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Industrial Relations 1-30

Senate File 99

By MINCKS and VAN EATON.

Passed Senate, Date.....

Passed House, Date.....

Vote: Ayes..... Nays.....

Vote: Ayes..... Nays.....

Approved.....

A BILL FOR

An Act providing for the establishment of wage rates for public works projects.

Be It Enacted by the General Assembly of the State of Iowa:

- 1 Section 1. Definitions.—As used in this Act, unless
- 2 the context indicates otherwise;
- 3 1. "Construction" includes construction, reconstruction,
- 4 improvement, enlargement, alteration, painting and decorating,
- 5 or major repair;
- 6 2. "Department" means Bureau of Labor;
- 7 3. "Prevailing hourly rate of wages" means the wages paid
- 8 generally, in the locality in which the public works is being
- 9 performed, to workmen engaged in work of a similar character.
- 10 4. "Locality" means the county where the physical work
- 11 upon public works is performed, except that if there is not
- 12 available in the county a sufficient number of competent skilled
- 13 laborers, workmen and mechanics to construct the public works
- 14 efficiently and properly, "locality" may include two or more
- 15 counties adjacent to the one in which the work or construction
- 16 is to be performed and from which such workers may be obtained
- 17 in sufficient numbers to perform the work, and that, with
- 18 respect to contracts with the state highway commission, "locality"
- 19 may be construed to include two or more adjacent counties from
- 20 which workmen may be accessible for work on such construction;

21 5. "Maintenance work" means the repair, but not the re-
22 placement, of existing facilities when the size, type or extent
23 of the existing facilities is not thereby changed or increased;

24 6. "Public body" means the state of Iowa or any officer,
25 board or commission of the state, or other political subdivision;

26 7. "Public works" means all fixed works constructed for
27 public use except work done directly by any public utility company
28 pursuant to order of the public service commission or other public
29 authority whether or not done under public supervision or direction
30 or paid for wholly or in part out of public funds; it does not
31 include any work done for or by any drainage or levee district.

32 8. "Workmen" means laborers, workmen and mechanics.

1 Sec. 2. Policy declared.—It is hereby declared to be
2 the policy of the state of Iowa that a wage of no less than the
3 prevailing hourly rate of wages for work of a similar character
4 in the locality in which the work is performed, shall be paid to
5 all workmen employed by or on behalf of any public body engaged
6 in public works exclusive of maintenance work.

1 Sec. 3. Prevailing wage rates required on construction
2 of public works.—1. Not less than the prevailing hourly rate
3 of wages for work of a similar character in the locality in
4 which the work is performed, and not less than the prevailing
5 hourly rate of wages for legal holiday and overtime work, shall
6 be paid to all workmen employed by or on behalf of any public
7 body engaged in the construction of public works, exclusive of
8 maintenance work. Only such workmen as are directly employed
9 by contractors or subcontractors in actual construction work
10 on the site of the building or construction job shall be deemed
11 to be employed upon public works.

12 2. When the hauling of materials or equipment includes some
13 phase of construction other than the mere transportation to the
14 site of the construction, workmen engaged in this dual capacity
15 shall be deemed employed directly on public works.

1 Sec. 4. Bureau of labor to enforce—regulations.—1. The
2 department shall inquire diligently as to any violation of
3 sections one (1) to three (3) of this Act, shall institute actions
4 for penalties herein prescribed, and shall enforce generally the
5 provisions of sections one (1) to three (3).

6 2. The department may establish rules and regulations for
7 the purpose of carrying out the provisions of sections one (1)
8 to three (3).

1 Sec. 5. Department to determine prevailing wage rates—
2 contracts to require payment of wage rates.—Before any public
3 body awards a contract for public works, it shall notify the
4 department to ascertain the prevailing hourly rate of wages in
5 the locality in which the work is to be performed, for each
6 craft or type of workman needed to execute the contract or
7 project. The public body shall specify in the resolution or
8 ordinance and in the call for bids for the contract, what the
9 prevailing hourly rate of wages in the locality is for each
10 craft or type of workmen needed to execute the contract, also
11 the general prevailing rate for legal holiday and overtime work,
12 and it shall be mandatory upon the contractor to whom the
13 contract is awarded and upon any subcontractor under him, to
14 pay not less than the specified rates to all workmen employed
15 by them in the execution of the contract. The public body
16 awarding the contract shall cause to be inserted in the contract
17 a stipulation to the effect that not less than the prevailing

18 hourly rate of wages as found by the department or determined
19 by the court on appeal shall be paid to all workmen performing
20 work under the contract. It shall also require in all the
21 contractor's bonds that the contractor include such provisions
22 as will guarantee the faithful performance of the prevailing
23 hourly wage clause as provided by contract.

1 Sec. 6. Prevailing wages established at regular intervals—
2 how determined—hearings on objections—judicial review.—1.
3 The department, from time to time, shall investigate and deter-
4 mine the prevailing hourly rate of wages in the localities.
5 Determinations shall be made annually on or about July 1 of
6 each year and shall remain in effect until superseded by a new
7 determination.

8 In determining prevailing rates, the department shall
9 ascertain and consider the applicable wage rates established by
10 collective bargaining agreements, if any, and such rates as are
11 paid generally within the locality.

12 2. A certified copy of such determination shall be filed
13 immediately with the secretary of state and with the department
14 in Des Moines. Copies shall be supplied to all persons request-
15 ing same within ten days after such filing.

16 3. At any time within thirty days after the certified
17 copies of the determinations have been filed with the secretary
18 of state and the department, any person who may be affected
19 thereby may object in writing to the determination or such part
20 thereof, as he deems objectionable by filing a written notice
21 with the department, stating the specific grounds of the
22 objection.

23 4. Within thirty days of the receipt of the objection,

24 the department shall set a date for a hearing on the objection.
25 The date for the hearing shall be within sixty days of the receipt
26 of the objection. Written notice of the time and place of the
27 hearing shall be given to the objectors at least ten days prior
28 to the date set for the hearing.

29 5. The department at its discretion may hear each written
30 objection separately or consolidate for hearing any two or more
31 written objections. At the hearing the department shall introduce
32 in evidence the investigation it instituted and such other facts
33 which were considered at the time of the original determination
34 which formed the basis for its determination. The department
35 or any objectors thereafter may introduce such evidence as is
36 material to the issues.

37 6. Within ten days of the conclusion of the hearing, the
38 department must rule on the written objection and make such
39 final determination as it believes the evidence warrants.
40 Immediately upon such final determination, the department shall
41 file a certified copy of its final determination with the
42 secretary of state and with the department and shall serve a
43 copy of the final determination on all parties to the
44 proceedings by personal service or by registered mail.

45 7. The final decision of the department of the prevailing
46 wages in the locality shall be subject to review by the district
47 court in the locality. Any person affected, whether or not
48 such person participated in the proceedings resulting in such
49 final determination may have the decision of the department
50 reviewed. The filing of the final determination with the
51 secretary of state shall be considered a service of the final
52 determination on persons not participating in the administrative

53 proceedings resulting in such final determination.

54 8. At any time before trial any person affected by the
55 final determination of the department may intervene in the pro-
56 ceedings to review and be made a party to such proceedings.

57 9. Appeals from all final orders and judgments entered by
58 the court in review of the final administrative decision of the
59 department may be taken directly to the supreme court.

60 10. All proceedings in any court affecting a determination
61 of the department under the provisions of this Act shall have
62 priority in hearing and determination over all other civil
63 proceedings pending in the court, except election contests.

1 Sec. 7. Declaration as to prevailing wages final—maxi-
2 mum wages and hours not limited.—The findings of the depart-
3 ment ascertaining and declaring the prevailing hourly rate of
4 wages shall be final for the locality, unless reviewed under
5 the provisions of sections one (1) to three (3) of this Act.
6 Nothing in sections one (1) to three (3) of this Act however,
7 shall be construed to prohibit the payment to any workmen
8 employed on any public work of more than the prevailing rate
9 of wages. Nothing in sections one (1) to three (3) shall be
10 construed to limit the hours of work which may be performed
11 by any workman in any particular period of time.

1 Sec. 8. Administration of oaths—subpoenas—enforcement
2 of subpoenas.—The authorized representative of the de-
3 partment may administer oaths, take or cause to be taken the
4 depositions of witnesses, and require by subpoena the attend-
5 ance and testimony of witnesses and the production of all
6 books, records, and other evidence relative to any matter under
7 investigation or hearing. The subpoena shall be signed and

8 issued by the department's authorized representative. In case
9 of failure of any person to comply with any subpoena lawfully
10 issued under this section, or on the refusal of any witness to
11 produce evidence or to testify to any matter regarding which he
12 may be lawfully interrogated, it shall be the duty of any
13 district court, or the judge thereof, upon application of the
14 department's authorized representative, to compel obedience by
15 proceedings for contempt, as in the case of disobedience of the
16 requirements of a subpoena issued by such court or a refusal to
17 testify therein. The authorized representative of the department
18 shall have the power to certify to official acts.

1 Sec. 9. Wage records of contractors.—The contractor
2 and each subcontractor or the officer of the public body in
3 charge of the project shall keep an accurate record showing the
4 names and occupation of all workmen employed by them, in
5 connection with the public work, and showing also the actual
6 wages paid to each of the workmen, which record shall be open
7 at all reasonable hours to the inspection of the department or
8 the public body awarding the contract, its officers and agents.

1 Sec. 10. Actions for prevailing wages by workmen author-
2 ized.—Any workman employed by the contractor or by any
3 subcontractor under the contractor who shall be paid for his
4 services in a sum less than the stipulated rates for work done
5 under the contract, shall have a right of action for whatever
6 difference there may be between the amount so paid and the
7 rates provided by the contract and an action brought to recover
8 same shall be deemed to be a suit for wages, and any and all
9 judgments entered therein shall have the same force and effect
10 as other judgments for wages.

1 Sec. 11. Penalties.—Any officer, agent or representative
2 of any public body who willfully violates, or omits to comply
3 with, any of the provisions of sections one (1) to three (3) of
4 this Act and any contractor or subcontractor, or agent or
5 representative thereof, doing public work who neglects to keep
6 an accurate record of the names, occupation and actual wages
7 paid to each workman employed by him, in connection with the
8 public work or who refuses to allow access to same at any
9 reasonable hour to any person authorized to inspect same under
10 sections one (1) to three (3) of this Act shall be punished
11 by a fine not exceeding five hundred dollars (\$500.00), or by
12 imprisonment not exceeding six (6) months, or by both such
13 fine and imprisonment.