

2024 -- S 2901 SUBSTITUTE A

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LC004771/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- LABOR AND PAYMENT OF DEBTS
BY CONTRACTORS

Introduced By: Senators Ciccone, DiPalma, Raptakis, F. Lombardi, Burke, and
LaMountain

Date Introduced: March 22, 2024

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 37-13-7 of the General Laws in Chapter 37-13 entitled "Labor and
2 Payment of Debts by Contractors" is hereby amended to read as follows:

3 **37-13-7. Specification in contract of amount and frequency of payment of wages.**

4 (a) Every call for bids for every contract in excess of one thousand dollars (\$1,000), to
5 which the state of Rhode Island or any political subdivision thereof or any public agency or quasi-
6 public agency is a party, for the transportation of public and private school pupils pursuant to §§
7 16-21-1 and 16-21.1-8, or for construction, alteration, and/or repair, including painting and
8 decorating, of public buildings or public works of the state of Rhode Island or any political
9 subdivision thereof, or any public agency or quasi-public agency and that requires or involves the
10 employment of employees, shall contain a provision stating the minimum wages to be paid various
11 types of employees which shall be based upon the wages that will be determined by the director of
12 labor and training to be prevailing for the corresponding types of employees employed on projects
13 of a character similar to the contract work in the city, town, village, or other appropriate political
14 subdivision of the state of Rhode Island in which the work is to be performed. Every contract shall
15 contain a stipulation that the contractor or his or her subcontractor shall pay all the employees
16 employed directly upon the site of the work, unconditionally and not less often than once a week,
17 and without subsequent deduction or rebate on any account, the full amounts accrued at time of
18 payment computed at wage rates not less than those stated in the call for bids, regardless of any

1 contractual relationships that may be alleged to exist between the contractor or subcontractor and
2 the employees, and that the scale of wages to be paid shall be posted by the contractor in a
3 prominent and easily accessible place at the site of the work; and the further stipulation that there
4 may be withheld from the contractor so much of the accrued payments as may be considered
5 necessary to pay to the employees employed by the contractor, or any subcontractor on the work,
6 the difference between the rates of wages required by the contract to be paid the employees on the
7 work and the rates of wages received by the employees and not refunded to the contractor,
8 subcontractors, or their agents.

9 (b) The terms “wages,” “scale of wages,” “wage rates,” “minimum wages,” and “prevailing
10 wages” shall include:

11 (1) The basic hourly rate of pay; and

12 (2) The amount of:

13 (i) The rate of contribution made by a contractor or subcontractor to a trustee or to a third
14 person pursuant to a fund, plan, or program; and

15 (ii) The rate of costs to the contractor, subcontractor, vendor, or provider that may be
16 reasonably anticipated in providing benefits to employees pursuant to an enforceable commitment
17 to carry out a financially responsible plan or program that was communicated in writing to the
18 employees affected, for medical or hospital care, pensions on retirement or death, compensation
19 for injuries or illness resulting from occupational activity, or insurance to provide any of the
20 foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident
21 insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar
22 programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is
23 not required by other federal, state, or local law to provide any of the benefits; provided, that the
24 obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage
25 determinations of the director of labor and training insofar as this chapter of this title and other acts
26 incorporating this chapter of this title by reference are concerned may be discharged by the making
27 of payments in cash, by the making of contributions of a type referred to in subsection (b)(2), or by
28 the assumption of an enforceable commitment to bear the costs of a plan or program of a type
29 referred to in this subdivision, or any combination thereof, where the aggregate of any payments,
30 contributions, and costs is not less than the rate of pay described in subsection (b)(1) plus the
31 amount referred to in subsection (b)(2).

32 (A) Notwithstanding any other law, rule, regulation, agreement, or practice to the contrary,
33 commencing on July 1, 2024, a contractor or subcontractor is not permitted to make a payment of
34 the cash equivalent of any applicable healthcare benefit, as predetermined per each classification

1 by the director labor and training, directly to the employee in lieu of actually purchasing the
2 healthcare benefit for said employee for the applicable time period. The contractor or subcontractor
3 shall actually purchase the healthcare benefit for the employee for the covered period of time from
4 a licensed third-party healthcare provider. However, a contractor or sub-contractor shall be exempt
5 from this section for any individual employee who desires a payment of the cash equivalent of any
6 applicable healthcare benefit upon a showing that the employee is covered under an active
7 healthcare plan provided by the employee's spouse, domestic partner, parent, or other third party;
8 or the employee is the recipient of healthcare coverage in connection with active military service
9 or through Veterans Affairs.

10 (B) The contractor or subcontractor shall provide a proof of purchase of the healthcare
11 benefit to the employee and the employee's bargaining agent, if applicable. "Proof of purchase"
12 means documents substantially similar to declaration pages in an insurance policy indicating the
13 entity providing the healthcare benefit coverage or insurance therefore, the identity of the individual
14 covered, the type and amount of coverage, and the coverage period.

15 (C) Any contractor or subcontractor who fails to comply with the requirements of this
16 section shall be required to pay a civil penalty to the director of labor and training in an amount of
17 not less than one thousand dollars (\$1,000) and not greater than three thousand dollars (\$3,000) per
18 violation. Penalties shall be recoverable in a civil action pursuant to this section by the director of
19 labor and training.

20 (D) The director of labor and training is authorized to obtain injunctive relief against
21 continuing violations of the provisions of this section.

22 (E) Any employee or bargaining agent who has been aggrieved by the failure of a
23 contractor or subcontractor to actually purchase the healthcare benefit for employees and provide
24 the employee and/or their bargaining agent with proof of purchase under this section may pursue a
25 private right of action under the terms of § 37-13-17.

26 (c) The term "employees," as used in this section, shall include:

27 (1) Employees of contractors or subcontractors performing jobs on various types of public
28 works including mechanics, apprentices, teamsters, chauffeurs, and laborers engaged in the
29 transportation of gravel or fill to the site of public works, the removal and/or delivery of gravel or
30 fill or ready-mix concrete, sand, bituminous stone, or asphalt flowable fill from the site of public
31 works, or the transportation or removal of gravel or fill from one location to another on the site of
32 public works, and the employment of the employees shall be subject to the provisions of
33 subsections (a) and (b); and

34 (2) Persons employed by a provider contracted for the purpose of transporting public and

1 private school pupils pursuant to §§ 16-21-1 and 16-21.1-8 shall be subject to the provisions of
2 subsections (a) and (b) of this section. For the purposes of this subsection the term employee
3 includes school bus drivers, aides, and monitors who are directly providing transportation services;
4 the term employee does not include mechanics, dispatchers, or other personnel employed by the
5 vendor whose duties are normally performed at a fixed location.

6 (d) The terms “public agency” and “quasi-public agency” shall include, but not be limited
7 to: the Rhode Island industrial recreational building authority, the Rhode Island commerce
8 corporation, the Rhode Island airport corporation, the Rhode Island industrial facilities corporation,
9 the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance
10 corporation, the Rhode Island resource recovery corporation, the Rhode Island public transit
11 authority, the Rhode Island student loan authority, the water resources board corporate, the Rhode
12 Island health and education building corporation, the Rhode Island turnpike and bridge authority,
13 the Narragansett Bay water quality management district commission, the Rhode Island
14 telecommunications authority, the convention center authority, the council on postsecondary
15 education, the council on elementary and secondary education, the capital center commission, the
16 housing resources commission, the Quonset Point-Davisville management corporation, the Rhode
17 Island children’s crusade for higher education, the Rhode Island depositors economic protection
18 corporation, the Rhode Island lottery commission, the Rhode Island partnership for science and
19 technology, the Rhode Island public building authority, and the Rhode Island underground storage
20 tank board.

21 (e) If any one or more subsections of this section shall for any reason be adjudged
22 unconstitutional or otherwise invalid, the judgment shall not affect, impair, or invalidate the
23 remaining subsections.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC PROPERTY AND WORKS -- LABOR AND PAYMENT OF DEBTS
BY CONTRACTORS

1 This act would prohibit contractors and subcontractors from paying employees the cash
2 equivalent of any applicable healthcare benefit in lieu of actually purchasing the healthcare benefit
3 unless the employee is covered under a different healthcare plan. Violations would be subject to
4 civil fines.

5 This act would take effect upon passage.

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