

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 841 Session of 2023

INTRODUCED BY FARRY, TARTAGLIONE, KANE, FONTANA, SCHWANK, CAPPELLETTI, BREWSTER, DILLON, SAVAL AND STREET, JULY 5, 2023

SENATOR ROBINSON, LABOR AND INDUSTRY, AS AMENDED, MAY 8, 2024

AN ACT

1 Amending the act of August 15, 1961 (P.L.987, No.442), entitled
2 "An act relating to public works contracts; providing for
3 prevailing wages; imposing duties upon the Secretary of Labor
4 and Industry; providing remedies, penalties and repealing
5 existing laws," further providing for definitions, for
6 specifications, for prevailing wage and for duty of
7 secretary.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2(5) and (7) of the act of August 15,
11 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing
12 Wage Act, are amended and the section is amended by adding a
13 paragraph to read:

14 Section 2. Definitions.--As used in this act--

15 * * *

16 (5) "Public work" means construction, reconstruction,
17 demolition, alteration, custom fabrication and/or repair work
18 other than maintenance work, WITH THE EXCEPTION RESERVED FOR <--
19 HVAC DUCT CLEANING, done under contract and paid for in whole or
20 in part out of the funds of a public body where the estimated

1 cost of the total project is in excess of twenty-five thousand
2 dollars (\$25,000), but shall not include work performed under a
3 rehabilitation or manpower training program.

4 * * *

5 (7) "Workman" includes laborer, mechanic, skilled and semi-
6 skilled laborer and apprentices employed by any contractor or
7 subcontractor and engaged in the performance of services
8 directly upon or for the public work project, regardless of
9 whether their work becomes a component part thereof, and
10 includes laborers, mechanics, skilled and semi-skilled laborers,
11 apprentices and other persons employed by any contractor or
12 subcontractor to perform custom fabrication of non-standard
13 goods or materials for the public work project, but does not
14 include material suppliers or their employes who do not perform
15 services at the job site unless the work involves custom
16 fabrication.

17 * * *

18 ~~(11) "Custom fabrication" means the fabrication, assembly or <--~~
19 ~~other production of nonstandard goods or materials, including~~
20 ~~components, fixtures or parts thereof, that are fabricated or~~
21 ~~assembled offsite but produced specifically for a public work~~
22 ~~project. The goods and materials shall include, but not be~~
23 ~~limited to, those used in the trades or systems, including~~
24 ~~plumbing or pipe fitting systems, heating, ventilating, air~~
25 ~~conditioning, refrigeration systems, sheet metal or other duct~~
26 ~~systems, boiler systems, electrical systems, welding work,~~
27 ~~mechanical insulation work and ornamental iron work. The term~~
28 ~~shall include the fabrication, assembly or other production of~~
29 ~~components or structures prefabricated to specifications for a~~
30 ~~particular public works project or other materials finished into~~

1 components for use in a public works project.

2 (11) "CUSTOM FABRICATION" MEANS THE FABRICATION, ASSEMBLY OR <--
3 OTHER PRODUCTION OF NONSTANDARD GOODS OR MATERIALS, INCLUDING
4 COMPONENTS, FIXTURES OR PARTS THEREOF, THAT ARE FABRICATED OR
5 ASSEMBLED OFFSITE BUT PRODUCED SPECIFICALLY FOR A PUBLIC WORK
6 PROJECT. THE FOLLOWING APPLY:

7 (I) THE GOODS AND MATERIALS SHALL INCLUDE THOSE USED IN THE
8 TRADES OR SYSTEMS, INCLUDING PLUMBING OR PIPE-FITTING SYSTEMS,
9 HEATING, VENTILATING, AIR CONDITIONING, REFRIGERATION SYSTEMS,
10 SHEET METAL OR OTHER DUCT SYSTEMS, BOILER SYSTEMS, ELECTRICAL
11 SYSTEMS, WELDING WORK, MECHANICAL INSULATION WORK, ORNAMENTAL
12 IRON WORK, REBAR SYSTEM ASSEMBLY OR ONE OR MORE SIGNS IN A
13 PROJECT, OR ANY OTHER FABRICATION WHICH IS ONE OR MORE ENTIRE
14 MODULES OR STRUCTURES PREFABRICATED TO SPECIFICATIONS FOR A
15 PARTICULAR PROJECT OF PUBLIC WORK WITH MINIMAL CONSTRUCTION WORK
16 REMAINING OTHER THAN INSTALLATION, REGARDLESS OF WHETHER
17 UNFORESEEN CONSTRUCTION WORK IS REQUIRED ON THE PUBLIC WORK SITE
18 TO MODIFY THE CUSTOM FABRICATED ITEM FOR THE PURPOSE OF
19 INSTALLATION, FOR USE IN A PROJECT OF PUBLIC WORK OR FOR USE IN
20 A TYPE OR CLASSIFICATION OF A PROJECT OF PUBLIC WORK.

21 (II) THE TERM DOES NOT INCLUDE COMPONENTS OR MATERIALS, SUCH
22 AS STRUCTURAL STEEL MEMBERS OR PRECAST CONCRETE.

23 Section 2. Sections 3, 5 and 7 of the act are amended to
24 read:

25 Section 3. Specifications.--The specifications for every
26 contract for any public work to which any public body is a
27 party, shall contain a provision stating the minimum wage rate
28 that must be paid to the workmen employed in the performance of
29 the contract[.], including workmen engaged in custom
30 fabrication. The minimum wage for custom fabrication work shall

1 be the same as the wage paid for project work in accordance with
2 each applicable trade or classification. A firm, business or
3 employer which contracts or subcontracts to perform custom
4 fabrication for a public work shall be subject to the same
5 compliance and reporting requirements and penalties and
6 enforcement procedures and has the same obligations as any other
7 contractor or subcontractor under this chapter or regulations
8 promulgated under this act by the department.

9 Section 5. Prevailing Wage.--Not less than the prevailing
10 minimum wages as determined hereunder shall be paid to all
11 workmen employed on public work. Workmen must be paid the
12 appropriate rate for their craft and may not be paid multiple
13 rates on the same project.

14 Section 7. Duty of Secretary.--The secretary shall, after
15 consultation with the advisory board, determine the general
16 prevailing minimum wage rate in the locality in which the public
17 work is to be performed for each craft or classification of all
18 workmen needed to perform public work contracts during the
19 anticipated term thereof: Provided, however, That employer and
20 employe contributions for employe benefits pursuant to a bona
21 fide collective bargaining agreement shall be considered an
22 integral part of the wage rate for the purpose of determining
23 the minimum wage rate under this act. For workmen engaged in
24 custom fabrication for a public work project, the applicable
25 prevailing minimum wage rates shall be the prevailing minimum
26 wage rate for the applicable craft or trade in the locality in
27 which the public work project is located. Nothing in this act,
28 however, shall prohibit the payment of more than the general
29 prevailing minimum wage rate to any workman employed on public
30 work. The secretary shall forthwith give notice by mail of all

1 determinations of general prevailing minimum wage rates made
2 pursuant to this section to any representative of any craft, any
3 employer or any representative of any group of employers, who
4 shall in writing request the secretary so to do.

5 Section 3. This act shall take effect in 60 days.