



Senate

General Assembly

File No. 253

February Session, 2022

Senate Bill No. 418

Senate, March 31, 2022

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING WAGE THEFT.

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

1 Section 1. Subsections (a) and (b) of section 31-53 of the 2022
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2022*):

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 work
9 of any mechanic, laborer or worker on the work herein contracted to be
10 done and the amount of payment or contribution paid or payable on
11 behalf of each such person to any employee welfare fund, as defined in
12 subsection (i) of this section, shall be at a rate equal to the rate customary
13 or prevailing for the same work in the same trade or occupation in the
14 town in which such public works project is being constructed. Any
15 contractor who is not obligated by agreement to make payment or

16 contribution on behalf of such persons to any such employee welfare
17 fund shall pay to each mechanic, laborer or worker as part of such
18 person's wages the amount of payment or contribution for such person's
19 classification on each pay day."

20 (b) [Any] If the commissioner, upon inspection or investigation of a
21 complaint, believes that a contractor or subcontractor [who] has
22 knowingly or wilfully [employs] employed any mechanic, laborer or
23 worker in the construction, remodeling, refinishing, refurbishing,
24 rehabilitation, alteration or repair of any public works project for or on
25 behalf of the state or any of its agents, or any political subdivision of the
26 state or any of its agents, at a rate of wage on an hourly basis that is less
27 than the rate customary or prevailing for the same work in the same
28 trade or occupation in the town in which such public works project is
29 being constructed, remodeled, refinished, refurbished, rehabilitated,
30 altered or repaired, or who [fails] has failed to pay the amount of
31 payment or contributions paid or payable on behalf of each such person
32 to any employee welfare fund, or in lieu thereof to the person, as
33 provided by subsection (a) of this section, such contractor or
34 subcontractor shall be issued a citation and fined [not less than two
35 thousand five hundred dollars but not more than] five thousand dollars
36 for each offense and (1) for the first violation, shall be disqualified from
37 bidding on contracts with the state or any political subdivision (A) until
38 the contractor or subcontractor has made full restitution of the back
39 wages owed to such persons, and (B) for an additional six months
40 thereafter, [and] (2) for any subsequent [violations] violation, shall be
41 disqualified from bidding on contracts with the state or any political
42 subdivision (A) until the contractor or subcontractor has made full
43 restitution of the back wages owed to such persons, and (B) for not less
44 than an additional two years thereafter, and (3) for more than one
45 violation within a five-year period, the commissioner shall refer the
46 matter to the Attorney General, who may institute a civil action to
47 recover any unpaid wages, plus interest. The Attorney General may file
48 an action to enjoin such conduct and debar the contractor for up to five
49 years from the date on which the action is filed. Each citation issued by
50 the commissioner pursuant to this subsection shall be in writing and

51 shall specifically describe the nature of the violation. Any contractor or
 52 subcontractor issued a citation pursuant to this subsection may request
 53 a hearing before the commissioner. Such request shall be made in
 54 writing to the commissioner not later than ten days after the issuance of
 55 the citation. The commissioner shall grant such request for a hearing if
 56 such request includes a dispute of the material facts that resulted in the
 57 issuance of the citation. Such hearing shall be conducted in accordance
 58 with the provisions of chapter 54. In addition, if it is found by the
 59 contracting officer representing the state or political subdivision of the
 60 state that any mechanic, laborer or worker employed by the contractor
 61 or any subcontractor directly on the site for the work covered by the
 62 contract has been or is being paid a rate of wages less than the rate of
 63 wages required by the contract to be paid as required by this section, the
 64 state or contracting political subdivision of the state may (A) by written
 65 or electronic notice to the contractor, terminate such contractor's right to
 66 proceed with the work or such part of the work as to which there has
 67 been a failure to pay said required wages and to prosecute the work to
 68 completion by contract or otherwise, and the contractor and the
 69 contractor's sureties shall be liable to the state or the contracting political
 70 subdivision for any excess costs occasioned the state or the contracting
 71 political subdivision thereby, or (B) withhold payment of money to the
 72 contractor or subcontractor. The contracting department of the state or
 73 the political subdivision of the state shall, not later than two days after
 74 taking such action, notify the Labor Commissioner, in writing or
 75 electronically, of the name of the contractor or subcontractor, the project
 76 involved, the location of the work, the violations involved, the date the
 77 contract was terminated, and steps taken to collect the required wages.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	31-53(a) and (b)

LAB *Joint Favorable*

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 23 \$	FY 24 \$
Labor Dept.	GF - Cost	81,819	109,986
State Comptroller - Fringe Benefits ¹	GF - Cost	31,135	42,551
Labor Dept.	GF - Potential Revenue Gain	Up to 375,000	Up to 500,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which creates additional penalties and establishes a flat fine for failure by contractors and subcontractors to pay workers the required prevailing wage, results in: 1) a cost to the Department of Labor (DOL) of \$112,954 in FY 23 (partial year) and \$152,536 in FY 24, and 2) a potential General Fund revenue gain from fines estimated at up to \$375,000 in FY 23 (partial year) and up to \$500,000 in FY 24.²

It is anticipated that up to 200 citations would be issued each year based on the actual number of investigations in 2020 and 2021. In order to accommodate the number of administrative hearings that would occur, DOL would require one additional Staff Attorney at an

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

² Under current law, the labor commissioner may issue fines ranging from \$2,500 to \$5,000 per violation; the bill establishes a flat rate of \$5,000 per violation. Consequently, the revenue gain is dependent on how many violations would be assessed at an amount lower than \$5,000.

annualized cost of \$152,536 (\$104,986 for salary and \$42,551 for fringe benefit costs), including \$5,000 in associated overhead costs (computer, office supplies, etc.).

For contractors or subcontractors that have more than one violation within a five-year period the bill also requires DOL to refer contractors who violate the bill's provisions to the attorney general, who may start a civil lawsuit to recover any unpaid wages, plus interest. This is not anticipated to have a fiscal impact as the Office of the Attorney General has the necessary expertise to handle this provision.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 418*****AN ACT CONCERNING WAGE THEFT.*****SUMMARY**

This bill creates additional penalties for prevailing wage job contractors and subcontractors that knowingly or willfully fail to pay their workers the required prevailing wage (see BACKGROUND). It requires the labor commissioner to issue a citation to these violators and fixes the fine for a violation at \$5,000, rather than allowing for fines ranging from \$2,500 to \$5,000 as current law does. The bill allows a contractor or subcontractor that receives a citation to request a hearing with the commissioner, which she must grant if it disputes the material facts supporting the citation.

For contractors or subcontractors that have more than one violation within a five-year period, the bill also requires the commissioner to refer the violator to the attorney general, who may start a civil lawsuit to recover any unpaid wages, plus interest.

The bill also allows the attorney general to file an action to enjoin the violation and debar the contractor (i.e., prohibit from contracting with the state or its municipalities) for up to five years. Under existing law, unchanged by the bill, first time violators must be fined and debarred until six months after they have repaid the owed wages, and subsequent violators must be fined and debarred until two years after they have repaid the owed wages.

EFFECTIVE DATE: October 1, 2022

CITATIONS & FINES

Under current law, a contractor or subcontractor that knowingly or willfully pays a worker on a prevailing wage project less than what the

prevailing wage law requires must be fined \$2,500 to \$5,000. The bill instead (1) requires the labor commissioner to issue a citation to such a contractor or subcontractor if, upon inspection or investigation of a complaint, she believes that it committed the violation and (2) sets the related fine at \$5,000.

The bill requires each citation issued by the commissioner to be in writing and specifically describe the violation's nature. It allows the cited contractor or subcontractor to request a hearing with the commissioner. The request must be made in writing within 10 days after the citation was issued. The commissioner must grant the request if it disputes the material facts that led to the citation, and the hearing must be held under the Uniform Administrative Procedure Act's provisions.

BACKGROUND

Prevailing Wage

The state's prevailing wage law requires employers on certain public works projects to pay their construction workers wages and benefits equal to those that are customary or prevailing for the same work, in the same trade or occupation, in the same town. The requirement applies to new construction projects of \$1 million or more and renovation projects of \$100,000 or more.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 4 (03/22/2022)