

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [S 853]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

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

10 *Article 1.2.*11 *Prevailing Wage for RPS-Eligible Source Work.*12 **§ 40.1-28.13. Definitions.**13 *As used in this article:*

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

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

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

25 *"RPS-eligible source work" means construction, alteration, or repair of an RPS-eligible source.*26 **§ 40.1-28.14. Prevailing wage rate for RPS-eligible source work; penalties.**

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

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

46 **§ 40.1-28.15. Apprenticeship requirements; penalties.**

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

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

56 *C. The requirements of this section shall be deemed satisfied if a public service company or third-party*

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

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

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