

SECOND REGULAR SESSION

SENATE BILL NO. 834

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALSH.

Read 1st time February 6, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4764S.011

AN ACT

To repeal sections 290.210 and 290.230, RSMo, and to enact in lieu thereof two new sections relating to bidding for public works projects.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 290.210 and 290.230, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 290.210 and 290.230, to
3 read as follows:

290.210. As used in sections 290.210 to 290.340, unless the context
2 indicates otherwise:

3 (1) "Adjacent county", any Missouri county of the third or fourth
4 classification having a boundary that, at any point, touches any boundary of the
5 locality for which the wage rate is being determined;

6 (2) "Collective bargaining agreement" means any written agreement or
7 understanding between an employer or employer association and a labor
8 organization or union which is the exclusive bargaining representative of the
9 employer's or employer association's employees pursuant to the terms of the
10 National Labor Relations Act and which agreement or understanding or
11 predecessor agreement or understanding has been used to determine an
12 occupational title wage rate;

13 (3) "Construction" includes construction, reconstruction, improvement,
14 enlargement, alteration, painting and decorating, or major repair;

15 (4) "Department" means the department of labor and industrial relations;

16 (5) "Labor organization" or "union" means any entity which has been
17 designated pursuant to the terms of the National Labor Relations Act as the
18 exclusive bargaining representative of employees of employers engaged in the
19 construction industry, which entity or affiliated entity has ever had a collective
20 bargaining agreement which determined an occupational title wage rate;

21 (6) "Locality" means the county where the physical work upon public
22 works is performed;

23 (7) "Maintenance work" means the repair, but not the replacement, of
24 existing facilities when the size, type or extent of the existing facilities is not
25 thereby changed or increased;

26 (8) "Prevailing hourly rate of wages" means the wages paid generally, in
27 the locality in which the public works is being performed, to workmen engaged
28 in work of a similar character including the basic hourly rate of pay and the
29 amount of the rate of contributions irrevocably made to a fund, plan or program,
30 and the amount of the rate of costs to the contractor or subcontractor which may
31 be reasonably anticipated in providing benefits to workmen and mechanics
32 pursuant to an enforceable commitment to carry out a financially responsible plan
33 or program which was communicated in writing to the workmen affected, for
34 medical or hospital care, pensions on retirement or death, compensation for
35 injuries or illness resulting from occupational activity, or insurance to provide
36 any of the foregoing, for unemployment benefits, life insurance, disability and
37 sickness insurance, accident insurance, for vacation and holiday pay, for
38 defraying costs of apprenticeship or other similar programs, or for other bona fide
39 fringe benefits, but only where the contractor or subcontractor is not required by
40 other federal or state law to provide any of the benefits; provided, that the
41 obligation of a contractor or subcontractor to make payment in accordance with
42 the prevailing wage determinations of the department, insofar as sections 290.210
43 to 290.340 are concerned, may be discharged by the making of payments in cash,
44 by the making of irrevocable contributions by the assumption of an enforceable
45 commitment to bear the costs of a plan or program as provided herein, or any
46 combination thereof, where the aggregate of such payments, contributions and
47 costs is not less than the rate of pay plus the other amounts as provided herein;

48 (9) "Previous six annual wage order reporting periods" means the current
49 annual wage order reporting period under consideration for wage rate
50 determinations and the five immediately preceding annual wage order reporting
51 periods;

52 (10) "Public body" means the state of Missouri or any officer, official,
53 authority, board or commission of the state, or other political subdivision thereof,
54 or any institution supported in whole or in part by public funds;

55 (11) "Public works" means all fixed works constructed for public use or
56 benefit or paid for wholly or in part out of public funds. It also includes any work

57 done directly by any public utility company when performed by it pursuant to the
58 order of the public service commission or other public authority whether or not
59 it be done under public supervision or direction or paid for wholly or in part out
60 of public funds when let to contract by said utility. It does not include any work
61 done for or by any drainage or levee district;

62 **(12) "Responsible bidder" means a bidder that:**

63 **(a) Maintains an office in Missouri on a continuous basis for at**
64 **least one year prior to the awarding of the contract. In the case of a**
65 **joint venture, local contractors have fifty percent or more ownership;**

66 **(b) Has a ten-hour Occupational Safety and Health**
67 **Administration course or the equivalent and a written safety program**
68 **with emphasis on such bidder's experience modification rating;**

69 **(c) Has documented ongoing upgrade training;**

70 **(d) Strictly enforces the prevailing wage requirements and**
71 **complies with such requirements;**

72 **(e) Has a satisfactory record of prior project performance,**
73 **including the absence of liens and debarment; and**

74 **(f) Satisfies all local licensing requirements if the locality**
75 **requires any licensing;**

76 **(13) "Workmen" means laborers, workmen and mechanics.**

290.230. 1. Not less than the prevailing hourly rate of wages for work of
2 a similar character in the locality in which the work is performed, and not less
3 than the prevailing hourly rate of wages for legal holiday and overtime work,
4 shall be paid to all workmen employed by or on behalf of any public body engaged
5 in the construction of public works, exclusive of maintenance work. Only such
6 workmen as are directly employed by contractors or subcontractors in actual
7 construction work on the site of the building or construction job shall be deemed
8 to be employed upon public works.

9 **2. Each public body awarding a contract for the construction of**
10 **public works shall specify in the call for bids and shall require that**
11 **each bidder be a responsible bidder.**

12 **3.** When the hauling of materials or equipment includes some phase of
13 construction other than the mere transportation to the site of the construction,
14 workmen engaged in this dual capacity shall be deemed employed directly on
15 public works.

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