
OLR Bill Analysis

sSB 137

AN ACT CONCERNING GAS, ELECTRIC, SEWER AND WATER DELIVERY WORK.

SUMMARY

This bill requires contractors on certain public utility projects to pay their employees on the project the same prevailing wages and benefits that would be required on public works projects. The requirement applies to new construction projects with a total cost of at least \$1 million and renovation projects with a total cost of at least \$100,000. The bill generally applies to these public utility projects the same enforcement and record keeping requirements as the public works prevailing wage law (see “BACKGROUND”).

Under the bill, a “public utility project” is a project for which one party is a gas company, pipeline company, water company, sewage company, or electric distribution company (generally, any of those types of companies that are regulated by the Public Utilities Regulatory Authority (PURA), see BACKGROUND).

The bill requires a public utility that must pay the prevailing wage to recover its costs for doing so through either its base rates or a PURA-approved rate recovery mechanism, as long as PURA finds that the costs were prudent and reasonably incurred and recoverable under state utility ratemaking laws.

The bill also requires any contractor who enters into a contract for a public utility project, regardless of cost, to offer (1) apprenticeship training through an apprenticeship program registered with the Department of Labor or (2) a pre-apprenticeship training program approved under the apprenticeship laws. It requires the contractor to certify, in a way set by the labor commissioner, that it currently meets this requirement.

EFFECTIVE DATE: October 1, 2024

PREVAILING WAGES

Under the state's prevailing wage law for public works projects, contracts for covered projects must require contractors and subcontractors to pay their construction workers the prevailing wage and benefits. Contractors who do not provide benefits at the rate required must make up the difference in hourly wages.

The bill requires a contract for certain public utility projects entered into on or after October 1, 2024, to include the same prevailing wage provision. As under the public works law, the requirement applies to new construction projects with a combined total cost or total bond authorization of at least \$1 million and renovation projects with a combined total cost of at least \$100,000. The labor commissioner must determine the prevailing wage and benefit for each trade or occupation and location in the same way that she does under the public works law.

Enforcement

The bill imposes the same enforcement provisions as provided under the public works prevailing wage law. If the labor commissioner, upon inspection or investigation of a complaint, believes that a contractor or subcontractor on a covered public utility project knowingly or willfully failed to pay their employees the prevailing wage and benefits, she must issue a citation to the contractor or subcontractor and may impose a fine of \$5,000 per offense.

The commissioner must maintain a list of any contractor or subcontractor that, over the previous three years, violated the public utility prevailing wage requirement or entered into a settlement with the commissioner to resolve a public utility prevailing wage claim. For those on the list, the commissioner must record the (1) violation's nature, (2) total amount of wages and benefits in violation or agreed upon in the settlement, and (3) total amount of civil penalties and fines agreed upon by the commissioner.

The commissioner must review the list each May 1, for the preceding

rolling three-year period. She may refer for debarment (i.e., prohibit from working on state or municipal projects) any contractor or subcontractor that violated the public utility prevailing wage law during that period. And she must do so for any contractor or subcontractor with whom she entered into one or more settlements totaling over the period more than \$50,000 in (1) back wages or fringe benefits or (2) civil penalties or fines. Any contractor or subcontractor referred for debarment may request a hearing with the commissioner under the Uniform Administrative Procedure Act.

In addition, if a public utility's contracting officer finds that a contractor or subcontractor on its covered project is not paying the required prevailing wages and benefits, the utility may (1) terminate the contractor's right to proceed with the work for which there was a failure to pay, with written or electronic notice; (2) prosecute the work to completion by contract or otherwise; and (3) hold the contractor and subcontractor's sureties liable for any excess costs to complete the work. In the alternative, the utility may withhold payments to the contractor or subcontractor.

If the utility takes either of these steps, within two days its contracting officer must notify the labor commissioner with the contractor's or subcontractor's name; the project and its location; the violations involved; the date the contract was terminated, if applicable; and steps taken to collect the required wages. The labor commissioner may file a complaint with the proper prosecuting authorities for violations.

Record Keeping Requirement

The bill expands the public works prevailing wage law's record keeping requirements to include covered public utility prevailing wage projects. Among other things, this requires contractors and subcontractors on a project to submit monthly certified payroll records to the utility. The records must contain the same information required under the public works prevailing wage law, including:

1. detailed payroll records for each employee and

2. a signed statement that, among other things, (a) the records are correct, (b) the employer met the law's requirements, and (c) the employer understands the penalties for knowingly filing false payroll records.

The penalties for failing to comply with the certified payroll records requirement or knowingly filing false payroll records are the same as under the public works prevailing wage law (class D felonies with a fine of up to \$5,000, up to five years imprisonment, or both).

BACKGROUND

Public Works Prevailing Wage Law

The state's prevailing wage law requires contracts on certain public works projects to require that contractors and subcontractors pay their construction workers wages and benefits equal to those that are customary or prevailing for the same work, in the same 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 (CGS § 31-53).

PURA-Regulated Utility Companies

Under the public utility law (CGS § 16-1) and the bill, an "electric distribution company" is generally any person providing electric transmission or distribution services in the state. It does not include, among other things, a private power producer, a municipal electric utility, or a municipal electric energy cooperative.

A "gas company" is generally any person owning, maintaining, operating, or controlling mains, pipes, or other fixtures in public highways or streets to transmit or distribute gas for sale for heat or power in the state. It does not include, among other things, (1) a person manufacturing gas through a biomass gasification plant under certain conditions or (2) municipal gas utilities.

A "pipeline company" is generally any person owning, maintaining, operating, or controlling mains, pipes, or other fixtures through, over, or under any public land, water, parkways, highways, parks or public

grounds to transport, transmit, or distribute petroleum products for hire in the state.

A “sewage company” is generally any person owning, maintaining, operating, or controlling, for general use in any town, city, or borough, or portion of them, in this state, sewage disposal facilities that discharge treated effluent into any waterway in the state.

A “water company” is generally any person owning, maintaining, operating, or controlling any pond, lake, reservoir, stream, well, or distributing plant or system to supply water to at least 50 consumers. It does not include, among other things, homeowners, condominium associations providing water only to their members; municipal waterworks systems; or a district, metropolitan district, municipal district or special services district authorized to supply water.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 4 (03/19/2024)