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H.196

Introduced by Representative Mulvaney-Stanak of Burlington

Referred to Committee on

Date:

Subject: Executive; public property; State construction; prevailing wages

Statement of purpose of bill as introduced: This bill proposes to amend the prevailing wage requirements for State construction projects to be set to the local prevailing rate of wages and benefits under a collective bargaining agreement and proposes to direct the Commissioner of Labor to adopt rules to implement the new wage requirements. This bill also requires a construction employee working on a construction project receiving both State and federal funds to be paid the higher of the federal Davis-Bacon wages or the State's prevailing wage rates. This bill also proposes an enforcement provision for any violation of the State's prevailing wage requirements.

An act relating to prevailing wages on State construction projects

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

* * *

1 (b) Each contract awarded under this section for any State project with a
2 construction cost exceeding \$100,000.00 or a construction project with a
3 construction cost exceeding \$200,000.00 ~~which~~ that is authorized and is at
4 least 50 percent funded by a capital construction act pursuant to 32 V.S.A.
5 § 701a shall provide that all construction employees working on the project
6 shall be paid ~~no~~ not less than ~~the mean prevailing wage published periodically~~
7 ~~by the Vermont Department of Labor in its occupational employment and~~
8 ~~wage survey plus an additional fringe benefit of 42 and one half percent of~~
9 ~~wage, as calculated by the current Vermont prevailing wage survey. As used~~
10 ~~in this section, “fringe benefits” means benefits, including paid vacations and~~
11 ~~holidays, sick leave, employer contributions and reimbursements to health~~
12 ~~insurance and retirement benefits, and similar benefits that are incidents of~~
13 ~~employment~~ the prevailing rate of wages and benefits then payable for the
14 labor in the locality where the public work is being performed, under a
15 collective bargaining agreement. If no collective bargaining agreements exist
16 in the immediate locality, then the prevailing rate of wages and benefits under
17 a collective bargaining agreement in the nearest locality where a collective
18 bargaining agreement exists shall apply. The Commissioner of Labor, in
19 consultation with the Commissioner of Buildings and General Services, shall
20 adopt rules to implement this section.

1 (c) In the construction of any State project, local capable labor shall be
2 utilized whenever practicable, but this section shall not be construed to compel
3 any person to discharge or lay off any regular employee.

4 (d)(1) Subsections (a) through (c) of this section shall not apply to
5 maintenance or construction projects carried out by the Agency of
6 Transportation and by the Department of Forests, Parks and Recreation.

7 (2) Notwithstanding subdivision (1) of this subsection, to the extent that
8 either the federal Davis-Bacon Act or the prevailing wages set forth in
9 subsection (b) of this section may apply to any contract that is awarded for a
10 maintenance or construction, the higher wage rate shall apply.

11 (e) The Agency of Administration shall ensure that the State and any of its
12 subdivisions do not contract, directly or indirectly, with employers who are
13 prohibited from contracting by the Commissioner of Labor pursuant to 21
14 V.S.A. §§ 692, 708, and 1314a or the Commissioner of Financial Regulation
15 pursuant to 8 V.S.A. § 3661.

16 (f) The Agency of Administration shall maintain a current list of employers
17 that have been prohibited from contracting with the State or any of its
18 subdivisions, and the Agencies of Administration and of Transportation shall
19 publish that list on their websites.

20 (g) An employee may bring a public enforcement action on behalf of one
21 or more current employees in relation to one or more violations of the

1 provisions of this section. A public enforcement action shall not be subject to
2 the requirements of Rule 23(a) of the Vermont Rules of Civil Procedure.

3 (1) The penalty and enforcement provisions of 21 V.S.A. § 495b shall
4 apply to this section.

5 (2) Before commencing a public enforcement action, an employee shall
6 submit to the Attorney General a notice of the claim.

7 (3) The Attorney General shall, not later than 60 days after the notice of
8 the claim is submitted, review the claim and provide the employee with notice
9 of whether the Attorney General intends to investigate the claim.

10 (4) If the Attorney General decides not to investigate the claim or fails
11 to notify the relator within 60 days, the employee may commence a public
12 enforcement action in relation to the claim.

13 (5) If the Attorney General decides to investigate the claim, the Attorney
14 General shall complete the investigation within not more than 120 calendar
15 days. At the conclusion of the investigation, the Attorney General shall notify
16 the employer of whether the Attorney General intends to seek remedies related
17 to the claim pursuant to 21 V.S.A. § 495b.

18 (6) The employee may commence a public enforcement action if the
19 Attorney General determines not to seek remedies related to the claim or fails
20 to notify the employee of the outcome of the investigation within the time
21 period set forth in subdivision (4) of this subsection.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on July 1, 2023.