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SENATE BILL NO. 518

Offered January 14, 2026

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A BILL to amend and reenact §§ 2.2-4321.3 and 40.1-6 of the Code of Virginia, relating to prevailing wage rate for public works contracts; localities.

Patrons—Rouse, Locke and Carroll Foy

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That §§ 2.2-4321.3 and 40.1-6 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-4321.3. Payment of prevailing wage for work performed on public works contracts; penalty.**

A. As used in this section:

"Department" means the Department of Labor and Industry.

"Locality" means any county, city, or town, school division, or other political subdivision.

"Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding classes of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality in which the public facility or immovable property that is the subject of public works is located, as determined by the Commissioner of Labor and Industry on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the federal Davis-Bacon Act, 40 U.S.C. § 276 3141 et seq., as amended, *provided that such determination shall include, if applicable, consideration of any wages or employer contributions to employee benefits paid pursuant to existing collective bargaining agreements with employers employing a majority of workers of the craft or trade subject to such agreements in the locality in which the public facility or immovable property that is the subject of public works is located.*

"Public institution of higher education" means the same as that term is defined in § 23.1-100.

"Public works" means the operation, erection, construction, alteration, improvement, maintenance, or repair of any public facility or immovable property owned, used, or leased by a state agency or locality, including transportation infrastructure projects and projects at public institutions of higher education.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government, *including any public institution of higher education.* "State agency" does not include any county, city, or town.

B. Notwithstanding any other provision of this chapter, each state agency and locality, when procuring services or letting contracts for public works paid for in whole or in part by state or local funds, or when overseeing or administering such contracts for public works, shall ensure that its bid specifications or other public contracts applicable to the public works 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 public contract for public works at the prevailing wage rate. Each public contract for public works by a state agency or locality 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 under the public contract shall be at a rate equal to the prevailing wage rate.

C. ~~Notwithstanding any other provision of this chapter, any locality may adopt an ordinance requiring that, when letting contracts for public works paid for in whole or in part by funds of the locality, or when overseeing or administering a public contract, its bid specifications, project agreements, or other public contracts applicable to the public works shall 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 public contract at the prevailing wage rate. Each public contract of a locality that has adopted an ordinance described in this section 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 under the public contract shall be at a rate equal to the prevailing wage rate.~~

D. Any contractor or subcontractor who employs any mechanic, laborer, or worker to perform work contracted to be done under the public contract for public works for or on behalf of a state agency or ~~for or on behalf of a locality that has adopted an ordinance described in subsection C or~~ at a rate that is less than the prevailing wage rate (i) shall be liable to such individuals for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due; and (ii) shall be disqualified from bidding on public contracts with any public body until the contractor or subcontractor has made full restitution of the amount described in clause (i) owed to such individuals. A contractor or subcontractor who

willfully violates this section is guilty of a Class 1 misdemeanor.

~~E. D.~~ Any interested party, which shall include a bidder, offeror, contractor, or subcontractor, shall have standing to challenge any bid specification, project agreement, or other public contract for public works that violates the provisions of this section. Such interested party shall be entitled to injunctive relief to prevent any violation of this section. Any interested party bringing a successful action under this section shall be entitled to recover reasonable attorney fees and costs from the responsible party.

~~F. E.~~ A representative of a state agency or ~~a representative of a locality that has adopted an ordinance described in subsection G~~ may contact the Commissioner of Labor and Industry, at least 10 but not more than 20 days prior to the date bids for such a public contract for public works will be advertised or solicited, to ascertain the proper prevailing wage rate for work to be performed under the public contract.

~~G. F.~~ Upon the award of any public contract subject to the provisions of this section, the contractor to whom such contract is awarded shall certify, under oath, to the Commissioner of Labor and Industry the pay scale for each craft or trade employed on the project to be used by such contractor and any of the contractor's subcontractors for work to be performed under such public contract. This certification shall, for each craft or trade employed on the project, specify the total hourly amount to be paid to employees, including wages and applicable fringe benefits, provide an itemization of the amount paid in wages and each applicable benefit, and list the names and addresses of any third party fund, plan or program to which benefit payments will be made on behalf of employees.

~~H. G.~~ Each employer subject to the provisions of this section shall keep, maintain, and preserve (i) records relating to the wages paid to and hours worked by each individual performing the work of any mechanic, laborer, or worker and (ii) a schedule of the occupation or work classification at which each individual performing the work of any mechanic, laborer, or worker on the public works project is employed during each work day and week. The employer shall preserve these records for a minimum of six years and make such records available to the Department of Labor and Industry within 10 days of a request and shall certify that records reflect the actual hours worked and the amount paid to its workers for whatever time period they request. *The employer shall submit such records within 10 days after the payment of wages to the Department on certified payroll forms prescribed by the Department.*

~~I. H.~~ No employer subject to the provisions of this section shall hire a subcontractor to perform work under a public contract for public works if such subcontractor is not registered with the Commonwealth's statewide electronic procurement system.

~~I.~~ Contractors and subcontractors performing public works for a state agency or ~~for a locality that has adopted an ordinance described in subsection G~~ shall post the general prevailing wage rate for each craft and classification involved, as determined by the Commissioner of Labor and Industry, including the effective date of any changes thereof, in prominent and easily accessible places at the site of the work or at any such places as are used by the contractor or subcontractors to pay workers their wages. Within 10 days of such posting, a contractor or subcontractor shall certify to the Commissioner of Labor and Industry its compliance with this subsection.

~~J.~~ Contractors and subcontractors performing public works for a state agency or for a locality shall conduct a mandatory orientation for each employee at least three days prior to the employee's first day performing work under a public contract for public works. Such orientation shall explain the employee's prevailing wage rate, the basis for the employee's classification, and the employee's rights and obligations under this section. An employer may satisfy this requirement by providing a single orientation session to a group of employees at least three days prior to the employees' commencement of such work. Upon completion of such orientation, each employee shall sign a form prescribed by the Department acknowledging that the employee has received such required information. The contractor or subcontractor conducting such orientation shall retain each completed form for a period of at least six years and shall make such forms available to the Department upon request. No provision of this subsection shall apply to an employer that is a party to a collective bargaining agreement requiring the employer to pay the employee at a rate equal to or higher than the prevailing wage rate.

~~K.~~ Each employer subject to the provisions of this section shall ensure that each of its workers employed to perform work on a public contract for public works has (i) graduated from a registered apprenticeship program that meets or exceeds the U.S. Department of Labor standards for registered apprenticeships as described in 29 C.F.R. § 29.5 or (ii) completed four years of work experience verified through pay records or sworn statements of the worker and employer. No provision of this subsection shall apply to an employer that is a party to a collective bargaining agreement requiring the employer to pay the employee at a rate equal to or higher than the prevailing wage rate.

~~L.~~ A contractor or subcontractor that participates in a registered apprenticeship program shall ensure that such program meets or exceeds the U.S. Department of Labor standards for registered apprenticeships as described in 29 C.F.R. § 29.5.

~~M.~~ The provisions of this section shall not apply to any public contract for public works of \$250,000 or less.

§ 40.1-6. Powers and duties of Commissioner.

121 The Commissioner shall:

122 1. Have general supervision and control of the Department;

123 2. Enforce the provisions of this title and shall cause to be prosecuted all violations of law relating to

124 employers or business establishments before any court of competent jurisdiction;

125 3. Make such rules and regulations as may be necessary for the enforcement of this title and procedural

126 rules as are required to comply with the federal Occupational Safety and Health Act of 1970 (P.L. 91-596).

127 All such rules and regulations shall be subject to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2;

128 4. In the discharge of his duties, have power to take and preserve testimony, examine witnesses, and

129 administer oaths and to file a written or printed list of relevant interrogatories and require full and complete

130 answers to the same to be returned under oath within 30 days of the receipt of such list of questions;

131 5. Have power to appoint such representatives as may be necessary to aid the Commissioner in his work,

132 with the duties of such representatives to be prescribed by the Commissioner;

133 6. Determine the prevailing wage required to be paid under a public contract for public works as provided

134 in § 2.2-4321.3 and perform all other duties imposed on the Commissioner under such section. Any

135 determination of the prevailing wage rate made by the Commissioner shall be based on applicable prevailing

136 wage rate determinations made by the U.S. Secretary of Labor under the provisions of the *federal*

137 Davis-Bacon Act, 40 U.S.C. § 276 3141 et seq., as amended, *provided that such determination shall include,*

138 *if applicable, consideration of any wages or employer contributions to employee benefits paid pursuant to*

139 *existing collective bargaining agreements with employers employing a majority of workers of the craft or*

140 *trade subject to such agreements in the locality in which the public facility or immovable property that is the*

141 *subject of public works is located;*

142 7. Have power to require that accident, injury, and occupational illness records and reports be kept at any

143 place of employment and that such records and reports be made available to the Commissioner or his duly

144 authorized representatives upon request, and to require employers to develop, maintain, and make available

145 such other records and information as are deemed necessary for the proper enforcement of this title;

146 8. Have power, upon presenting appropriate credentials to the owner, operator, or agent in charge:

147 a. To enter without delay and at reasonable times any business establishment, construction site, or other

148 area, workplace, or environment where work is performed by an employee of any employer in this

149 Commonwealth; and

150 b. To inspect and investigate, during regular working hours and at other reasonable times and within

151 reasonable limits and in a reasonable manner, without prior notice unless such notice is authorized by the

152 Commissioner or his representative, any such business establishment or place of employment and all

153 pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to

154 question privately any such employer, officer, owner, operator, agent, or employee. If such entry or

155 inspection is refused, prohibited, or otherwise interfered with, the Commissioner shall have power to seek

156 from a court having equity jurisdiction an order compelling such entry or inspection;

157 9. Make rules and regulations governing the granting of temporary or permanent variances from all

158 standards promulgated by the Board under this title. Any interested or affected party may appeal to the Board,

159 the Commissioner's determination to grant or deny such a variance. The Board may, as it sees fit, adopt,

160 modify, or reject the determination of the Commissioner;

161 10. Have authority to issue orders to protect the confidentiality of all information reported to or otherwise

162 obtained by the Commissioner, the Board, or the agents or employees of either that contains or might reveal a

163 trade secret. Such information shall be confidential and shall be limited to those persons who need such

164 information for purposes of enforcement of this title. Violations of such orders shall be punishable as civil

165 contempt upon application to the Circuit Court of the City of Richmond. It shall be the duty of each employer

166 to notify the Commissioner or his representatives of the existence of trade secrets where he desires the

167 protection provided herein; and

168 11. Serve as executive officer of the Virginia Safety and Health Codes Board and of the Apprenticeship

169 Council and see that the rules, regulations, and policies that they promulgate are carried out.

170 **2. That the Commissioner of Labor and Industry (the Commissioner) shall promulgate regulations as**

171 **necessary to implement the provisions of § 2.2-4321.3 of the Code of Virginia, as amended by this act,**

172 **including regulations establishing the content, timing, and documentation of orientations required by**

173 **subsection J of § 2.2-4321.3 of the Code of Virginia, as amended by this act, and any other regulations**

174 **the Commissioner deems necessary. The Commissioner shall promulgate such regulations to be**

175 **effective within 280 days after the effective date of this act.**