



General Assembly

Amendment

January Session, 2023

LCO No. 9007



Offered by:

REP. SANCHEZ E., 24th Dist.

SEN. KUSHNER, 24th Dist.

To: Subst. House Bill No. 6862

File No. 491

Cal. No. 319

"AN ACT CONCERNING BROADBAND CONSTRUCTION AND THE PREVAILING WAGE."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 16-330c of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2023*):

5 (a) On or before January 1, 2022, the Commissioner of Energy and
6 Environmental Protection shall establish and administer a grant
7 program, subject to the availability of federal funding, to support the
8 deployment of broadband Internet access service. The commissioner
9 shall establish criteria consistent with any requirement of federal law for
10 the grants, including, but not limited to, (1) application requirements,
11 (2) applicant eligibility, (3) addressing unserved areas in distressed
12 municipalities, (4) broadband Internet access service speed, and (5) an
13 applicant's commitment to pay at least twenty per cent of the costs for
14 any project entered into pursuant to this section with such applicant's

15 own funding, provided such funding does not derive from government
16 grants, loans or subsidies to [said] such applicant. In awarding such
17 grants, the commissioner [may] shall give priority to applicants based
18 on the percentage of [said] such applicant's commitment to cost sharing.
19 The commissioner may deny applications from broadband Internet
20 access service providers that do not provide information to the Office of
21 Policy and Management pursuant to subsection (c) of section 16-330b or
22 to the Department of Energy and Environmental Protection pursuant to
23 subsection (b) of section 16-330d. The commissioner may employ
24 outside consultants in developing and implementing said grant
25 program.

26 (b) All projects funded by grants awarded pursuant to this section
27 shall be subject to the prevailing wage requirements established in
28 section 2 of this act and section 31-53, as amended by this act.

29 ~~[(b)]~~ (c) On or before January 1, 2023, and every year thereafter for a
30 period of five years after receiving a grant pursuant to this section, the
31 recipient of such grant shall submit a report to the Commissioner of
32 Energy and Environmental Protection concerning the status of such
33 recipient's broadband Internet access service deployment and other
34 information deemed relevant by the commissioner.

35 ~~[(c)]~~ (d) On or before December 1, 2022, and every two years
36 thereafter, the Department of Energy and Environmental Protection, in
37 consultation with the Office of Policy and Management, the Office of
38 State Broadband, the Commission for Educational Technology and
39 other state agencies deemed appropriate by the Commissioner of
40 Energy and Environmental Protection, shall report to the Governor
41 concerning (1) the grants awarded pursuant to this section, (2) the status
42 and progress made toward a state-wide goal of attaining universal
43 access to (A) broadband Internet download speeds of one gigabit per
44 second; and (B) broadband Internet upload speeds of one hundred
45 megabits per second, and (3) broadband Internet access service
46 adoption rates, the price and nonprice barriers to broadband adoption
47 and digital equity. Such report shall include recommendations to

48 overcome any such barriers, including, but not limited to, addressing
49 issues of digital literacy and affordability.

50 Sec. 2. (NEW) (*Effective July 1, 2023*) (a) For purposes of this section:

51 (1) "Business organization" means any sole proprietorship,
52 partnership, corporation, limited liability company, association, firm or
53 other form of business or legal entity; and

54 (2) "Project" means any construction, remodeling, refinishing,
55 refurbishing, rehabilitation, alteration or repair of any property owned
56 by a business organization.

57 (b) On and after July 1, 2023, if the Department of Energy and
58 Environmental Protection awards a grant, pursuant to section 16-330c
59 of the general statutes, as amended by this act, to any business
60 organization to support the deployment of broadband Internet access
61 service, the Department of Energy and Environmental Protection shall
62 require, as a condition of providing such grant, that any contract entered
63 into by the business organization for such project shall contain the
64 following provision: "The wages paid on an hourly basis to any person
65 performing the work of any mechanic, laborer or worker on the work
66 herein contracted to be done and the amount of payment or contribution
67 paid or payable on behalf of each such person to any employee welfare
68 fund, as defined in subsection (i) of section 31-53 of the general statutes,
69 shall be at a rate equal to the rate customary or prevailing for the same
70 work in the same trade or occupation in the town in which such
71 construction, remodeling, refinishing, refurbishing, rehabilitation,
72 alteration or repair project is being undertaken. Any contractor who is
73 not obligated by agreement to make payment or contribution on behalf
74 of such persons to any such employee welfare fund shall pay to each
75 mechanic, laborer or worker as part of such person's wages the amount
76 of payment or contribution for such person's classification on each pay
77 day."

78 (c) Any contractor or subcontractor who knowingly or wilfully
79 employs any mechanic, laborer or worker in any project receiving a

80 grant pursuant to section 16-330c of the general statutes, as amended by
81 this act, from the Department of Energy and Environmental Protection
82 for such project, at a rate of wage on an hourly basis that is less than the
83 rate customary or prevailing for the same work in the same trade or
84 occupation in the town in which such project is located, or who fails to
85 pay the amount of payment or contributions paid or payable on behalf
86 of each such person to any employee welfare fund, as defined in
87 subsection (i) of section 31-53 of the general statutes, as amended by this
88 act, or in lieu thereof to the person, as provided by subsection (b) of this
89 section, shall be fined not less than two thousand five hundred dollars
90 but not more than five thousand dollars for each offense and (1) for the
91 first violation, shall be disqualified from bidding on contracts for
92 projects for which the Department of Energy and Environmental
93 Protection provides a grant pursuant to section 16-330c of the general
94 statutes, as amended by this act, until the contractor or subcontractor
95 has made full restitution of the back wages owed to such persons and
96 for an additional six months thereafter, and (2) for subsequent
97 violations, shall be disqualified from bidding on contracts for projects
98 for which the Department of Energy and Environmental Protection
99 provides a grant pursuant to section 16-330c of the general statutes, as
100 amended by this act, until the contractor or subcontractor has made full
101 restitution of the back wages owed to such persons and for not less than
102 an additional two years thereafter. In addition, if it is found by the
103 contracting officer representing the business organization that any
104 mechanic, laborer or worker employed by the contractor or any
105 subcontractor directly on the site for the work covered by the contract
106 has been or is being paid a rate of wages less than the rate of wages
107 required by the contract to be paid as required by this section, the
108 business organization may (A) by written or electronic notice to the
109 contractor, terminate such contractor's right to proceed with the work
110 or such part of the work as to which there has been a failure to pay such
111 required wages and to prosecute the work to completion by contract or
112 otherwise, and the contractor and the contractor's sureties shall be liable
113 to the business organization for any excess costs occasioned the business
114 organization thereby, or (B) withhold payment of money to the

115 contractor or subcontractor. The contracting business organization shall,
116 not later than two days after taking such action, notify the Labor
117 Commissioner, in writing or electronically, of the name of the contractor
118 or subcontractor, the project involved, the location of the work, the
119 violations involved, the date the contract was terminated and steps
120 taken to collect the required wages.

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

124 (e) The Labor Commissioner shall predetermine the prevailing rate
125 and the amount of payment or contributions paid or payable on behalf
126 of each person to any employee welfare fund, as defined in subsection
127 (i) of section 31-53 of the general statutes, as amended by this act, in each
128 town where such contract is to be performed, in the same manner as
129 provided in subsection (d) of section 31-53 of the general statutes.

130 Sec. 3. Subsections (f) to (i), inclusive, of section 31-53 of the general
131 statutes are repealed and the following is substituted in lieu thereof
132 (*Effective July 1, 2023*):

133 (f) Each employer subject to the provisions of this section, section 31-
134 53c, subsection (f) of section 31-53d, [or] section 31-54 or section 2 of this
135 act shall (1) keep, maintain and preserve such records relating to the
136 wages and hours worked by each person performing the work of any
137 mechanic, laborer and worker and a schedule of the occupation or work
138 classification at which each person performing the work of any
139 mechanic, laborer or worker on the project is employed during each
140 work day and week in such manner and form as the Labor
141 Commissioner establishes to assure the proper payments due to such
142 persons or employee welfare funds under this section, section 31-53c,
143 subsection (f) of section 31-53d, [or] section 31-54 or section 2 of this act,
144 regardless of any contractual relationship alleged to exist between the
145 contractor and such person, provided such employer shall have the
146 option of keeping, maintaining and preserving such records in an

147 electronic format, and (2) submit monthly to the contracting agency, [or]
148 the Department of Economic and Community Development or the
149 Department of Energy and Environmental Protection pursuant to
150 section 31-53c or to the developer of a covered project, as defined in
151 section 31-53d, as applicable, by mail, electronic mail or other method
152 accepted by such agency, the Department of Economic and Community
153 Development, the Department of Energy and Environmental Protection
154 or such developer, a certified payroll that shall consist of a complete
155 copy of such records accompanied by a statement signed by the
156 employer that indicates (A) such records are correct; (B) the rate of
157 wages paid to each person performing the work of any mechanic,
158 laborer or worker and the amount of payment or contributions paid or
159 payable on behalf of each such person to any employee welfare fund, as
160 defined in subsection (i) of this section, are not less than the prevailing
161 rate of wages and the amount of payment or contributions paid or
162 payable on behalf of each such person to any employee welfare fund, as
163 determined by the Labor Commissioner pursuant to subsection (d) of
164 this section, and not less than those required by the contract to be paid;
165 (C) the employer has complied with the applicable provisions of this
166 section, section 31-53c, subsection (f) of section 31-53d, [and] section 31-
167 54 and section 2 of this act; (D) each such person is covered by a workers'
168 compensation insurance policy for the duration of such person's
169 employment, which shall be demonstrated by submitting to the
170 contracting agency the name of the workers' compensation insurance
171 carrier covering each such person, the effective and expiration dates of
172 each policy and each policy number; (E) the employer does not receive
173 kickbacks, as defined in 41 USC 52, from any employee or employee
174 welfare fund; and (F) pursuant to the provisions of section 53a-157a, the
175 employer is aware that filing a certified payroll which the employer
176 knows to be false is a class D felony for which the employer may be fined
177 up to five thousand dollars, imprisoned for up to five years, or both.
178 This subsection shall not be construed to prohibit a general contractor
179 from relying on the certification of a lower tier subcontractor, provided
180 the general contractor shall not be exempted from the provisions of
181 section 53a-157a if the general contractor knowingly relies upon a

182 subcontractor's false certification. Notwithstanding the provisions of
183 section 1-210, the certified payroll shall be considered a public record
184 and every person shall have the right to inspect and copy such records
185 in accordance with the provisions of section 1-212. The provisions of
186 subsections (a) and (b) of section 31-59 and sections 31-66 and 31-69 that
187 are not inconsistent with the provisions of this section, section 31-53c or
188 31-54 or section 2 of this act apply to this section. Failing to file a certified
189 payroll pursuant to subdivision (2) of this subsection is a class D felony
190 for which the employer may be fined up to five thousand dollars,
191 imprisoned for up to five years, or both.

192 (g) Any contractor who is required by the Labor Department to make
193 any payment as a result of a subcontractor's failure to pay wages or
194 benefits, or any subcontractor who is required by the Labor Department
195 to make any payment as a result of a lower tier subcontractor's failure
196 to pay wages or benefits, may bring a civil action in the Superior Court
197 to recover no more than the damages sustained by reason of making
198 such payment, together with costs and a reasonable attorney's fee.

199 (h) (1) The provisions of this section shall not apply where (A) the
200 combined total cost or total bond authorization for all work to be
201 performed by all contractors and subcontractors in connection with new
202 construction of any public works project is less than one million dollars,
203 or (B) the combined total cost of all work to be performed by all
204 contractors and subcontractors in connection with any remodeling,
205 refinishing, refurbishing, rehabilitation, alteration or repair of any
206 public works project is less than one hundred thousand dollars.

207 (2) On and after October 31, 2017, and prior to July 1, 2019, the
208 provisions of this subdivision shall not apply where the work to be
209 performed by any contractor or subcontractor in connection with new
210 construction, remodeling, refinishing, refurbishing, rehabilitation,
211 alteration or repair of any public works project funded in whole or in
212 part by any private bequest that is greater than nine million dollars but
213 less than twelve million dollars for a municipality in New Haven
214 County with a population of not less than twelve thousand and not

215 more than thirteen thousand, as determined by the most recent
216 population estimate by the Department of Public Health.

217 (3) On and after July 1, 2019, and prior to January 1, 2020, the
218 provisions of this subdivision shall not apply where the work to be
219 performed by any contractor or subcontractor in connection with new
220 construction, remodeling, refinishing, refurbishing, rehabilitation,
221 alteration or repair of any public works project funded in whole or in
222 part by any private bequest that is greater than nine million dollars but
223 less than twenty-two million dollars for a municipality in New Haven
224 County with a population of not less than twelve thousand and not
225 more than thirteen thousand, as determined by the most recent
226 population estimate by the Department of Public Health.

227 (i) As used in this section and sections 31-53c and 31-54 and section 2
228 of this act, "employee welfare fund" means any trust fund established
229 by one or more employers and one or more labor organizations or one
230 or more other third parties not affiliated with the employers to provide
231 from moneys in the fund, whether through the purchase of insurance or
232 annuity contracts or otherwise, benefits under an employee welfare
233 plan; provided such term shall not include any such fund where the
234 trustee, or all of the trustees, are subject to supervision by the Banking
235 Commissioner of this state or any other state or the Comptroller of the
236 Currency of the United States or the Board of Governors of the Federal
237 Reserve System, and "benefits under an employee welfare plan" means
238 one or more benefits or services under any plan established or
239 maintained for persons performing the work of any mechanics, laborers
240 or workers or their families or dependents, or for both, including, but
241 not limited to, medical, surgical or hospital care benefits; benefits in the
242 event of sickness, accident, disability or death; benefits in the event of
243 unemployment, or retirement benefits."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	16-330c

Sec. 2	<i>July 1, 2023</i>	New section
Sec. 3	<i>July 1, 2023</i>	31-53(f) to (i)