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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 614 Session of  
2019

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INTRODUCED BY RYAN, COX, DELOZIER, HERSHEY, JONES, KAUFFMAN,  
KEEFER, LAWRENCE, MACKENZIE, MENTZER, MILLARD, B. MILLER,  
SAYLOR, ZIMMERMAN AND IRVIN, FEBRUARY 28, 2019

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 28, 2019

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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 and for  
6 specifications; and providing for protection of workmen.

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

9 Section 1. Sections 2 and 3 of the act of August 15, 1961  
10 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage  
11 Act, are amended to read:

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

13 (1) "Department" means Department of Labor and Industry of  
14 the Commonwealth of Pennsylvania.

15 (2) "Locality" means any political subdivision, or  
16 combination of the same, within the county in which the public  
17 work is to be performed. When no workmen for which a prevailing  
18 minimum wage is to be determined hereunder are employed in the  
19 locality, the locality may be extended to include adjoining

1 political subdivisions where such workmen are employed in those  
2 crafts or trades for which there are no workmen employed in the  
3 locality as otherwise herein defined.

4 (3) "Maintenance work" means the repair of existing  
5 facilities when the size, type or extent of such facilities is  
6 not thereby changed or increased. The term includes the  
7 following actions taken on roads:

8 (i) Replacement in kind, or compliance with current  
9 Department of Transportation design criteria and standards, of  
10 guide rails, curbs, pipes, line painting and other related road  
11 equipment.

12 (ii) Repair of pavement surface by:

13 (A) laying bituminous material up to three and a one-half  
14 inches thick or up to four hundred twenty pounds per square yard  
15 on asphalt pavement, cement concrete or other hard surface,  
16 including associated milling, and related work raising existing  
17 paved shoulders to new grade; or

18 (B) patching of cement concrete surface to include joint  
19 spalling and repair work.

20 (iii) Widening of existing alignment which does not result  
21 in additional lanes or new shoulders.

22 (iv) Bridge cleaning, washing, resurfacing with blacktop,  
23 minor nonstructural repairs or improvements and painting, except  
24 when combined with complete bridge rehabilitation.

25 (4) "Public body" means the Commonwealth of Pennsylvania,  
26 any of its political subdivisions, any authority created by the  
27 General Assembly of the Commonwealth of Pennsylvania and any  
28 instrumentality or agency of the Commonwealth of Pennsylvania.

29 (5) "Public work" means construction, reconstruction,  
30 demolition, alteration and/or repair work other than maintenance

1 work, done under contract and paid for in whole or in part out  
2 of the funds of a public body where the estimated cost of the  
3 total project is in excess of twenty-five thousand dollars  
4 (\$25,000), but shall not include work performed under a  
5 rehabilitation or manpower training program. The term includes  
6 combination maintenance/rehabilitation/reconstruction road  
7 projects on existing alignment in which nonmaintenance items  
8 exceed fifteen percent (15%) of the total project cost.

9 (6) "Secretary" means the Secretary of Labor and Industry or  
10 his duly authorized deputy or representative.

11 (7) "Workman" includes laborer, mechanic, skilled and semi-  
12 skilled laborer and apprentices employed by any contractor or  
13 subcontractor and engaged in the performance of services  
14 directly upon the public work project, regardless of whether  
15 their work becomes a component part thereof, but does not  
16 include material suppliers or their employes who do not perform  
17 services at the job site.

18 (8) "Work performed under a rehabilitation program," means  
19 work arranged by and at a State institution primarily for  
20 teaching and upgrading the skills and employment opportunities  
21 of the inmates of such institutions.

22 (9) "Advisory Board" means the board created by section 2.1  
23 of this act.

24 (10) "Appeals Board" means the board created by section 2.2  
25 of this act.

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

1 (b) No person shall intentionally divide a construction  
2 project into multiple parts for the purposes of circumventing  
3 this act.

4 Section 2. The act is amended by adding a section to read:

5 Section 13.1. Protection of Workmen.--(a) No contractor or  
6 subcontractor may discharge, threaten or otherwise discriminate  
7 or retaliate against a workman regarding the employe's  
8 compensation, terms, conditions, location or privileges of  
9 employment because the workman exercised his rights under  
10 section 11(b) or 13.

11 (b) No contractor or subcontractor may discharge, threaten  
12 or otherwise discriminate or retaliate against an employe  
13 regarding the employe's compensation, terms, conditions,  
14 location or privilege of employment because the employe is  
15 requested by the secretary to participate in an investigation,  
16 hearing or inquiry held by the secretary or in a court action.

17 (c) (1) A workman who alleges a violation of this act may  
18 bring a civil action in a court of competent jurisdiction for  
19 appropriate injunctive relief or damages, or both, within one  
20 hundred eighty days after the occurrence of the alleged  
21 violation.

22 (2) It shall be a defense to an action under this section if  
23 the defendant proves by a preponderance of the evidence that the  
24 action by the employer occurred for separate and legitimate  
25 reasons, which are not merely pretextual.

26 (d) A court, in rendering a judgment in an action brought  
27 under this act, shall order, as the court considers appropriate,  
28 reinstatement of the employe, the payment of back wages, full  
29 reinstatement of fringe benefits and seniority rights, damages  
30 or a combination of the remedies. A court may also award the

1 complainant all or a portion of the costs of litigation,  
2 including reasonable attorney fees and witness fees, if the  
3 court determines that the award is appropriate.

4 Section 3. The amendment of section 2 of the act shall apply  
5 to contracts entered into on or after the effective date of this  
6 section.

7 Section 4. This act shall take effect in 60 days.