

House of Representatives, March 26, 1998. The Committee on Labor and Public Employees reported through REP. DONOVAN, 84th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WAGES ON CONSTRUCTION PROJECTS FINANCED WITH STATE ECONOMIC DEVELOPMENT ASSISTANCE.

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

1 Section 1. Section 31-53 of the general  
2 statutes, as amended by section 14 of public act  
3 97-263, is repealed and the following is  
4 substituted in lieu thereof:  
5 (a) Each contract for the construction,  
6 remodeling, refinishing, refurbishing,  
7 rehabilitation, alteration or repair of any public  
8 works project by the state or any of its agents,  
9 or by any political subdivision of the state or  
10 any of its agents, shall contain the following  
11 provision: "The wages paid on an hourly basis to  
12 any mechanic, laborer or workman employed upon the  
13 work herein contracted to be done and the amount  
14 of payment or contribution paid or payable on  
15 behalf of each such employee to any employee  
16 welfare fund, as defined in subsection [(h)] (i)  
17 of this section, shall be at a rate equal to the  
18 rate customary or prevailing for the same work in  
19 the same trade or occupation in the town in which  
20 such public works project is being constructed.  
21 Any contractor who is not obligated by agreement

22 to make payment or contribution on behalf of such  
23 employees to any such employee welfare fund shall  
24 pay to each employee as part of his wages the  
25 amount of payment or contribution for his  
26 classification on each pay day."

27 (b) Any person who knowingly or wilfully  
28 employs any mechanic, laborer or workman in the  
29 construction, remodeling, refinishing,  
30 refurbishing, rehabilitation, alteration or repair  
31 of any public works project for or on behalf of  
32 the state or any of its agents, or any political  
33 subdivision of the state or any of its agents, at  
34 a rate of wage on an hourly basis which is less  
35 than the rate customary or prevailing for the same  
36 work in the same trade or occupation in the town  
37 in which such public works project is being  
38 constructed, remodeled, refinished, refurbished,  
39 rehabilitated, altered or repaired, or who fails  
40 to pay the amount of payment or contributions paid  
41 or payable on behalf of each such employee to any  
42 employee welfare fund, or in lieu thereof to the  
43 employee, as provided by subsection (a), shall be  
44 fined not less than two thousand five hundred  
45 dollars but not more than five thousand dollars  
46 for each offense and (1) for the first violation,  
47 shall be disqualified from bidding on contracts  
48 with the state or any political subdivision until  
49 the contractor or subcontractor has made full  
50 restitution of the back wages owed to such persons  
51 and for an additional six months thereafter and  
52 (2) for subsequent violations, shall be  
53 disqualified from bidding on contracts with the  
54 state or any political subdivision until the  
55 contractor or subcontractor has made full  
56 restitution of the back wages owed to such persons  
57 and for not less than an additional two years  
58 thereafter. In addition, if it is found by the  
59 contracting officer representing the state or  
60 political subdivision thereof that any mechanic,  
61 laborer or workman employed by the contractor or  
62 any subcontractor directly on the site for the  
63 work covered by the contract has been or is being  
64 paid a rate of wages less than the rate of wages  
65 required by the contract to be paid as required by  
66 this section, the state or contracting political  
67 subdivision thereof may (A) by written notice to  
68 the contractor, terminate such contractor's right  
69 to proceed with the work or such part of the work

70 as to which there has been a failure to pay said  
71 required wages and to prosecute the work to  
72 completion by contract or otherwise, and the  
73 contractor and his sureties shall be liable to the  
74 state or the contracting political subdivision for  
75 any excess costs occasioned the state or the  
76 contracting political subdivision thereby or (B)  
77 withhold payment of money to the contractor or  
78 subcontractor. The contracting department of the  
79 state or the political subdivision thereof shall  
80 within two days after taking such action notify  
81 the Labor Commissioner in writing of the name of  
82 the contractor or subcontractor, the project  
83 involved, the location of the work, the violations  
84 involved, the date the contract was terminated,  
85 and steps taken to collect the required wages.

86 (c) The Labor Commissioner may make complaint  
87 to the proper prosecuting authorities for the  
88 violation of any provision of subsection (b).

89 (d) For the purpose of predetermining the  
90 prevailing rate of wage on an hourly basis and the  
91 amount of payment or contributions paid or payable  
92 on behalf of each employee to any employee welfare  
93 fund, as defined in subsection [(h)] (i), in each  
94 town where such contract is to be performed, the  
95 Labor Commissioner shall (1) hold a hearing at any  
96 required time to determine the prevailing rate of  
97 wages on an hourly basis and the amount of payment  
98 or contributions paid or payable on behalf of each  
99 person to any employee welfare fund, as defined in  
100 subsection [(h)] (i), upon any public work within  
101 any specified area, and shall establish  
102 classifications of skilled, semiskilled and  
103 ordinary labor, or (2) adopt and use such  
104 appropriate and applicable prevailing wage rate  
105 determinations as have been made by the Secretary  
106 of Labor of the United States under the provisions  
107 of the Davis-Bacon Act, as amended.

108 (e) The Labor Commissioner shall determine  
109 the prevailing rate of wages on an hourly basis  
110 and the amount of payment or contributions paid or  
111 payable on behalf of such employee to any employee  
112 welfare fund, as defined in subsection [(h)] (i),  
113 in each locality where any such public work is to  
114 be constructed, and the agent empowered to let  
115 such contract shall contact the Labor  
116 Commissioner, at least ten but not more than  
117 twenty days prior to the date such contracts will

118 be advertised for bid, to ascertain the proper  
119 rate of wages and amount of employee welfare fund  
120 payments or contributions and shall include such  
121 rate of wage on an hourly basis and the amount of  
122 payment or contributions paid or payable on behalf  
123 of each employee to any employee welfare fund, as  
124 defined in subsection [(h)] (i), or in lieu  
125 thereof the amount to be paid directly to each  
126 employee for such payment or contributions as  
127 provided in subsection (a) for all classifications  
128 of labor in the proposal for the contract. The  
129 rate of wage on an hourly basis and the amount of  
130 payment or contributions to any employee welfare  
131 fund, as defined in subsection [(h)] (i), or cash  
132 in lieu thereof, as provided in subsection (a),  
133 shall, at all times, be considered as the minimum  
134 rate for the classification for which it was  
135 established. Prior to the award of any contract  
136 subject to the provisions of this section, such  
137 agent shall certify in writing to the Labor  
138 Commissioner the total dollar amount of work to be  
139 done in connection with such public works project,  
140 regardless of whether such project consists of one  
141 or more contracts. Upon the award of any contract  
142 subject to the provisions of this section, the  
143 contractor to whom such contract is awarded shall  
144 certify, under oath, to the Labor Commissioner the  
145 pay scale to be used by such contractor and any of  
146 his subcontractors for work to be performed under  
147 such contract.

148 (f) Each employer subject to the provisions  
149 of this section or section 31-54, AS AMENDED,  
150 shall (1) keep, maintain and preserve such records  
151 relating to the wages and hours worked by each  
152 employee and a schedule of the occupation or work  
153 classification at which each mechanic, laborer or  
154 workman on the project is employed during each  
155 work day and week in such manner and form as the  
156 Labor Commissioner establishes to assure the  
157 proper payments due to such employees or employee  
158 welfare funds under this section or section 31-54,  
159 AS AMENDED, and (2) submit monthly to the  
160 contracting agency a certified payroll which shall  
161 consist of a complete copy of such records  
162 accompanied by a statement signed by the employer  
163 which indicates that (A) such records are correct;  
164 (B) the rate of wages paid to each mechanic,  
165 laborer or workman and the amount of payment or

166 contributions paid or payable on behalf of each  
167 such employee to any employee welfare fund, as  
168 defined in subsection [(h)] (i) of this section,  
169 are not less than the prevailing rate of wages and  
170 the amount of payment or contributions paid or  
171 payable on behalf of each such employee to any  
172 employee welfare fund, as determined by the Labor  
173 Commissioner pursuant to subsection (d) of this  
174 section, and not less than those required by the  
175 contract to be paid; (C) the employer has complied  
176 with the provisions of this section and section  
177 31-54, AS AMENDED; (D) each such employee is  
178 covered by a workers' compensation insurance  
179 policy for the duration of his employment, which  
180 shall be demonstrated by submitting to the  
181 contracting agency the name of the workers'  
182 compensation insurance carrier covering each such  
183 employee, the effective and expiration dates of  
184 each policy and each policy number; (E) the  
185 employer does not receive kickbacks, as defined in  
186 41 USC 52, from any employee or employee welfare  
187 fund; and (F) pursuant to the provisions of  
188 section 53a-157a, the employer is aware that  
189 filing a certified payroll which he knows to be  
190 false is a class D felony for which the employer  
191 may be fined up to five thousand dollars,  
192 imprisoned for up to five years, or both. This  
193 subsection shall not be construed to prohibit a  
194 general contractor from relying on the  
195 certification of a lower tier subcontractor,  
196 provided the general contractor shall not be  
197 exempted from the provisions of section 53a-157a  
198 if he knowingly relies upon a subcontractor's  
199 false certification. Notwithstanding the  
200 provisions of section 1-19, the certified payroll  
201 shall be considered a public record and every  
202 person shall have the right to inspect and copy  
203 such records in accordance with the provisions of  
204 section 1-15. The provisions of sections 31-59(a),  
205 31-59(b), 31-66 and 31-69, AS AMENDED, which are  
206 not inconsistent with the provisions of this  
207 section or section 31-54, AS AMENDED, shall apply  
208 to this section. Failing to file a certified  
209 payroll pursuant to subdivision (2) of this  
210 subsection is a class D felony for which the  
211 employer may be fined up to five thousand dollars,  
212 imprisoned for up to five years, or both.

213 (g) The provisions of this section shall not  
214 apply where the total cost of all work to be  
215 performed by all contractors and subcontractors in  
216 connection with new construction of any public  
217 works project is less than four hundred thousand  
218 dollars or where the total cost of all work to be  
219 performed by all contractors and subcontractors in  
220 connection with any remodeling, refinishing,  
221 refurbishing, rehabilitation, alteration or repair  
222 of any public works project is less than one  
223 hundred thousand dollars.

224 (h) THE PROVISIONS OF THIS SECTION SHALL  
225 APPLY TO EACH CONSTRUCTION PROJECT FINANCED WITH  
226 ASSISTANCE FROM THE DEPARTMENT OF ECONOMIC AND  
227 COMMUNITY DEVELOPMENT REGARDLESS OF THE AMOUNT OF  
228 SUCH ASSISTANCE, PROVIDED (1) THE TOTAL COST OF  
229 ALL WORK TO BE PERFORMED BY ALL CONTRACTORS AND  
230 SUBCONTRACTORS IN CONNECTION WITH NEW CONSTRUCTION  
231 OF A PROJECT IS GREATER THAN FOUR HUNDRED THOUSAND  
232 DOLLARS, OR (2) THE TOTAL COST OF ALL WORK TO BE  
233 PERFORMED BY ALL CONTRACTORS AND SUBCONTRACTORS IN  
234 CONNECTION WITH ANY REMODELING, REFINISHING,  
235 REFURBISHING, REHABILITATION, ALTERATION OR REPAIR  
236 OF A PROJECT IS GREATER THAN ONE HUNDRED THOUSAND  
237 DOLLARS.

238 [(h)] (i) As used in this section, section  
239 31-54, AS AMENDED, and section 31-89a, "employee  
240 welfare fund" means any trust fund established by  
241 one or more employers and one or more labor  
242 organizations or one or more other third parties  
243 not affiliated with the employers to provide from  
244 moneys in the fund, whether through the purchase  
245 of insurance or annuity contracts or otherwise,  
246 benefits under an employee welfare plan; provided  
247 such term shall not include any such fund where  
248 the trustee, or all of the trustees, are subject  
249 to supervision by the Commissioner of Banking of  
250 this state or any other state or the Comptroller  
251 of the Currency of the United States or the Board  
252 of Governors of the Federal Reserve System, and  
253 "benefits under an employee welfare plan" means  
254 one or more benefits or services under any plan  
255 established or maintained for employees or their  
256 families or dependents, or for both, including,  
257 but not limited to, medical, surgical or hospital  
258 care benefits; benefits in the event of sickness,  
259 accident, disability or death; benefits in the  
260 event of unemployment, or retirement benefits.

261 Sec. 2. Subsection (a) of section 31-89a of  
262 the general statutes is repealed and the following  
263 is substituted in lieu thereof:

264 (a) Payments to employee welfare funds, as  
265 defined in subsection [(h)] (i) of section 31-53,  
266 AS AMENDED BY THIS ACT, which are past due under  
267 the terms of a written contract or rules and  
268 regulations adopted by the trustees of such funds  
269 shall be considered as wages for the purpose of  
270 section 31-72.

271 STATEMENT OF LEGISLATIVE COMMISSIONERS: Because  
272 the definitions for this section have been moved  
273 to subsection (i), all internal references to the  
274 definitions have been changed accordingly. In  
275 addition, a new section 2 has been added to the  
276 bill to correct a reference to the definitions in  
277 subsection (a) of section 31-89a of the general  
278 statutes. In addition, references in the bill to  
279 sections 1-210 and 1-212 of the general statutes  
280 have been deleted and replaced with references to  
281 sections 1-19 and 1-15 of the general statutes,  
282 respectively, in conformity with existing  
283 statutory language.

284 LAB COMMITTEE VOTE: YEA 9 NAY 5 JFS-LCO

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

\* \* \* \* \*

**FISCAL IMPACT STATEMENT - BILL NUMBER HB 5601**

STATE IMPACT	Cost (Bond Funds), Potential Cost, Potential Revenue, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Department of Labor and Economic and Community Development, Various Criminal Justice Agencies

**EXPLANATION OF ESTIMATES:**

STATE IMPACT: It is estimated that prevailing wage requirements add an average of 4% to 7% to the cost of a construction project. This is based information contained in a December, 1996 report by the Legislative Program Review and Investigations Committee (Prevailing Wage Laws in Connecticut). It should be noted that projects that receive federal funds are subject to the federal prevailing wage law (Davis-Bacon Act).

Extending the prevailing wage law to certain construction projects financed with assistance from the state Department of Economic and Community Development (DECD) could increase the administrative costs depending upon the number of projects undertaken which is not known at this time.

There would be a workload increase for the Department of Labor with the addition of the projects requiring prevailing wages. At the present time, the Department of Labor examines approximately 1,400 prevailing wage contracts with 6 staff individuals. Since it is unknown how many contracts will be added for them to

review, it is uncertain as to whether this can be handled within the Department of Labor resources.

In addition, extending the prevailing wage law to additional projects could result in additional violations. Although the number of these cases is uncertain, it is estimated that the impact on the criminal justice system can be absorbed within current budgetary and caseload structures. Any increase in revenues from criminal fines is anticipated to be minimal.

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### OLR BILL ANALYSIS

HB 5601

#### **AN ACT CONCERNING WAGES ON CONSTRUCTION PROJECTS FINANCED WITH STATE ECONOMIC DEVELOPMENT ASSISTANCE**

**SUMMARY:** This bill extends the prevailing wage law, which now applies to state or local public works construction projects, to construction projects financed with assistance from the state Department of Community and Economic Development. As under current law, the prevailing wage requirements apply only if the total cost of work by all contractors and subcontractors exceeds \$400,000 for new construction or \$100,000 for remodeling, rehabilitation, and repair.

Contractors subject to the prevailing wage law must, among other things, pay workers an hourly wage at least equal to the customary rate for the same work in the town; make the customary contribution to any employee welfare fund covering the worker, or if there is none, pay the contribution to the employee; and submit a certified payroll weekly to the contracting authority. Penalties for violating the law include fines, imprisonment, and being barred from future contracts, depending on the violation.

EFFECTIVE DATE: October 1, 1998

#### **COMMITTEE ACTION**

Labor and Public Employees Committee

10

File No. 141

Joint Favorable Report  
Yea 9      Nay 5