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SENATE BILL NO. 853
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on January 20, 2025)
(Patron Prior to Substitute—Senator Rouse)

A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 40.1 an article numbered 1.2, consisting of sections numbered 40.1-28.13, 40.1-28.14, and 40.1-28.15, relating to prevailing wage rate; apprenticeship requirements; RPS-eligible source work; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 40.1 an article numbered 1.2, consisting of sections numbered 40.1-28.13, 40.1-28.14, and 40.1-28.15, as follows:

Article 1.2.

Prevailing Wage for RPS-Eligible Source Work.

§ 40.1-28.13. Definitions.

As used in this article:

"Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding class of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality where the facility or immovable property that is the subject of RPS-eligible source work is located, as determined by the Commissioner on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.

"Public service company" means the same as that term is defined in § 56-1, except that "public service company" includes its contractors and subcontractors and does not include any communications service provider, as defined in § 58.1-647.

"RPS-eligible source" means a renewable energy portfolio standard eligible source as described in subsection C of § 56-585.5 with over one megawatt of generation capacity.

"RPS-eligible source work" means construction, alteration, or repair of an RPS-eligible source.

§ 40.1-28.14. Prevailing wage rate for RPS-eligible source work; penalties.

A. Each public service company or third-party developer, when procuring services, letting contracts, or overseeing or administering contracts for construction, alteration, or repair of an RPS-eligible source with over one megawatt of generating capacity, shall ensure that its bid specifications or other contracts applicable to construction, alteration, or repair of such RPS-eligible source require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the contract at the prevailing wage rate established pursuant to § 2.2-4321.3. Each contract for construction, alteration, or repair of an RPS-eligible source with over one megawatt of generating capacity by a public service company or third-party developer shall contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done shall be at a rate equal to the prevailing wage rate as established by § 2.2-4321.3.

B. In addition to liability for the nonpayment of wages provided in § 40.1-29, a public service company or third-party developer that fails to comply with the requirements of this section shall be required to make a payment to the Commissioner of Labor and Industry of \$5,000 for each employee who was paid wages at a rate less than the prevailing wage rate. However, if the Commissioner of Labor and Industry determines that a public service company's or third-party developer's failure to comply with the requirements of this section is due to intentional disregard of the provisions of this act, the public service company or third-party developer shall be required to make a payment to the Commissioner of Labor and Industry of \$10,000 for each employee who was paid wages at a rate less than the prevailing wage rate.

§ 40.1-28.15. Apprenticeship requirements; penalties.

A. Each public service company or third-party developer engaged in the construction, alteration, or repair of RPS-eligible sources on or after January 1, 2026, shall ensure that 15 percent of the total labor hours of the construction, alteration, or repair work, including such work performed by any contractor or subcontractor, is performed by qualified apprentices. As used in this section, "qualified apprentice" means an individual who is employed by a public service company or third-party developer and who is participating in a registered apprenticeship program, pursuant to Article 3 (§ 2.2-2043 et seq.) of Chapter 20.2 of Title 2.2.

B. Each public service company or third-party developer that employs four or more individuals to perform construction, alteration, or repair work with respect to an RPS-eligible source shall employ at least one qualified apprentice to perform such work.

C. The requirements of this section shall be deemed satisfied if a public service company or third-party developer has requested qualified apprentices from a registered apprenticeship program and (i) such request

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60 *is denied, provided such denial is not the result of a refusal by the public service company or third-party*
61 *developer or its contractor or subcontractor to comply with the established standards or requirements of the*
62 *registered apprenticeship program or (ii) the registered apprenticeship program fails to respond to such*
63 *request within five business days of receiving such request.*

64 *D. A public service company or third-party developer that fails to meet the requirements of this section*
65 *shall make a payment to the Commissioner of Labor and Industry of \$50 for each labor hour in which the*
66 *requirements of this section were not met. However, if the Commissioner of Labor and Industry determines*
67 *that a public service company's or third-party developer's failure to comply with the requirements of this*
68 *section is due to intentional disregard of the provisions of this act, the public service company or third-party*
69 *developer shall be required to make a payment to the Commissioner of Labor and Industry of \$500 for each*
70 *labor hour in which the requirements of this section were not met.*

71 **2. That the provisions of this act shall apply to RPS-eligible source work, as defined in § 40.1-28.13 of**
72 **the Code of Virginia, as created by this act, by a public service company or third-party developer that**
73 **is performed under a contract that is entered into, amended, or modified on or after July 1, 2025.**