

issue of maximum hours of work ~~and~~, minimum hourly wage rates, and other conditions of employment concerning union security shall, upon service of written notice by either party upon the other party and the director of mediation services, be submitted to the determination of a board of arbitrators whose determination shall be final and binding upon the parties. The board of arbitrators shall be selected and proceed in the following manner, unless otherwise agreed between the parties: the employers shall appoint one arbitrator, the employees shall appoint one arbitrator, and the two arbitrators so chosen shall appoint a third arbitrator who shall act as chairman and who shall receive reasonable compensation for his work; but if said arbitrators are unable to agree upon the appointment of such third arbitrator within five days after submission to arbitration, the governor shall submit five names to the parties and the parties shall select the third arbitrator, who shall act as chairman, from the five submitted by the governor. The selection of the third arbitrator shall be by the process of elimination, with the parties taking turns at striking names from the list of five submitted by the governor, until only one name remains. If the parties are unable to agree with respect to which party shall take the first turn for the purpose of striking a name, it shall be decided by the flip of a coin. Each party shall be responsible for compensating the arbitrator of their choice, and the parties shall share equally the compensation paid to the third arbitrator. The board of arbitrators shall serve as a temporary arbitration tribunal and shall have the powers provided for commissioners under section 179.08. The board of arbitrators shall make its determination with all due diligence and shall file a copy of its report with the director of mediation services.

Approved May 24, 1973.

CHAPTER 724—H.F.No.134

[Coded]

An act relating to labor; establishing procedures for determining wage rates on state projects and state highway construction; prohibiting wage rates lower than prevailing wage rates; providing penalties.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[177.41] LABOR; STATE PROJECTS AND STATE HIGHWAY CONSTRUCTION; WAGES; PUBLIC POLICY.** It is

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in the public interest that public buildings and other public works be constructed and maintained by the best means and highest quality of labor reasonably available, and that persons working on public works be compensated according to the real value of the services they perform. It is therefore declared to be the public policy of this state that wages of laborers, workmen and mechanics engaged in state projects should be comparable to wages paid for similar work in the community as a whole.

Sec. 2. [177.42] **DEFINITIONS.** Subdivision 1. As used in sections 1 to 4 the terms defined in this section have the meanings given them except where the context indicates otherwise.

Subd. 2. "Project" means erection, construction, remodeling or repairing of any public building or other public work.

Subd. 3. "Area" means the county or other locality from which labor for any project would normally be secured.

Subd. 4. "Prevailing hours of labor" means the hours of labor per day and per week worked within the area by a larger number of workmen of the same class than are employed within the area for any other number of hours per day and per week; provided, that in no event shall the prevailing hours of labor be deemed to be more than eight hours per day or more than 40 hours per week.

Subd. 5. "Hourly basic rate" means the hourly wage paid to any employee.

Subd. 6. "Prevailing wage rate" means the hourly basic rate of pay plus the contribution for health and welfare benefits, vacation benefits, pension benefits and any other economic benefit paid to the largest number of workmen engaged in the same class of labor within the area, and includes for the purposes of section 4, rental rates for truck hire paid to those who own and operate the truck. In no event shall the prevailing wage rate be deemed to be less than a reasonable and living wage.

Sec. 3. [177.43] **CONTRACTS FOR STATE PROJECTS; HOURS OF LABOR; WAGE RATES.** Subdivision 1. Any contract which provides for a project within the meaning of section 2, shall contain a stipulation that no laborer or mechanic employed directly upon the project work site by the contractor or any subcontractor, agent or other person doing or contracting to do all or a part of the work of the project, shall be permitted or required to work more hours than the prevailing hours of labor unless such laborer or mechanic is paid for all hours in excess of the prevailing hours at a rate of at least 1½ times his hourly basic rate of pay; nor shall he be paid a lesser rate of wages than the prevailing wage rate in the same or most similar trade or occupation in the area.

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Subd. 2. This section shall not apply to wage rates and hours of employment of laborers or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products; except that this section shall apply to laborers or mechanics who deliver mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

Subd. 3. The prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay shall be set forth specifically in the contract.

Subd. 4. The prevailing wage rates, prevailing hours of labor and hourly basic rates of pay for all trades and occupations required in any contemplated project shall be ascertained before the state asks for bids. The state agency contemplating the project shall make such investigations as may be necessary to enable it to ascertain such information. The agency shall report the prevailing wage rates, prevailing hours of labor and hourly basic rates to the commissioner of labor and industry and shall keep the same information posted on the project in at least one conspicuous place for the information of the employees working on the project.

Subd. 5. Any officer or employee of the state who executes any contract for a project as defined in section 1 without complying with this section, and any contractor, subcontractor or agent thereof who, after executing a contract in compliance with this section, pays to any laborer, workman or mechanic employed directly upon the project site a lesser wage for work done under such contract than the prevailing wage rate as set forth in the contract shall be fined not more than \$200, or imprisoned for not more than 90 days, or both. Such agent or subcontractor shall furnish to the contractor evidence of compliance with this section. Each day any violation of this section continues shall be deemed a separate offense.

Subd. 6. It is the duty of the department of labor and industry to enforce this section. To this end it may demand, and it shall be the duty of every contractor and subcontractor to furnish to the department, copies of any or all payrolls, and the department may examine all records relating to wages paid laborers or mechanics on work to which sections 1 to 4 are applicable.

Subd. 7. This section shall not apply to a contract, or work under a contract, under which (a) the estimated total cost of completing the project is less than \$2,500 and only one trade or occupation is required to complete it, or (b) the estimated total cost

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of completing the project is less than \$25,000 and more than one trade or occupation is required to complete it.

Sec. 4. [177.44] HIGHWAY CONTRACTS; HOURS OF LABOR; WAGE RATES. Subdivision 1. No laborer or mechanic employed by any contractor, subcontractor, agent or other person doing or contracting to do all or a part of the work under a contract based on bids as provided in Minnesota Statutes 1971, Section 161.32, to which the state is a party, for the construction or maintenance of any highway, shall be permitted or required to work more hours than the prevailing hours of labor unless such laborer or mechanic is paid for all hours in excess of the prevailing hours at a rate of at least 1½ times his hourly basic rate of pay; nor shall he be paid a lesser rate of wages than the prevailing wage rate in the same or most similar trade or occupation in the area.

Subd. 2. This section shall not apply to wage rates and hours of employment of laborers or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products; except that this section shall apply to laborers or mechanics who deliver mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

Subd. 3. The department of labor and industry shall conduct investigations and hold public hearings necessary to define classes of laborers and mechanics and to inform itself as to the hours of labor and wage rates prevailing in all areas of the state for all classes of labor and mechanics commonly employed in highway construction work, with a view to ascertaining and determining prevailing hours of labor, prevailing wage rates and hourly basic rates of pay accordingly.

The department shall inform itself of the nature of the equipment furnished by truck drivers who own and operate trucks on such contract work, with a view to ascertaining and determining minimum rates for the equipment, and shall establish by regulation such minimum rates to be computed into the prevailing wage rate in accordance with the definition thereof in section 2.

Subd. 4. The commissioner of labor and industry shall prior to May 1 of the next calendar year certify the prevailing hours of labor, the prevailing wage rate and the hourly basic rate of pay for all classes of laborers and mechanics referred to in subdivision 3 in each area. The certification shall in addition to the current prevailing hours of labor, the prevailing wage rates and the hourly

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basic rates of pay include future hours and rates when such hours and rates can be determined for any such classes of laborers and mechanics in any area and shall specifically set forth the effective dates thereof when future hours and rates are certified. If a construction project extends into more than one area there shall be but one standard of hours of labor and wage rates for the entire project.

Subd. 5. The prevailing hours of labor, the prevailing wage rates and the hourly basic rates of pay and classifications for all labor as certified by the commissioner shall be specifically set forth in the proposals and contracts for each highway construction contract to which the state is a party, and shall, together with the provisions of subdivision 6 be kept posted on the project by the employer in at least one conspicuous place for the information of employees working on the project.

Subd. 6. Any contractor, subcontractor or agent thereof who violates this section may be fined not less than \$50 nor more than \$200 or imprisoned not more than 90 days or both. Each day that any such violation continues shall be deemed a separate offense.

Whoever induces any individual who seeks to be or is employed on any project subject to this section to give up or forego any part of the wages to which he is entitled under the contract governing such project by threat not to employ, by threat of dismissal from such employment or by any other means may be fined not exceeding \$1,000 or imprisoned not more than one year or both.

Any person employed on a project under a contract subject to this section who knowingly permits the contractor or subcontractor to pay him less than the prevailing wage rate set forth in such contract, or who gives up any part of the compensation to which he is entitled thereunder, may be fined not exceeding \$20 or imprisoned not more than 30 days or both. Each day any violation of this paragraph continues shall be deemed a separate offense.

Subd. 7. The department of highways shall require adherence to this section. The highway commissioner may demand, and every contractor and subcontractor shall furnish, copies of payrolls, and it may examine all records relating to hours of work and the wages paid laborers and mechanics on the work to which this section is applicable. Upon request of the department of highways or upon complaint of alleged violation, the county attorney of the county in which the work is located shall make such investigation as is necessary and prosecute violations in a court of competent jurisdiction.

Approved May 24, 1973.

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