

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 571

A bill to amend 2023 PA 10, entitled

"An act to require prevailing wages and fringe benefits on state projects; to establish the requirements and responsibilities of contracting agents and bidders; to make appropriations for the implementation of this act; and to prescribe penalties,"

by amending the title and sections 1, 2, 8, and 22 (MCL 408.1101, 408.1102, 408.1108, and 408.1122) and by adding sections 2a and 25a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to require prevailing wages and fringe benefits on
3 ~~state~~**certain** projects; to establish the requirements and
4 responsibilities of contracting agents and bidders; to make
5 appropriations for the implementation of this act; **to provide for**

1 the powers and duties of certain state and local governmental
2 officers and entities; to create the prevailing wage fund; and to
3 prescribe penalties.

4 Sec. 1. As used in this act:

5 (a) "Commissioner" means the department of labor and economic
6 opportunity.

7 (b) "Construction mechanic" means a skilled or unskilled
8 mechanic, laborer, worker, helper, assistant, or apprentice working
9 on a state project but ~~shall~~**does** not include executive,
10 administrative, professional, office, or custodial employees.

11 (c) "Contracting agent" means ~~any officer, school board, board~~
12 ~~or commission of the state, or a state institution supported in~~
13 ~~whole or in part by state funds, authorized to enter into a~~
14 ~~contract for a state project or to perform a state project by the~~
15 ~~direct employment of labor.~~**either of the following:**

16 (i) A private contracting agent.

17 (ii) A public contracting agent.

18 (d) "Energy facility" means an energy storage facility, solar
19 energy facility, or wind energy facility. An energy facility may be
20 located on more than 1 parcel of property, including noncontiguous
21 parcels, but shares a single point of interconnection to the grid.

22 (e) "Energy facility project" means new construction,
23 completion, demolition, major alteration, or repowering of an
24 energy facility.

25 (f) "Energy storage facility" means a system that absorbs,
26 stores, and discharges electricity with a nameplate capacity of 2
27 megawatts or more. Energy storage facility does not include either
28 of the following:

29 (i) Fossil fuel storage

1 (ii) Power-to-gas storage that directly uses fossil fuel
2 inputs.

3 (g) ~~(d)~~—"Locality" means the county, city, village, township,
4 or school district in which the physical work on a state project is
5 to be performed.

6 (h) "Nameplate capacity" means the designed full-load
7 sustained generating output of an energy facility. Nameplate
8 capacity shall be determined by reference to the sustained output
9 of an energy facility even if components of the energy facility are
10 located on different parcels, whether contiguous or noncontiguous.

11 (i) "Private contracting agent" means an individual or a
12 partnership, association, trust, corporation, or any other legal
13 entity that enters into a contract for an energy facility project
14 or to perform an energy facility project by the direct employment
15 of labor.

16 (j) "Public contracting agent" means an officer, school board,
17 board or commission of this state, or state institution supported
18 in whole or in part by funds from this state, authorized to enter
19 into a contract for a state project or to perform a state project
20 by the direct employment of labor.

21 (k) "Solar energy facility" means a system that captures and
22 converts solar energy into electricity, with a nameplate capacity
23 of 2 megawatts or more, for the purpose of sale or for use in
24 locations other than solely the solar energy facility property.
25 Solar energy facility includes, but is not limited to, the
26 following equipment and facilities to be constructed by an electric
27 provider or independent power producer: photovoltaic solar panels;
28 solar inverters; access roads; distribution, collection, and feeder
29 lines; wires and cables; conduit; footings; foundations; towers;

1 poles; crossarms; guy lines and anchors; substations;
 2 interconnection or switching facilities; circuit breakers and
 3 transformers; energy storage facilities; overhead and underground
 4 control; communications and radio relay systems and
 5 telecommunications equipment; utility lines and installations
 6 generation tie lines; solar monitoring stations; and accessory
 7 equipment and structures.

8 (l) ~~(e)~~ "State project" means ~~new~~ either of the following:

9 (i) **New** construction, alteration, repair, installation,
 10 painting, decorating, completion, demolition, conditioning,
 11 reconditioning, or improvement of public buildings, schools, works,
 12 bridges, highways, or roads **that meets both of the following**
 13 **conditions:**

14 (A) **Is** authorized by a **public** contracting agent.

15 (B) **Is sponsored or financed in whole or in part by this**
 16 **state.**

17 (ii) **An energy facility project.**

18 (m) "State project registration" means a registration granted
 19 under section 2a.

20 (n) "Wind energy facility" means a system that captures and
 21 converts wind energy into electricity, with a nameplate capacity of
 22 2 megawatts or more, for the purpose of sale or for use in
 23 locations other than solely the wind energy facility property. Wind
 24 energy facility includes, but is not limited to, the following
 25 equipment and facilities to be constructed by an electric provider
 26 or independent power producer: wind towers; wind turbines; access
 27 roads; distribution, collection, and feeder lines; wires and
 28 cables; conduit; footings; foundations; towers; poles; crossarms;
 29 guy lines and anchors; substations; interconnection or switching

1 facilities; circuit breakers and transformers; energy storage
2 facilities; overhead and underground control; communications and
3 radio relay systems and telecommunications equipment; monitoring
4 and recording equipment and facilities; erosion control facilities;
5 utility lines and installations generation tie lines; ancillary
6 buildings; wind monitoring stations; and accessory equipment and
7 structures.

8 Sec. 2. (1) Every contract executed between a contracting
9 agent and a successful bidder as contractor and entered into
10 pursuant to advertisement and invitation to bid for a state project
11 ~~which that~~ requires or involves the employment of construction
12 mechanics, other than those subject to the jurisdiction of the
13 state civil service commission, ~~and which is sponsored or financed~~
14 ~~in whole or in part by the state shall contain~~ **must include** an
15 express term that the rates of wages and fringe benefits to be paid
16 to each class of mechanics by the bidder and all of its
17 subcontractors ~~, shall be~~ **must** not **be** less than the wage and fringe
18 benefit rates prevailing in the locality in which the work is to be
19 performed. Contracts on state projects which contain provisions
20 requiring the payment of prevailing wages as determined by the
21 United States Secretary of Labor pursuant to 40 USC 3141 to 3148 or
22 which contain minimum wage schedules which are the same as
23 prevailing wages in the locality as determined by collective
24 bargaining agreements or understandings between bona fide
25 organizations of construction mechanics and their employers are
26 exempt from the provisions of this act.

27 (2) A contractor or subcontractor shall pay to its
28 construction mechanics wages and fringe benefits at the rates
29 required under an applicable contract for a state project.

1 (3) A contractor shall not do any of the following:

2 (a) Submit a bid for a state project unless the contractor
3 holds a state project registration.

4 (b) Perform work on a state project unless the contractor
5 holds a state project registration.

6 (c) List a subcontractor on a bid proposal for a state project
7 if the subcontractor does not hold a state project registration.

8 (d) Enter into an agreement with a subcontractor to perform
9 work on a state project if the subcontractor does not hold a state
10 project registration.

11 (4) A subcontractor shall not do either of the following
12 unless the subcontractor holds a state project registration:

13 (a) Perform work on a state project.

14 (b) Enter into an agreement with a contractor to perform work
15 on a state project.

16 (5) A contractor shall include in a bid for a state project a
17 copy of the state project registration for the contractor and for
18 each subcontractor of the contractor that has been selected at the
19 time the contractor submits the bid.

20 Sec. 2a. (1) To obtain a state project registration or renew a
21 state project registration, a contractor or subcontractor must do
22 both of the following:

23 (a) Submit an application that meets the requirements of
24 subsection (2) to the commissioner on a form and in a manner as
25 prescribed by the commissioner.

26 (b) Pay the application fee described in subsection (3).

27 (2) An application for a state project registration must
28 include all of the following:

29 (a) All of the following information for the contractor or

1 subcontractor:

2 (i) Name.

3 (ii) Address of its principal place of business or, if this
4 address is not in this state, the name and address of the custodian
5 of records and agent for service of process in this state.

6 (iii) Telephone number.

7 (iv) Whether the contractor or subcontractor is a corporation,
8 partnership, sole proprietorship, or, if a different type of legal
9 entity, the type of legal entity.

10 (v) The name and address of each person with a financial
11 interest in the contractor or subcontractor or, if the contractor
12 or subcontractor is a publicly traded corporation, the name and
13 address of each officer of the corporation.

14 (vi) Tax identification number.

15 (vii) Unemployment insurance identification number.

16 (b) A statement that the contractor or subcontractor is in
17 compliance with all applicable laws.

18 (c) Documentation that shows, as determined by the
19 commissioner, that the contractor or subcontractor is in compliance
20 with all applicable laws, including, but not limited to, holding
21 every license, registration, certificate, or other similar
22 authorization required by law.

23 (d) Any other information or documentation as required by the
24 commissioner.

25 (3) A state project registration is valid for 1 year. The
26 commissioner shall establish an annual renewal date for all state
27 project registrations. The commissioner shall establish a state
28 project registration application fee in an amount that is
29 sufficient to implement this act. The commissioner may allow an

1 applicant for a state project registration to pay a prorated
2 application fee based on the date that the applicant submits its
3 application.

4 (4) Not later than 15 business days after the commissioner
5 receives a complete application and application fee for a state
6 project registration, the commissioner shall do 1 of the following:

7 (a) If the applicant meets the requirements for a state
8 project registration, grant the state project registration to the
9 applicant.

10 (b) If the applicant does not meet the requirements of a state
11 project registration, deny the application and provide the
12 applicant with a written statement that includes the reason for the
13 denial.

14 (5) A contractor or subcontractor shall not submit an
15 application for a state project registration if the contractor or
16 subcontractor knows that the application contains a false
17 statement.

18 (6) The commissioner may suspend or revoke a contractor's or
19 subcontractor's state project registration if all of the following
20 conditions are met:

21 (a) The commissioner determines that the contractor or
22 subcontractor significantly or repeatedly violated this act or
23 another law.

24 (b) The commissioner has promulgated a rule that establishes
25 procedures for suspending or revoking a contractor's or
26 subcontractor's state project registration.

27 (c) The rule described in subdivision (b) is in effect.

28 Sec. 8. (1) ~~A~~In addition to any other sanction provided for
29 in this act, a person that violates this act is subject to a civil

1 fine of not more than \$5,000.00. The prosecutor of the county in
2 which the violation occurred or the attorney general may bring an
3 action to collect the fine.

4 (2) A contractor and its subcontractor are jointly and
5 severally liable for a violation of this act.

6 Sec. 22. ~~(1) Contracting agents, contractors, and~~
7 ~~subcontractors~~ **A contracting agent, contractor, or subcontractor**
8 shall maintain certified payroll records and other records required
9 under this act for a minimum of 3 years. ~~Failure to maintain~~
10 ~~records may result in application of the applicable civil penalties~~
11 ~~provided for under this act.~~ **Subject to subsection (6), not later**
12 **than 10 days after the end of a pay period, a contractor or**
13 **subcontractor shall transmit the certified payroll records for the**
14 **pay period to the following:**

15 (a) Before the date that is 1 year after the effective date of
16 the amendatory act that added section 2a, the applicable
17 contracting agent.

18 (b) On or after the date that is 1 year after the effective
19 date of the amendatory act that added section 2a, the database
20 described in subsection (2).

21 (2) By not later than the date that is 1 year after the
22 effective date of the amendatory act that added section 2a, the
23 commissioner shall create and maintain an internal certified
24 payroll database that meets all of the following conditions:

25 (a) Allows a contractor, subcontractor, or contracting agent
26 to submit certified payroll records to the database via the
27 internet.

28 (b) Includes all of the following information for each
29 construction mechanic:

1 (i) Classification.

2 (ii) Whether the construction mechanic is an apprentice,
3 journeyman, or other skill level.

4 (iii) Gross wages paid in the pay period.

5 (iv) Number of hours worked each day.

6 (v) Starting and ending times of each day.

7 (vi) Hourly wage rate.

8 (vii) Hourly overtime wage rate.

9 (viii) Hourly fringe benefit rate.

10 (c) Does not display or otherwise include a construction
11 mechanic's home address, telephone number, or Social Security
12 number.

13 (d) Requires a contractor or subcontractor to attest at the
14 time the contractor or subcontractor submits the certified payroll
15 record, via electronic signature, that all of the following are
16 true:

17 (i) The certified payroll record is complete and accurate.

18 (ii) The wage and fringe benefit rates paid to the construction
19 mechanic are not less than the rates required under this act.

20 (iii) The person submitting the certified payroll record has
21 reviewed the certified payroll record.

22 (iv) The person submitting the certified payroll record
23 understands that a violation of this section may result in either
24 of the following:

25 (A) The revocation or suspension of a state project
26 registration.

27 (B) The denial of an application for a state project
28 registration.

1 (3) A contracting agent that receives a certified payroll
2 record under subsection (1) (a) shall, not later than 10 days after
3 receiving the certified payroll record, transmit the certified
4 payroll record to the commissioner on a form and in a manner as
5 prescribed by the commissioner.

6 (4) By not later than the sixteenth day of each month, the
7 commissioner shall update the database with the certified payroll
8 records from the immediately preceding month.

9 (5) A contractor or subcontractor shall not submit a certified
10 payroll record as required under this section if the contractor or
11 subcontractor knows that the certified payroll record contains a
12 false statement.

13 (6) A contractor or subcontractor is not required to transmit
14 certified payroll records under subsection (1) if either of the
15 following conditions applies:

16 (a) The contractor or subcontractor performs work on a state
17 project and is otherwise required by law to transmit certified
18 payroll records to the state transportation department.

19 (b) The contractor or subcontractor performs work on an energy
20 facility project that is solely routine maintenance or repair.

21 Sec. 25a. (1) The prevailing wage fund is created in the state
22 treasury.

23 (2) The state treasurer shall deposit money and other assets
24 received from fees or fines imposed under this act or from any
25 other source in the fund. The state treasurer shall direct the
26 investment of money in the fund and credit interest and earnings
27 from the investments to the fund.

28 (3) Money in the fund at the close of the fiscal year does not
29 lapse to the general fund.

1 (4) The commissioner is the administrator of the fund for
2 audits of the fund.

3 (5) The commissioner shall expend money from the fund on
4 appropriation only to implement this act.