

# SENATE BILL 833

P2, K3

5lr2928  
CF HB 988

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By: **Senator Benson**

Introduced and read first time: February 23, 2015

Assigned to: Rules

Re-referred to: Finance, March 6, 2015

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 3, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Procurement – Prevailing Wage Rate Law – Penalties and Liquidated Damages**

3 FOR the purpose of ~~altering the penalty for certain violations of the prevailing wage rate~~  
4 ~~law related to the posting of certain statements of prevailing wage rates; altering the~~  
5 ~~amount of certain liquidated damages for which a certain contractor is liable for~~  
6 ~~certain violations of the prevailing wage rate law related to payroll records; altering~~  
7 the circumstances under which a certain contractor is liable for certain damages and  
8 the amount of certain liquidated damages for which a certain contractor is liable  
9 when certain laborers or certain other employees are paid less than certain  
10 prevailing wage rates; and generally relating to the enforcement of the prevailing  
11 wage rate law.

12 BY repealing and reenacting, with amendments,  
13 Article – State Finance and Procurement  
14 Section ~~17-219, 17-220, and~~ 17-222  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2014 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
18 That the Laws of Maryland read as follows:

### 19 **Article – State Finance and Procurement**

20 ~~17-219.~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1           ~~(a) Each contractor under a public work contract subject to this subtitle shall:~~
- 2                   ~~(1) post a clearly legible statement of each prevailing wage rate to be paid~~  
3 ~~under the public work contract; and~~
- 4                   ~~(2) keep the statement posted during the full time that any employee is~~  
5 ~~employed on the public work contract.~~
- 6           ~~(b) The statement of prevailing wage rates shall be posted in a prominent and~~  
7 ~~easily accessible place at the site of the public work.~~
- 8           ~~(c) Subject to § 10-1001 of the State Government Article, the Commissioner may~~  
9 ~~impose on a person that violates this section a civil penalty of up to [\$50] \$750 per~~  
10 ~~violation.~~
- 11 ~~17-220.~~
- 12           ~~(a) Each contractor required to pay the prevailing wage rate shall:~~
- 13                   ~~(1) keep payroll records covering work performed directly at the work site~~  
14 ~~in accordance with regulations adopted by the Commissioner; and~~
- 15                   ~~(2) allow the Commissioner or the public body to inspect the records at any~~  
16 ~~reasonable time and as often as necessary.~~
- 17           ~~(b) (1) Each contractor shall submit a complete copy of the payroll records of~~  
18 ~~the contractor and, for work performed at the work site, of the subcontractors in the form~~  
19 ~~that the Commissioner specifies by regulation to:~~
- 20                           ~~(i) the public body; and~~
- 21                           ~~(ii) the Commissioner.~~
- 22                   ~~(2) The Commissioner and the public body shall make payroll records~~  
23 ~~available for public inspection during regular business hours.~~
- 24           ~~(c) Each copy of the payroll records shall be accompanied by a statement that is~~  
25 ~~signed by the contractor or, for the subcontractor's records, by the subcontractor and~~  
26 ~~indicates that:~~
- 27                   ~~(1) the payroll records are correct;~~
- 28                   ~~(2) the wage rates paid are not less than those established by the~~  
29 ~~Commissioner as set forth in the public work contract;~~

~~(3) the classification set forth for each employee conforms with the work performed by that employee; and~~

~~(4) the contractor or subcontractor has complied with each requirement of this subtitle.~~

~~(d) If a contractor is late in submitting copies of the payroll records required under subsection (b) of this section:~~

~~(1) the public body may postpone the processing of partial payment estimates under the public work contract pending receipt of the copies; and~~

~~(2) the contractor shall be liable to the public body for liquidated damages of ~~[\$10] \$750~~ for each calendar day the records are late.~~

~~17-222.~~

~~(a) (1) A contractor under a public work contract is liable to the public body for liquidated damages [of \$20] **EQUAL TO THE AMOUNT SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION** for each laborer or other employee for each day for which:~~

~~[(1)] (I) the laborer is paid less than the prevailing wage rate of a mechanic while performing a task required to be performed by a mechanic or mechanic's apprentice; or~~

~~[(2)] (II) the employee is paid less than the prevailing wage rate.~~

~~(2) **THE LIQUIDATED DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL EQUAL THE GREATER OF:**~~

~~(I) **\$750; OR**~~

~~(II) **THREE TIMES THE AMOUNT OF THE DIFFERENCE BETWEEN THE PREVAILING WAGE DUE AND THE WAGE ACTUALLY PAID TO THE LABORER OR EMPLOYEE.**~~

~~17-222.~~

(a) A contractor under a public work contract is liable to the public body for liquidated damages of [ \$20 ] **\$250** for each laborer or other employee for each day for which **THE CONTRACTOR KNOWINGLY PAYS:**

(1) the laborer ~~is paid~~ less than the prevailing wage rate of a mechanic while **THE LABORER IS** performing a task required to be performed by a mechanic or mechanic's apprentice; or

1                   (2)    the employee ~~is paid~~ less than the prevailing wage rate.

2           (b)   (1)    If a contractor or subcontractor pays an employee less than the amount  
3 the employee is entitled to receive for the work performed, the contractor shall make  
4 restitution to the employee.

5                   (2)    The contractor and the subcontractor shall be jointly and severally  
6 liable for restitution to the subcontractor’s employees.

7           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2015.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.