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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3824

04/06/2016 Authored by Gruenhagen

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to wages; modifying certain prevailing wage provisions; authorizing
1.3 rulemaking; amending Minnesota Statutes 2014, sections 13.79, by adding
1.4 a subdivision; 116J.871, subdivision 1, by adding a subdivision; 177.43,
1.5 subdivision 7; 177.44, subdivision 4; proposing coding for new law in Minnesota
1.6 Statutes, chapter 177.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2014, section 13.79, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 3. Private project prevailing wage survey data. (a) All data contained
1.11 in a wage survey regarding a private project under chapter 177, or the rules adopted
1.12 thereunder, are classified as private or nonpublic data.

1.13 (b) For the purposes of this subdivision, "project" has the meaning given in section
1.14 177.45.

1.15 Sec. 2. Minnesota Statutes 2014, section 116J.871, subdivision 1, is amended to read:

1.16 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms
1.17 have the meanings given them.

1.18 (b) "Economic development" means financial assistance provided to a person
1.19 directly or to a local unit of government or nonprofit organization on behalf of a person
1.20 who is engaged in the manufacture or sale of goods and services. Economic development
1.21 does not include (1) financial assistance for rehabilitation of existing housing or (2)
1.22 financial assistance for new housing construction in which total financial assistance
1.23 at a single project site is less than ~~\$100,000~~ \$200,000 or the amount determined under
1.24 subdivision 6 after a determination is made.

2.1 (c) "Financial assistance" means (1) a grant awarded by a state agency for economic
 2.2 development related purposes if a single business receives ~~\$200,000~~ \$375,000 or the
 2.3 amount determined under subdivision 6 after a determination is made, or more of the grant
 2.4 proceeds; (2) a loan or the guaranty or purchase of a loan made by a state agency for
 2.5 economic development related purposes if a single business receives ~~\$500,000~~ \$925,000
 2.6 or the amount determined under subdivision 6 after a determination is made, or more
 2.7 of the loan proceeds; or (3) a reduction, credit, or abatement of a tax assessed under
 2.8 chapter 297A where the tax reduction, credit, or abatement applies to a geographic area
 2.9 smaller than the entire state and was granted for economic development related purposes.
 2.10 Financial assistance does not include payments by the state of aids and credits under
 2.11 chapter 273 or 477A to a political subdivision.

2.12 (d) "Project site" means the location where improvements are made that are financed
 2.13 in whole or in part by the financial assistance; or the location of employees that receive
 2.14 financial assistance in the form of employment and training services as defined in section
 2.15 116L.19, subdivision 4, or customized training from a technical college.

2.16 (e) "State agency" means any agency defined under section 16B.01, subdivision 2,
 2.17 Enterprise Minnesota, Inc., and the Iron Range Resources and Rehabilitation Board.

2.18 Sec. 3. Minnesota Statutes 2014, section 116J.871, is amended by adding a subdivision
 2.19 to read:

2.20 Subd. 6. **Inflation adjustment.** At least once every five years, the commissioner
 2.21 of labor and industry must determine the percentage increase in the rate of inflation,
 2.22 as measured by the implicit price deflator, national data for personal consumption
 2.23 expenditures as determined by the United States Department of Commerce, Bureau of
 2.24 Economic Analysis, during the most recent 12-month period for which data is available.
 2.25 The grants and loan amounts in subdivision 1, paragraph (c), clauses (1) and (2), are
 2.26 increased by the percentage calculated by the commissioner, rounded to the nearest
 2.27 \$1,000. A grant or loan amount shall not be reduced under this subdivision. The new
 2.28 grant and loan amounts determined under this subdivision take effect on January 1 of the
 2.29 calendar year following the determination.

2.30 Sec. 4. Minnesota Statutes 2014, section 177.43, subdivision 7, is amended to read:

2.31 Subd. 7. **Applicability.** This section does not apply to a contract, or work under
 2.32 a contract, under which:

2.33 (1) the estimated total cost of completing the project is less than ~~\$2,500~~ \$15,000 and
 2.34 only one trade or occupation is required to complete it, or

3.1 (2) the estimated total cost of completing the project is less than ~~\$25,000~~ \$150,000
 3.2 and more than one trade or occupation is required to complete it.

3.3 Sec. 5. Minnesota Statutes 2014, section 177.44, subdivision 4, is amended to read:

3.4 Subd. 4. **Certification of hours and rate.** In accordance with section 177.45,
 3.5 the commissioner of labor and industry shall at least once a year certify the prevailing
 3.6 hours of labor, the prevailing wage rate, and the hourly basic rate of pay for all classes of
 3.7 laborers and mechanics referred to in subdivision 3 in each area. The certification must
 3.8 also include future hours and rates when they can be determined for classes of laborers and
 3.9 mechanics in an area. The certification must specifically state the effective dates of future
 3.10 hours and rates when they are certified. If a construction project extends into more than
 3.11 one area there shall be only one standard of hours of labor and wage rates for the entire
 3.12 project. A person aggrieved by a final determination of the commissioner may petition
 3.13 the commissioner for reconsideration of findings. A person aggrieved by a decision of
 3.14 the commissioner after reconsideration may within 20 days after the decision petition the
 3.15 commissioner for a public hearing as in a contested case under sections 14.57 to 14.61. If
 3.16 the commissioner finds that a change in the certified prevailing hours of labor, prevailing
 3.17 wage rate, and the hourly basic rate of pay for a class of laborers or mechanics in any area
 3.18 is required, the commissioner may at any time certify that change.

3.19 Sec. 6. **[177.45] PREVAILING WAGE DETERMINATIONS.**

3.20 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms
 3.21 have the meanings given.

3.22 (b) "Commercial construction" means all building construction projects exclusive of
 3.23 residential construction.

3.24 (c) "Department" means the Department of Labor and Industry.

3.25 (d) "Highway and heavy construction" means all construction projects that are
 3.26 similar in nature to those projects based upon bids as provided under section 161.32, for
 3.27 the construction or maintenance of highways or other public works and includes roads,
 3.28 highways, streets, airport runways, bridges, power plants, dams, and utilities.

3.29 (e) "Project" means the erection, construction, remodeling, or repairing of
 3.30 commercial, residential, or public buildings or any highway and heavy construction.

3.31 Subd. 2. **Highway and heavy construction.** The department must, at least once
 3.32 each calendar year, determine and certify prevailing wage rates applicable to state projects
 3.33 that are similar in nature to public and private highway and heavy construction projects
 3.34 where the estimated total cost of the project is \$150,000 or more.

4.1 Subd. 3. **Commercial construction.** The department must, at least once each
 4.2 calendar year, determine and certify prevailing wage rates applicable to state projects that
 4.3 are similar in nature to public and private commercial projects where the estimated total
 4.4 cost of completing the project is \$15,000 or more.

4.5 Subd. 4. **Inflation adjustment.** At least once every five years, the commissioner
 4.6 of labor and industry must determine the percentage increase in the rate of inflation,
 4.7 as measured by the implicit price deflator, national data for personal consumption
 4.8 expenditures as determined by the United States Department of Commerce, Bureau of
 4.9 Economic Analysis, during the most recent 12-month period for which data is available.
 4.10 The amounts in subdivisions 2 and 3 are increased by the percentage calculated by
 4.11 the commissioner, rounded to the nearest \$1,000, and shall not be reduced under this
 4.12 subdivision. The amounts determined under this subdivision take effect on January 1 of
 4.13 the calendar year following the determination.

4.14 Subd. 5. **Prevailing wage surveys.** For both commercial and highway and heavy
 4.15 construction, prevailing wage rates may only be increased if a minimum of five projects in
 4.16 an area or county are reported.

4.17 Subd. 6. **No prevailing wage projects.** Survey responses reporting projects for
 4.18 which the payment of prevailing wage was required under this chapter or section 116J.871
 4.19 do not count toward the five-project minimum under subdivision 5, and must not be used
 4.20 in the determination of prevailing wage rates under this chapter.

4.21 Subd. 7. **No change in prevailing wage.** If the department cannot determine a
 4.22 prevailing wage rate because it receives reports of two or fewer projects in an area or
 4.23 county, the department must certify the prevailing wage rate of the previous year as the
 4.24 new prevailing wage rate.

4.25 **Sec. 7. DEPARTMENT OF LABOR AND INDUSTRY RULEMAKING.**

4.26 Subdivision 1. **Rulemaking.** The commissioner of labor and industry must adopt
 4.27 rules and amend current rules related to prevailing wage rate determinations to conform
 4.28 with Minnesota Statutes, chapter 177, and the requirements of subdivision 2. The rules
 4.29 adopted under this section are exempt from the rulemaking provisions of Minnesota
 4.30 Statutes, chapter 14. The rules are subject to Minnesota Statutes, section 14.386, except
 4.31 that Minnesota Statutes, section 14.386, paragraph (b), does not apply.

4.32 Subd. 2. **Required amendments.** The commissioner of labor and industry must:

4.33 (1) repeal Minnesota Rules, part 5200.1060, subparts 3 to 5, and not otherwise
 4.34 change that part; and

5.1 (2) change all references to "\$25,000" and "\$2,500" to reflect the amounts under
5.2 Minnesota Statutes, section 177.45, subdivisions 2 and 3, respectively.

5.3 Subd. 3. **No additional changes.** The commissioner of labor and industry must
5.4 not change any rules other than those adopted or amended for the limited purposes
5.5 of subdivisions 1 and 2.