



General Assembly

January Session, 2015

Raised Bill No. 6705

LCO No. 3099



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

***AN ACT REQUIRING THE PREVAILING WAGE BE PAID ON
CONSTRUCTION PROJECTS THAT RECEIVE FINANCIAL
ASSISTANCE FROM THE STATE OR ANY AGENCY OF THE STATE.***

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

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) For purposes of this
2 section:

3 (1) "Business organization" means any sole proprietorship,
4 partnership, corporation, limited liability company, association, firm or
5 other form of business or legal entity;

6 (2) "Financial assistance" means any and all forms of loans, cash
7 payments, extensions of credit, guarantees, equity investments, tax
8 abatements or any other form of financing; and

9 (3) "Project" means any construction, remodeling, refinishing,
10 refurbishing, rehabilitation, alteration or repair of any property owned
11 by a business organization.

12 (b) On and after January 1, 2016, if the state or any agency of the

13 state, including, but not limited to, the Department of Economic and
14 Community Development and Connecticut Innovations, Incorporated,
15 provides financial assistance to any business organization for any
16 project of such business organization, the state or any agency of the
17 state shall require, as a condition of providing such financial
18 assistance, that the contract entered into by the business organization
19 for such project shall contain the following provision: "The wages paid
20 on an hourly basis to any person performing the work of any
21 mechanic, laborer or worker on the work herein contracted to be done
22 and the amount of payment or contribution paid or payable on behalf
23 of each such person to any employee welfare fund, as defined in
24 subsection (i) of section 31-53 of the general statutes, shall be at a rate
25 equal to the rate customary or prevailing for the same work in the
26 same trade or occupation in the town in which such construction,
27 remodeling, refinishing, refurbishing, rehabilitation, alteration or
28 repair project is being undertaken. Any contractor who is not obligated
29 by agreement to make payment or contribution on behalf of such
30 persons to any such employee welfare fund shall pay to each
31 mechanic, laborer or worker as part of such person's wages the amount
32 of payment or contribution for such person's classification on each pay
33 day."

34 (c) Any contractor or subcontractor who knowingly or wilfully
35 employs any mechanic, laborer or worker in any project receiving
36 financial assistance from the state or any agency of the state for such
37 project, at a rate of wage on an hourly basis that is less than the rate
38 customary or prevailing for the same work in the same trade or
39 occupation in the town in which such project is located, or who fails to
40 pay the amount of payment or contributions paid or payable on behalf
41 of each such person to any employee welfare fund, or in lieu thereof to
42 the person, as provided by subsection (b) of this section, shall be fined
43 not less than two thousand five hundred dollars but not more than five
44 thousand dollars for each offense and (1) for the first violation, shall be
45 disqualified from bidding on contracts for projects for which the state

46 or any agency of the state provides financial assistance until the
47 contractor or subcontractor has made full restitution of the back wages
48 owed to such persons and for an additional six months thereafter, and
49 (2) for subsequent violations, shall be disqualified from bidding on
50 contracts for projects for which the state or any agency of the state
51 provides financial assistance until the contractor or subcontractor has
52 made full restitution of the back wages owed to such persons and for
53 not less than an additional two years thereafter. In addition, if it is
54 found by the contracting officer representing the business organization
55 that any mechanic, laborer or worker employed by the contractor or
56 any subcontractor directly on the site for the work covered by the
57 contract has been or is being paid a rate of wages less than the rate of
58 wages required by the contract to be paid as required by this section,
59 the business organization may (A) by written or electronic notice to the
60 contractor, terminate such contractor's right to proceed with the work
61 or such part of the work as to which there has been a failure to pay
62 said required wages and to prosecute the work to completion by
63 contract or otherwise, and the contractor and the contractor's sureties
64 shall be liable to the business organization for any excess costs
65 occasioned the business organization thereby, or (B) withhold payment
66 of money to the contractor or subcontractor. The contracting business
67 organization shall, not later than two days after taking such action,
68 notify the Labor Commissioner, in writing or electronically, of the
69 name of the contractor or subcontractor, the project involved, the
70 location of the work, the violations involved, the date the contract was
71 terminated and steps taken to collect the required wages.

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

75 (e) The Labor Commissioner shall predetermine the prevailing rate
76 and the amount of payment or contributions paid or payable on behalf
77 of each person to any employee welfare fund, as defined in subsection
78 (i) of section 31-53 of the general statutes, as amended by this act, in

79 each town where such contract is to be performed, in the same manner
80 as provided in subsection (d) of section 31-53 of the general statutes, as
81 amended by this act.

82 Sec. 2. Section 31-53 of the general statutes, as amended by section 1
83 of public act 14-44, is repealed and the following is substituted in lieu
84 thereof (*Effective July 1, 2015*):

85 (a) Each contract for the construction, remodeling, refinishing,
86 refurbishing, rehabilitation, alteration or repair of any public works
87 project by the state or any of its agents, or by any political subdivision
88 of the state or any of its agents, shall contain the following provision:
89 "The wages paid on an hourly basis to any person performing the
90 work of any mechanic, laborer or worker on the work herein
91 contracted to be done and the amount of payment or contribution paid
92 or payable on behalf of each such person to any employee welfare
93 fund, as defined in subsection (i) of this section, shall be at a rate equal
94 to the rate customary or prevailing for the same work in the same
95 trade or occupation in the town in which such public works project is
96 being constructed. Any contractor who is not obligated by agreement
97 to make payment or contribution on behalf of such persons to any such
98 employee welfare fund shall pay to each mechanic, laborer or worker
99 as part of such person's wages the amount of payment or contribution
100 for such person's classification on each pay day."

101 (b) Any contractor or subcontractor who knowingly or wilfully
102 employs any mechanic, laborer or worker in the construction,
103 remodeling, refinishing, refurbishing, rehabilitation, alteration or
104 repair of any public works project for or on behalf of the state or any of
105 its agents, or any political subdivision of the state or any of its agents,
106 at a rate of wage on an hourly basis that is less than the rate customary
107 or prevailing for the same work in the same trade or occupation in the
108 town in which such public works project is being constructed,
109 remodeled, refinished, refurbished, rehabilitated, altered or repaired,
110 or who fails to pay the amount of payment or contributions paid or

111 payable on behalf of each such person to any employee welfare fund,
112 or in lieu thereof to the person, as provided by subsection (a) of this
113 section, shall be fined not less than two thousand five hundred dollars
114 but not more than five thousand dollars for each offense and (1) for the
115 first violation, shall be disqualified from bidding on contracts with the
116 state or any political subdivision until the contractor or subcontractor
117 has made full restitution of the back wages owed to such persons and
118 for an additional six months thereafter, and (2) for subsequent
119 violations, shall be disqualified from bidding on contracts with the
120 state or any political subdivision until the contractor or subcontractor
121 has made full restitution of the back wages owed to such persons and
122 for not less than an additional two years thereafter. In addition, if it is
123 found by the contracting officer representing the state or political
124 subdivision of the state that any mechanic, laborer or worker
125 employed by the contractor or any subcontractor directly on the site
126 for the work covered by the contract has been or is being paid a rate of
127 wages less than the rate of wages required by the contract to be paid as
128 required by this section, the state or contracting political subdivision of
129 the state may (A) by written or electronic notice to the contractor,
130 terminate such contractor's right to proceed with the work or such part
131 of the work as to which there has been a failure to pay said required
132 wages and to prosecute the work to completion by contract or
133 otherwise, and the contractor and the contractor's sureties shall be
134 liable to the state or the contracting political subdivision for any excess
135 costs occasioned the state or the contracting political subdivision
136 thereby, or (B) withhold payment of money to the contractor or
137 subcontractor. The contracting department of the state or the political
138 subdivision of the state shall, not later than two days after taking such
139 action, notify the Labor Commissioner, in writing or electronically, of
140 the name of the contractor or subcontractor, the project involved, the
141 location of the work, the violations involved, the date the contract was
142 terminated, and steps taken to collect the required wages.

143 (c) The Labor Commissioner may make complaint to the proper

144 prosecuting authorities for the violation of any provision of subsection
145 (b) of this section.

146 (d) For the purpose of predetermining the prevailing rate of wage
147 on an hourly basis and the amount of payment or contributions paid or
148 payable on behalf of each person to any employee welfare fund, as
149 defined in subsection (i) of this section, in each town where such
150 contract is to be performed, the Labor Commissioner shall (1) hold a
151 hearing at any required time to determine the prevailing rate of wages
152 on an hourly basis and the amount of payment or contributions paid or
153 payable on behalf of each person to any employee welfare fund, as
154 defined in subsection (i) of this section, upon any public work within
155 any specified area, and shall establish classifications of skilled,
156 semiskilled and ordinary labor, or (2) adopt and use such appropriate
157 and applicable prevailing wage rate determinations as have been made
158 by the Secretary of Labor of the United States under the provisions of
159 the Davis-Bacon Act, as amended.

160 (e) The Labor Commissioner shall determine the prevailing rate of
161 wages on an hourly basis and the amount of payment or contributions
162 paid or payable on behalf of such person to any employee welfare
163 fund, as defined in subsection (i) of this section, in each locality where
164 any such public work is to be constructed, and the agent empowered
165 to let such contract shall contact the Labor Commissioner, at least ten
166 but not more than twenty days prior to the date such contracts will be
167 advertised for bid, to ascertain the proper rate of wages and amount of
168 employee welfare fund payments or contributions and shall include
169 such rate of wage on an hourly basis and the amount of payment or
170 contributions paid or payable on behalf of each person to any
171 employee welfare fund, as defined in subsection (i) of this section, or in
172 lieu thereof the amount to be paid directly to each person for such
173 payment or contributions as provided in subsection (a) of this section
174 for all classifications of labor in the proposal for the contract. The rate
175 of wage on an hourly basis and the amount of payment or
176 contributions to any employee welfare fund, as defined in subsection

177 (i) of this section, or cash in lieu thereof, as provided in subsection (a)
178 of this section, shall, at all times, be considered as the minimum rate
179 for the classification for which it was established. Prior to the award of
180 any contract, purchase order, bid package or other designation subject
181 to the provisions of this section, such agent shall certify to the Labor
182 Commissioner, either in writing or electronically, the total dollar
183 amount of work to be done in connection with such public works
184 project, regardless of whether such project consists of one or more
185 contracts. Upon the award of any contract subject to the provisions of
186 this section, the contractor to whom such contract is awarded shall
187 certify, under oath, to the Labor Commissioner the pay scale to be used
188 by such contractor and any of the contractor's subcontractors for work
189 to be performed under such contract.

190 (f) Each employer subject to the provisions of this section, [or]
191 section 31-54 or section 1 of this act shall (1) keep, maintain and
192 preserve such records relating to the wages and hours worked by each
193 person performing the work of any mechanic, laborer and worker and
194 a schedule of the occupation or work classification at which each
195 person performing the work of any mechanic, laborer or worker on the
196 project is employed during each work day and week in such manner
197 and form as the Labor Commissioner establishes to assure the proper
198 payments due to such persons or employee welfare funds under this
199 section, [or] section 31-54 or section 1 of this act, regardless of any
200 contractual relationship alleged to exist between the contractor and
201 such person, provided such employer shall have the option of keeping,
202 maintaining and preserving such records in an electronic format, and
203 (2) submit monthly to the contracting agency by mail, electronic mail
204 or other method accepted by such agency, a certified payroll that shall
205 consist of a complete copy of such records accompanied by a statement
206 signed by the employer that indicates (A) such records are correct; (B)
207 the rate of wages paid to each person performing the work of any
208 mechanic, laborer or worker and the amount of payment or
209 contributions paid or payable on behalf of each such person to any

210 employee welfare fund, as defined in subsection (i) of this section, are
211 not less than the prevailing rate of wages and the amount of payment
212 or contributions paid or payable on behalf of each such person to any
213 employee welfare fund, as determined by the Labor Commissioner
214 pursuant to subsection (d) of this section, and not less than those
215 required by the contract to be paid; (C) the employer has complied
216 with the provisions of this section, [and] section 31-54 and section 1 of
217 this act; (D) each such person is covered by a workers' compensation
218 insurance policy for the duration of such person's employment, which
219 shall be demonstrated by submitting to the contracting agency the
220 name of the workers' compensation insurance carrier covering each
221 such person, the effective and expiration dates of each policy and each
222 policy number; (E) the employer does not receive kickbacks, as defined
223 in 41 USC 52, from any employee or employee welfare fund; and (F)
224 pursuant to the provisions of section 53a-157a, the employer is aware
225 that filing a certified payroll which the employer knows to be false is a
226 class D felony for which the employer may be fined up to five
227 thousand dollars, imprisoned for up to five years, or both. This
228 subsection shall not be construed to prohibit a general contractor from
229 relying on the certification of a lower tier subcontractor, provided the
230 general contractor shall not be exempted from the provisions of section
231 53a-157a if the general contractor knowingly relies upon a
232 subcontractor's false certification. Notwithstanding the provisions of
233 section 1-210, the certified payroll shall be considered a public record
234 and every person shall have the right to inspect and copy such records
235 in accordance with the provisions of section 1-212. The provisions of
236 subsections (a) and (b) of section 31-59 and sections 31-66 and 31-69
237 that are not inconsistent with the provisions of this section, [or] section
238 31-54 or section 1 of this act apply to this section. Failing to file a
239 certified payroll pursuant to subdivision (2) of this subsection is a class
240 D felony for which the employer may be fined up to five thousand
241 dollars, imprisoned for up to five years, or both.

242 (g) Any contractor who is required by the Labor Department to

243 make any payment as a result of a subcontractor's failure to pay wages
244 or benefits, or any subcontractor who is required by the Labor
245 Department to make any payment as a result of a lower tier
246 subcontractor's failure to pay wages or benefits, may bring a civil
247 action in the Superior Court to recover no more than the damages
248 sustained by reason of making such payment, together with costs and
249 a reasonable attorney's fee.

250 (h) The provisions of this section do not apply where the total cost
251 of all work to be performed by all contractors and subcontractors in
252 connection with new construction of any public works project is less
253 than four hundred thousand dollars or where the total cost of all work
254 to be performed by all contractors and subcontractors in connection
255 with any remodeling, refinishing, refurbishing, rehabilitation,
256 alteration or repair of any public works project is less than one
257 hundred thousand dollars.

258 (i) As used in this section, [and] section 31-54 and section 1 of this
259 act, "employee welfare fund" means any trust fund established by one
260 or more employers and one or more labor organizations or one or
261 more other third parties not affiliated with the employers to provide
262 from moneys in the fund, whether through the purchase of insurance
263 or annuity contracts or otherwise, benefits under an employee welfare
264 plan; provided such term shall not include any such fund where the
265 trustee, or all of the trustees, are subject to supervision by the Banking
266 Commissioner of this state or any other state or the Comptroller of the
267 Currency of the United States or the Board of Governors of the Federal
268 Reserve System, and "benefits under an employee welfare plan" means
269 one or more benefits or services under any plan established or
270 maintained for persons performing the work of any mechanics,
271 laborers or workers or their families or dependents, or for both,
272 including, but not limited to, medical, surgical or hospital care
273 benefits; benefits in the event of sickness, accident, disability or death;
274 benefits in the event of unemployment, or retirement benefits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>July 1, 2015</i>	31-53

Statement of Purpose:

To require business organizations receiving financial assistance from the state or an agency of the state for any construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair on a property owned by such business organization to ensure that any mechanic, laborer or worker employed on such project receive not less than the prevailing wage.

[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.]