

2010 -- S 2605

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- LABOR PAYMENT OF DEBTS BY  
CONTRACTORS

Introduced By: Senators Ciccone, and Ruggerio

Date Introduced: February 11, 2010

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 37-13-6, 37-13-7, 37-13-8 and 37-13-11 of the General Laws in  
2 Chapter 37-13 entitled "Labor and Payment of Debts by Contractors" are hereby amended to read  
3 as follows:

4 **37-13-6. Ascertainment of prevailing rate of wages and other payments --**  
5 **Specification of rate in call for bids and in contract. --** Before awarding any contract for public  
6 works to be done, the proper authority shall ascertain from the director of labor and training [via](#)  
7 [the departments' website](#) the general prevailing rate of the regular, holiday, and overtime wages  
8 paid and the general prevailing payments on behalf of employees only, to lawful welfare,  
9 pension, vacation, apprentice training, and educational funds (payments to the funds must  
10 constitute an ordinary business expense deduction for federal income tax purposes by contractors)  
11 in the city, town, village, or other appropriate political subdivision of the state in which the work  
12 is to be performed, for each craft, mechanic, teamster, laborer, or type of worker needed to  
13 execute the contract for the public works. The proper authority shall, also, specify in the call for  
14 bids for the contract and in the contract itself the general prevailing rate of the regular, holiday,  
15 and overtime wages paid and the payments on behalf of employees only, to the welfare, pension,  
16 vacation, apprentice training, and education funds existing in the locality for each craft,  
17 mechanic, teamster, laborer, or type of worker needed to execute the contract or work.

18 **37-13-7. ~~Specification in contract of amount and frequency of payment of wages~~**

1 **Specification in contract of prevailing wage requirements.** -- (a) Every call for bids for every  
2 contract in excess of one thousand dollars (\$1,000), to which the state of Rhode Island or any  
3 political subdivision thereof or any public agency or quasi-public agency is a party, for  
4 construction, alteration, and/or repair, including painting and decorating, of public buildings or  
5 public works of the state of Rhode Island or any political subdivision thereof, or any public  
6 agency or quasi-public agency and which requires or involves the employment of employees,  
7 shall contain a provision stating the minimum wages to be paid various types of employees which  
8 shall be based upon the wages that will be determined by the director of labor and training to be  
9 prevailing for the corresponding types of employees employed on projects of a character similar  
10 to the contract work in the city, town, village, or other appropriate political subdivision of the  
11 state of Rhode Island in which the work is to be performed. Every contract shall contain a  
12 stipulation that the contractor or his or her subcontractor shall pay all the employees employed  
13 directly upon the site of the work, unconditionally and not less often than once a week, and  
14 without subsequent deduction or rebate on any account, the full amounts accrued at time of  
15 payment computed at wage rates not less than those stated in the call for bids, regardless of any  
16 contractual relationships which may be alleged to exist between the contractor or subcontractor  
17 and the employees, and that the ~~scale of wages to be paid~~ applicable prevailing wage rate  
18 schedule shall be posted by the contractor in a prominent and easily accessible place at the site of  
19 the work; and the further stipulation that there may be withheld from the contractor so much of  
20 the accrued payments as may be considered necessary to pay to the employees employed by the  
21 contractor, or any subcontractor on the work, the difference between the rates of wages required  
22 by the contract to be paid the employees on the work and the rates of wages received by the  
23 employees and not refunded to the contractor, subcontractors, or their agents.

24 (b) The terms "wages", "scale of wages", "wage rates", "minimum wages", and  
25 "prevailing wages" shall include:

26 (1) The basic hourly rate of pay; and

27 (2) The amount of:

28 (A) The rate of contribution made by a contractor or subcontractor to a trustee or to a  
29 third person pursuant to a fund, plan, or program; and

30 (B) The rate of costs to the contractor or subcontractor which may be reasonably  
31 anticipated in providing benefits to employees pursuant to an enforceable commitment to carry  
32 out a financially responsible plan or program which was communicated in writing to the  
33 employees affected, for medical or hospital care, pensions on retirement or death, compensation  
34 for injuries or illness resulting from occupational activity, or insurance to provide any of the

1 foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or  
2 accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other  
3 similar programs, or for other bona fide fringe benefits, but only where the contractor or  
4 subcontractor is not required by other federal, state, or local law to provide any of the benefits;  
5 provided, that the obligation of a contractor or subcontractor to make payment in accordance with  
6 the prevailing wage determinations of the director of labor and training insofar as this chapter of  
7 this title and other acts incorporating this chapter of this title by reference are concerned may be  
8 discharged by the making of payments in cash, by the making of contributions of a type referred  
9 to in subsection (b)(2), or by the assumption of an enforceable commitment to bear the costs of a  
10 plan or program of a type referred to in this subdivision, or any combination thereof, where the  
11 aggregate of any payments, contributions, and costs is not less than the rate of pay described in  
12 subsection (b)(1) plus the amount referred to in subsection (b)(2).

13 (c) The term "employees", as used in this section, shall include employees of contractors  
14 or subcontractors performing jobs on various types of public works including mechanics,  
15 apprentices, teamsters, chauffeurs, and laborers engaged in the transportation of gravel or fill to  
16 the site of public works, the removal and/or delivery of gravel or fill or ready-mix concrete, sand,  
17 bituminous stone, or asphalt flowable fill from the site of public works, or the transportation or  
18 removal of gravel or fill from one location to another on the site of public works, and the  
19 employment of the employees shall be subject to the provisions of subsections (a) and (b).

20 (d) The terms "public agency" and "quasi-public agency" shall include, but not be  
21 limited to, the Rhode Island industrial recreational building authority, the Rhode Island economic  
22 development corporation, the Rhode Island airport corporation, the Rhode Island industrial  
23 facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and  
24 mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island  
25 public transit authority, the Rhode Island student loan authority, the water resources board  
26 corporate, the Rhode Island health and education building corporation, the Rhode Island higher  
27 education assistance authority, the Rhode Island turnpike and bridge authority, the Narragansett  
28 Bay water quality management district commission, Rhode Island telecommunications authority,  
29 the convention center authority, the board of governors for higher education, the board of regents  
30 for elementary and secondary education, the capital center commission, the housing resources  
31 commission, the Quonset Point-Davisville management corporation, the Rhode Island children's  
32 crusade for higher education, the Rhode Island depositors economic protection corporation, the  
33 Rhode Island lottery commission, the Rhode Island partnership for science and technology, the  
34 Rhode Island public building authority, and the Rhode Island underground storage tank board.

1           **37-13-8. Investigation and determination of prevailing wages -- Filing of schedule. --**

2     The director of labor and training shall investigate and determine the prevailing wages and  
3     payments made to or on behalf of employees, as set forth in section 37-13-7, paid in the trade or  
4     occupation in the city, town, village, or other appropriate political subdivision of the state and  
5     keep a schedule on file in his or her office of the customary prevailing rate of wages and  
6     payments made to or on behalf of the employees which shall be open to public inspection. In  
7     making a determination, the director of labor may adopt and use such appropriate and applicable  
8     prevailing wage rate determinations as have been made by the secretary of labor of the United  
9     States of America in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. section 276a;  
10    provided, however, that each contractor awarded a public works contract after July 1, 2007 shall  
11    ~~contact the department of labor and training~~ [refer to the department of labor and training's](#)  
12    [website](#) on or before July first of each year, for the duration of such contract to ascertain the  
13    prevailing wage rate of wages on a hourly basis and the amount of payment or contributions paid  
14    or payable on behalf of each mechanic, laborer or worker employed upon the work contracted to  
15    be done each year and shall make any necessary adjustments to such prevailing rate of wages and  
16    such payment or contributions paid or payable on behalf of each such employee every July first.

17           **37-13-11. Posting of prevailing wage rates. --** Each contractor awarded a contract for  
18    public works with a contract price in excess of one thousand dollars (\$1,000), and each  
19    subcontractor who performs work on those public works, shall post in conspicuous places on the  
20    project, where covered workers are employed, posters which contain the ~~current~~ [applicable](#),  
21    prevailing rate of wages and the current, prevailing rate of payments to the funds required to be  
22    paid for each craft or type of worker employed to execute the contract as set forth in sections 37-  
23    13-6 and 37-13-7, and the rights and remedies of any employee described in section 37-13-17 for  
24    nonpayment of any wages earned pursuant to this chapter. ~~Posters shall be furnished to~~  
25    ~~contractors~~ [Contractors](#) and subcontractors [shall download the poster from the department of](#)  
26    [labor trainings website](#) ~~by the director of labor and training, who shall determine the size and~~  
27    ~~context thereof from time to time, at the time a contract is awarded.~~ A contractor or subcontractor  
28    who fails to comply with the provisions of this section shall be deemed guilty of a misdemeanor  
29    and shall pay to the director of labor and training one hundred dollars (\$100) for each calendar  
30    day of noncompliance as determined by him or her. Contracts set forth in this section shall not be  
31    awarded by the state, any city, town, or any agency thereof until the director of labor and training  
32    has prepared and delivered the posters to the division of purchases, if the state or any agency  
33    thereof is the proper authority, or to the city, town, or an agency thereof, if it is the proper  
34    authority, and the contractor to whom the contract is to be awarded.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL

OF

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1           This act would require individuals, contractors and subcontractors to obtain information,  
2 such as the applicable prevailing wage rate schedule and poster, from the department of labor and  
3 training's website.

4           This act would take effect upon passage.

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