

Senate, March 30, 1998. The Committee on Labor and Public Employees reported through SEN. PRAGUE, 19th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING STANDARDS FOR ECONOMIC DEVELOPMENT GRANTS AND SERVICE CONTRACTS.

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

1 (NEW) (a) Every contract, and any bid
2 specification or request for proposal therefor,
3 and every grant, entered into by the state in
4 excess of fifty thousand dollars in cost to the
5 state, or in excess of fifty thousand dollars in
6 cost to the contractor, except as provided in
7 subsection (i) of this section, whether negotiated
8 or advertised, the principal purpose of which is
9 to furnish services to the state through the use
10 of service employees, or the principal purpose of
11 which is to furnish services to the public at a
12 facility owned, operated or controlled by the
13 state, or the principal purpose of which is to
14 provide economic development assistance, shall
15 contain the following provisions with which the
16 contractor, subcontractor or grantee shall comply
17 for the life of the contract:

18 (1) A provision specifying the minimum
19 monetary wages to be paid the various classes of
20 employees in the performance of the contract or
21 any subcontract thereunder, as determined by the
22 Labor Commissioner, or his authorized

23 representative, in accordance with subsection (g)
24 of this section, or, where a collective bargaining
25 agreement covers any such service employees, in
26 accordance with the rates for such employees
27 provided for in such agreement, including
28 prospective wage increases provided for in such
29 agreement as a result of arm's length
30 negotiations. In no case shall such wages be lower
31 than the minimum specified in subsection (g) of
32 this section.

33 (2) A provision that no part of the
34 employment covered by this section shall be
35 performed in buildings or surroundings or under
36 working conditions provided by or under the
37 control or supervision of the contractor or any
38 subcontractor or grantee which are unsanitary or
39 hazardous or dangerous to the health or safety of
40 employees engaged to furnish such employment.

41 (3) A provision that on the date an employee
42 commences work on a contract to which this section
43 applies, the contractor, subcontractor or grantee
44 shall deliver to the employees a notice of the
45 compensation required under subdivision (1) of
46 this subsection, on a form prepared by the Labor
47 Commissioner, or will post a notice of the
48 required compensation in a prominent place at the
49 work site.

50 (4) A provision that the contractor,
51 subcontractor or grantee shall not, in the
52 performance of its contract, violate any state or
53 federal laws.

54 (5) A provision that no executive officer of
55 the contractor, subcontractor or grantee shall
56 earn total compensation not reasonably related to
57 the lowest full-time pay of any employee of the
58 contractor or subcontractor or grantee. For
59 purposes of this subdivision, "reasonably related"
60 means that the ratio of the total compensation of
61 the highest paid executive officer to that of the
62 lowest paid full-time employee shall be no greater
63 than fifty, unless the pay for the lowest paid
64 employee results from arm's length collective
65 bargaining, and the parties to the collective
66 bargaining agreement agree that the requirement of
67 this subdivision shall be waived.

68 (6) A provision that where the contract
69 replaces employment previously being performed by
70 employees other than those of the contractor or

71 subcontractor, the contractor or subcontractor
72 shall retain, for a ninety-day transition
73 employment period, employees who have been
74 employed by the previous employer or its
75 subcontractors, if any, for the preceding twelve
76 months or longer. The following requirements shall
77 govern such a contract: (A) During such ninety-day
78 period, employees so hired shall be employed under
79 the terms and conditions established by the
80 contractor or subcontractor or as required by law;
81 (B) if at any time the contractor or subcontractor
82 determines that fewer employees are required to
83 perform the new service contract than were
84 required by the previous employer, the contractor,
85 subcontractor or grantee shall retain employees by
86 seniority within job classification; (C) during
87 such ninety-day period, the contractor or
88 subcontractor or grantee shall maintain a
89 preferential hiring list of eligible covered
90 employees not retained by the contractor or
91 subcontractor from which the contractor or
92 subcontractor shall hire additional employees; (D)
93 except as provided in subparagraph (B) of this
94 subdivision, the contractor or subcontractor shall
95 not discharge an employee retained pursuant to
96 this section during the ninety-day transition
97 period without cause; and (E) at the end of such
98 ninety-day period, the contractor or subcontractor
99 shall offer the employees continued employment
100 under the terms and conditions established by the
101 contractor, subcontractor or grantee or as
102 required by law, unless such contractor,
103 subcontractor or grantee has found that an
104 employee whose services are to be discontinued has
105 failed to perform his duties in a satisfactory
106 manner. Where a contract or contracts are being
107 let where the same or similar services were
108 rendered under multiple service contracts, the
109 contractor or subcontractor shall pool the
110 employees, ordered by seniority within job
111 classification, under such prior contracts. Where
112 pooling of employees has occurred, the contractor
113 or subcontractor shall draw from such pools in
114 accordance with this section, provided this
115 requirement shall not apply to grantees.

116 (b) Any contractor, subcontractor or grantee
117 or agent of such contractor, subcontractor or
118 grantee who violates subsection (a) of this

119 section shall be fined not less than two thousand
120 five hundred dollars but not more than five
121 thousand dollars for each offense. The contracting
122 department of the state that has fined the
123 required employer or agent of such employer shall,
124 within two days after taking such action, notify
125 the Labor Commissioner, in writing, of the name of
126 the employer or agent involved, the violations
127 involved and steps taken to collect the required
128 wages.

129 (c) The Labor Commissioner may make complaint
130 to the proper prosecuting authorities for the
131 violation of any provision of this section.

132 (d) For the purpose of predetermining the
133 standard rate of covered wages on an hourly basis
134 the Labor Commissioner shall hold a hearing not
135 less than once per year to determine the standard
136 rate of wages paid on an hourly basis for the
137 provision of covered services within the state,
138 and shall establish classifications for all hourly
139 nonsupervisory employees. The standard rate of
140 wages for each classification shall then be
141 determined to be the median of the wages paid to
142 employees in the state working thirty-five or more
143 hours per week plus a thirty per cent surcharge,
144 which shall be deemed to be paid to the employee
145 if it is included directly in wages or used to
146 cover the cost of health, welfare and retirement
147 benefits, at the employer's discretion.

148 (e) Companies with employees covered by
149 collective bargaining agreements which call for
150 wages and benefits that are reasonably related to
151 the standard rate shall not be economically
152 disadvantaged in the bidding process, provided the
153 collective bargaining agreement was arrived at
154 through arm's length negotiations.

155 (f) Companies with employer-provided day
156 care, transportation or education programs, and
157 companies participating in welfare-to-work
158 programs, shall not be economically disadvantaged
159 by these program costs in the bidding process.

160 (g) The Labor Commissioner shall determine
161 the standard rate of wages for each classification
162 on an hourly basis where any covered services are
163 to be provided and the agent empowered to let such
164 contract shall contact the Labor Commissioner, at
165 least ten days prior to the date such contract
166 will be advertised for bid, to ascertain the

167 standard rate of wages and shall include the
168 standard rate of wages on an hourly basis for all
169 classifications of employment in the proposal for
170 the contract. The standard rate of wages on an
171 hourly basis shall, at all times, be considered
172 the minimum rate for the classification for which
173 it was established.

174 (h) Each contractor, subcontractor or grantee
175 shall (1) keep, maintain and preserve such records
176 relating to the wages and hours worked by each
177 employee and a schedule of the occupation or work
178 classification at which each person is employed
179 during each work day and week in such manner and
180 form as the Labor Commissioner establishes to
181 assure the proper payments due to such employees,
182 and (2) upon written request, submit to the
183 contracting agent a certified payroll which shall
184 consist of a complete copy of such records
185 accompanied by a statement signed by the employer
186 which indicates that (A) such records are correct,
187 (B) the rate of wages paid to each employee is not
188 less than the standard rate of wages required by
189 this section, (C) such employer has complied with
190 the provisions of this section, and (D) such
191 employer is aware that filing a certified payroll
192 which they know to be false is a class D felony
193 for which such employer may be fined up to five
194 thousand dollars or imprisoned for up to five
195 years, or both. Notwithstanding the provisions of
196 section 1-19 of the general statutes, as amended,
197 the certified payroll shall be considered a public
198 record and every person shall have the right to
199 inspect and copy such record in accordance with
200 the provisions of section 1-15 of the general
201 statutes, as amended. The provisions of
202 subsections (a) and (b) of section 31-59 of the
203 general statutes and sections 31-66 and 31-69 of
204 the general statutes, as amended, which are not
205 inconsistent with the provisions of this section
206 shall apply. Any person who files a false
207 certified payroll in violation of subdivision (2)
208 of this subsection is guilty of a class D felony
209 for which such person may be fined up to five
210 thousand dollars or imprisoned for up to five
211 years, or both.

212 (i) This section shall not apply to: (1)
213 Contracts, agreements, economic development funds
214 or grants which do not exceed forty-nine thousand

215 nine hundred ninety-nine dollars per annum; (2)
216 homes, facilities, organizations, programs,
217 institutions or similar entities which receive
218 reimbursement on a cost-based system in accordance
219 with the Title XIX Medicaid program; (3) persons
220 in supported employment positions funded by the
221 Departments of Mental Retardation, Social Services
222 or Mental Health and Addiction Services, or any
223 other state agency; (4) contracts or agreements
224 with acute care facilities for the provision of
225 acute care; and (5) nonprofit organizations where
226 no executive officer earns total compensation
227 greater than ten times the lowest full-time pay of
228 any employee of the contractor, subcontractor or
229 grantee.

230 (j) On receipt of a complaint for nonpayment
231 of the standard rate of wages, the Labor
232 Commissioner or the director of minimum wage and
233 wage enforcement agents of the Labor Department
234 may enter, during usual business hours, the place
235 of business or employment of any employer to
236 determine compliance with this section, and for
237 such purpose may examine payroll and other records
238 and interview employees, call hearings, administer
239 oaths, take testimony under oath and take
240 depositions in the manner provided by sections
241 52-148a to 52-148e, inclusive, of the general
242 statutes. The Labor Commissioner or the director,
243 for such purpose, may issue subpoenas for the
244 attendance of witnesses and the production of
245 books and records. Any required employer, his
246 officer or agent or the officer or agent of any
247 corporation, firm or partnership who wilfully
248 fails to furnish time and wage records as required
249 by law to the Labor Commissioner, the director or
250 any wage enforcement agent, upon request, or who
251 refuses to admit the Labor Commissioner, the
252 director or such agent to his place of employment
253 or who hinders or delays the Labor Commissioner,
254 the director or such agent in the performance of
255 his duties in the enforcement of this section
256 shall be fined not less than twenty-five dollars
257 nor more than one hundred dollars, and each day of
258 such failure to furnish time and wage records to
259 the Labor Commissioner, the director or such agent
260 shall constitute a separate offense, and each day
261 of refusal of admittance, of hindering or of

262 delaying the Labor Commissioner, the director or
263 such agent shall constitute a separate offense.

264 (k) (1) Any employee claiming to be aggrieved
265 by a violation of subdivision (1), (2), (3) or (6)
266 of subsection (a) of this section may, within
267 three years of when he knew or should have known
268 of such violation, institute and prosecute in his
269 own name and on his own behalf, or for himself and
270 for others similarly situated, a civil action for
271 injunctive relief and any damages incurred,
272 including treble damages for any loss of wages and
273 other benefits and reasonable attorneys' fees. (2)
274 No employer shall discharge, discipline or
275 otherwise penalize any employee because the
276 employee, or a person acting on behalf of the
277 employee, reports a violation or suspected
278 violation of this section to the employer, or to
279 any local, state or federal official or because
280 the employee, or a person acting on behalf of the
281 employee, has exercised any right under this
282 section.

283 (l) Notwithstanding any provision of the
284 general statutes, no grant of fifty thousand
285 dollars or greater for economic development shall
286 be issued except pursuant to a contract with the
287 grantee in compliance with subsection (a) of this
288 section.

289 (m) The Labor Commissioner may adopt
290 regulations, in accordance with chapter 54 of the
291 general statutes, to carry out the provisions of
292 this section.

293 (n) Nothing in this section shall be
294 construed to diminish or otherwise affect the
295 requirements, guarantees or protections under any
296 bargaining agreement, company policy or state or
297 federal law which provides for greater or
298 additional benefits than those required under this
299 section.

300 LAB COMMITTEE VOTE: YEA 9 NAY 5 JFS

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"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."

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FISCAL IMPACT STATEMENT - BILL NUMBER SSB 273

STATE IMPACT	Indeterminate	Cost,	see
		explanation below	
MUNICIPAL IMPACT	None		
STATE AGENCY(S)	Various State Agencies,	Department	
	of Labor		

EXPLANATION OF ESTIMATES:

STATE IMPACT: The passage of this bill would result in additional costs to the State that cannot be determined at this time, but that could be significant. The bill requires the State to include minimum labor standards in most service contracts and economic development grants worth more than \$50,000. These include minimum pay rates for employees, limitations on executive compensation, and mandates on new employment opportunities for displaced long-term employees. These criteria would combine to increase the cost of contracted services to the State, both from direct cost increases to the vendors and from the probability that fewer vendors would bid on, or be eligible to compete for State contracts.

The bill also establishes employer record keeping requirements, with fines and penalties for violations. This would further increase the cost of contracts. The bill changes the criteria for awarding State service contracts by directing that bidders not be penalized for providing higher pay and benefits than the required minimum. This could result in the lowest bidder not being awarded the contract, again increasing costs to the State. These additional requirements would also increase the administrative costs for State agencies in

contracting for services. The total costs for the State cannot be determined at this time, but could be significant.

There would be an indeterminate cost to the Department of Labor associated with investigating complaints for the nonpayment of standard wages for these contracts. The amount of contracts is uncertain at this time. The department would also have to predetermine the standard rate at least once a year for each classification filled by a covered service contract. The department would need an indeterminate number of positions to handle this responsibility.

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OLR BILL ANALYSIS

sSB 273

AN ACT CONCERNING STANDARDS FOR ECONOMIC DEVELOPMENT GRANTS AND SERVICE CONTRACTS

SUMMARY: This bill requires the state to include minimum labor standards in most service contracts and economic development grants worth more than \$50,000. It mandates (1) minimum pay rates and employee notification, (2) limitations on executive compensation, (3) new employment opportunities for long-term employees when the state replaces a service contractor, and (4) compliance with state and federal laws, including those requiring safe and sanitary working conditions.

The bill requires that covered contractors and grant recipients, and all subcontractors working on covered projects, regardless of the dollar value of their subcontract, comply with the mandated labor standards.

It establishes employer record keeping requirements and creates fines and penalties for violations. It prohibits employer retaliation against employees who report violations and allows workers to file lawsuits.

It changes the criteria for awarding service contracts by directing that (1) unionized bidders not be penalized for paying union rates that are higher than, but "reasonably related" to (a term that the bill does

not define), the required minimum and (2) bidders not be penalized for the increased cost of providing day care, transportation, or education benefits or for participating in welfare to work programs.

The bill does not apply to (1) facilities that receive federal Medicaid reimbursement under a cost-based system, (2) physically or mentally handicapped individuals working in supported employment positions, (3) contracts with acute care facilities for the provision of acute care, or (4) to nonprofit organizations where no executive earns more than 10 times what is earned by the lowest paid employee.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Minimum Pay Rates

The bill requires the labor commissioner to determine the standard rate at least once a year for each job classification filled by covered service contract or economic development grant employees. It defines that rate as the midpoint of the hourly wages paid to employees in this state working 35 or more hours weekly, plus a 30% surcharge. It gives employers the choice of paying the surcharge as wages or using it to pay for employee benefits.

The bill makes the standard rate the minimum that covered contractors, subcontractors, or grant recipients ("covered employers") can pay. It also requires covered employers to pay higher rates to unionized employees, so long as they were fairly bargained for.

The bill requires state contracting agencies to contact the labor commissioner at least 10 days before putting a covered contract out to bid and to include standard minimum rates in all bid specifications and requests for proposal.

Notice Requirements

The bill directs covered employers to notify employees of the required wage rates on their first day of work, either by prominently posting a notice or by using

forms prepared by the labor commissioner.

Limitations on Executive Compensation

The bill limits executive compensation to no more than 50 times the annual earnings of the covered employer's lowest paid full-time employee. This requirement can be waived if the employer and its union representative agree.

Transitional Employment

Where the state changes service contractors, the bill requires the new contractor to offer 90 days of transitional employment to displaced employees who worked for the past 12 months or longer. The new contractor may set the terms and conditions of their employment but cannot fire them without cause during the transition period. Covered employers must retain transitional workers whose work has been satisfactory after the 90-day period ends.

The bill directs that covered employers lay off transitional employees by seniority within job classification and place them on a preferential rehire list during the transition period. Where a new service contract has replaced several prior contracts, the bill requires that the new contractor or subcontractor, but not grant recipient, assign eligible employees to a single pool by seniority.

Recordkeeping

The bill requires covered employers to keep wage, hour, and job classification records, and upon written request, to provide the contracting agent with a certified payroll. It makes it a class D felony, punishable by a fine of up to \$5,000, imprisonment for five years, or both, to knowingly submit a false certified payroll.

The bill deems certified payrolls to be public documents; they are exempt from disclosure under current law.

Labor Commissioner's Investigation of Wage Complaints

The bill authorizes the labor commissioner to examine

records and investigate complaints using the same procedures and penalties that he currently uses in resolving minimum wage and overtime claims such as (1) entering the workplace to examine records and interview witnesses and (2) issuing subpoenas, taking depositions, and holding hearings. He may fine employers between \$25 and \$100 for each day they hinder or delay his investigation.

The bill also authorizes the commissioner to adopt implementing regulations and to refer violators to prosecutors for criminal prosecution.

Fines for Violations of Minimum Labor Standard Provisions

The bill requires contracting agencies to fine violators between \$2,500 and \$5,000 for each offense. Within two days of imposing a fine, they must give the labor commissioner written notice of the violator, its violation, and their wage collection efforts.

Employers Cannot Retaliate

The bill allows employees and their representatives to report actual or suspected violations to their employers or to government officials. Covered employers are prohibited from disciplining, discharging, or penalizing employees for these activities, or for exercising any other right under the bill.

Employee Private Right of Action

The bill allows individuals or groups to sue their employer, within three years of a violation, claiming (1) underpayment of wages, or lack of notice of the standard wage rate; (2) violations of transitional employment requirements; or (3) violations of the required health and safety provisions. Courts may issue injunctions and award money damages, including triple lost wages and benefits, and attorneys' fees.

Greater Benefits not Diminished

The bill specifies that it does not diminish any additional requirements, greater protections, or additional benefits granted under federal or state law, union contracts, or company policies.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 9 Nay 5