the state or the contracting political subdivision
55 thereby, or (B) withhold payment of money to the contractor or
56 subcontractor. The contracting department of the state or the political
57 subdivision of the state shall, not later than two days after taking such
58 action, notify the Labor Commissioner, in writing or electronically, of
59 the name of the contractor or subcontractor, the project involved, the
60 location of the work, the violations involved, the date the contract was
61 terminated, and steps 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 (i) 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 (i) 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 (i) 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 (i) of this section, or in
91 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 (i) 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, purchase order, bid package or other designation subject
100 to the provisions of this section, such agent shall certify [in writing] to
101 the Labor Commissioner, either in writing or electronically, the total
102 dollar amount of work to be done in connection with such public
103 works project, regardless of whether such project consists of one or
104 more contracts. Upon the award of any contract subject to the
105 provisions of this section, the contractor to whom such contract is
106 awarded shall certify, under oath, to the Labor Commissioner the pay
107 scale to be used by such contractor and any of the contractor's
108 subcontractors for work to be performed under such contract.

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

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

152 shall be considered a public record and every person shall have the
153 right to inspect and copy such records in accordance with the
154 provisions of section 1-212. The provisions of subsections (a) and (b) of
155 section 31-59 and sections 31-66 and 31-69 that are not inconsistent
156 with the provisions of this section or section 31-54 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) Any contractor who is required by the Labor Department to
161 make any payment as a result of a subcontractor's failure to pay wages
162 or benefits, or any subcontractor who is required by the Labor
163 Department to make any payment as a result of a lower tier
164 subcontractor's failure to pay wages or benefits, may bring a civil
165 action in the Superior Court to recover no more than the damages
166 sustained by reason of making such payment, together with costs and
167 a reasonable attorney's fee.

168 (h) The provisions of this section do not apply where the total cost
169 of all work to be performed by all contractors and subcontractors in
170 connection with new construction of any public works project is less
171 than four hundred thousand dollars or where the total cost of all work
172 to be performed by all contractors and subcontractors in connection
173 with any remodeling, refinishing, refurbishing, rehabilitation,
174 alteration or repair of any public works project is less than one
175 hundred thousand dollars.

176 (i) As used in this section and section 31-54, "employee welfare
177 fund" means any trust fund established by one or more employers and
178 one or more labor organizations or one or more other third parties not
179 affiliated with the employers to provide from moneys in the fund,
180 whether through the purchase of insurance or annuity contracts or
181 otherwise, benefits under an employee welfare plan; provided such
182 term shall not include any such fund where the trustee, or all of the
183 trustees, are subject to supervision by the Banking Commissioner of
184 this state or any other state or the Comptroller of the Currency of the

185 United States or the Board of Governors of the Federal Reserve System,
 186 and "benefits under an employee welfare plan" means one or more
 187 benefits or services under any plan established or maintained for
 188 persons performing the work of any mechanics, laborers or workers or
 189 their families or dependents, or for both, including, but not limited to,
 190 medical, surgical or hospital care benefits; benefits in the event of
 191 sickness, accident, disability or death; benefits in the event of
 192 unemployment, or retirement benefits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2015	31-53

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:** None**Municipal Impact:** None**Explanation**

The bill allows certain records, notices, and certifications regarding prevailing wage jobs to be submitted, maintained, or certified electronically. This does not result in any fiscal impact to the state or municipalities.

The Out Years**State Impact:** None**Municipal Impact:** None

Sources: Labor Committee 3/11/14 Public Hearing Testimony

OLR Bill Analysis**sSB 318*****AN ACT CONCERNING ELECTRONIC PREVAILING WAGE NOTICES, INFORMATION AND RECORDS.*****SUMMARY:**

This bill allows certain records, notices, and certifications required on prevailing wage jobs to be submitted, maintained, or certified electronically. Specifically, it allows:

1. employers to electronically submit their monthly certified payroll records to the contracting state or local agency;
2. employers to keep, maintain, and preserve these payroll records in an electronic format;
3. a contracting state or local agency to electronically notify a contractor that it is terminating the contractor's right to work on the job for the contractor's, or a subcontractor's, failure to pay the required prevailing wages; and
4. a contracting state or local agency to electronically notify the labor commissioner that it has terminated such a contractor's right to work on a job.

Current law requires an employer submitting a certified payroll to include an original signed statement indicating that the payroll is correct and the employer has met other requirements. The bill removes the requirement for an original statement, thus allowing it to also be submitted electronically.

Current law requires a contracting state or local agency to certify a prevailing wage job's total cost to the labor commissioner before awarding any contract subject to prevailing wage requirements. The

bill expands this to require a certification before awarding any of the job's purchase orders, bid packages, or other designations subject to prevailing wage requirements. It allows all of them to be certified electronically.

EFFECTIVE DATE: July 1, 2015

BACKGROUND

Prevailing Wage Requirements

The state's prevailing wage law requires contractors on certain state or municipal public works projects to pay prevailing hourly wages to their mechanics, laborers, or other workers. This requirement applies to repair and renovation projects costing \$100,000 or more and new construction projects costing \$400,000 or more. Contractors on these projects must submit monthly certified payrolls to the contracting state or local agency verifying that they have met the law's requirements.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/18/2014)