STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024

Introduced by Senator Cherry

ENROLLED SENATE BILL No. 571

AN ACT to amend 2023 PA 10, entitled "An act to require prevailing wages and fringe benefits on state projects; to establish the requirements and responsibilities of contracting agents and bidders; to make appropriations for the implementation of this act; and to prescribe penalties," by amending the title and sections 1, 2, 8, and 22 (MCL 408.1101, 408.1102, 408.1108, and 408.1122) and by adding sections 2a and 25a.

The People of the State of Michigan enact:

TITLE

An act to require prevailing wages and fringe benefits on certain projects; to establish the requirements and responsibilities of contracting agents and bidders; to make appropriations for the implementation of this act; to provide for the powers and duties of certain state and local governmental officers and entities; to create the prevailing wage fund; and to prescribe penalties.

Sec. 1. As used in this act:

(a) "Commissioner" means the department of labor and economic opportunity.

(b) "Construction mechanic" means a skilled or unskilled mechanic, laborer, worker, helper, assistant, or apprentice working on a state project but does not include executive, administrative, professional, office, or custodial employees.

(c) "Contracting agent" means either of the following:

(*i*) A private contracting agent.

(*ii*) A public contracting agent.

(d) "Energy facility" means an energy storage facility, solar energy facility, or wind energy facility. An energy facility may be located on more than 1 parcel of property, including noncontiguous parcels, but shares a single point of interconnection to the grid.

(e) "Energy facility project" means new construction, completion, demolition, major alteration, or repowering of an energy facility.

(f) "Energy storage facility" means a system that absorbs, stores, and discharges electricity with a nameplate capacity of 2 megawatts or more. Energy storage facility does not include either of the following:

(*i*) Fossil fuel storage.

(*ii*) Power-to-gas storage that directly uses fossil fuel inputs.

(g) "Locality" means the county, city, village, township, or school district in which the physical work on a state project is to be performed.

(h) "Nameplate capacity" means the designed full-load sustained generating output of an energy facility. Nameplate capacity shall be determined by reference to the sustained output of an energy facility even if components of the energy facility are located on different parcels, whether contiguous or noncontiguous.

(i) "Private contracting agent" means an individual or a partnership, association, trust, corporation, or any other legal entity that enters into a contract for an energy facility project or to perform an energy facility project by the direct employment of labor.

(j) "Public contracting agent" means an officer, school board, board or commission of this state, or state institution supported in whole or in part by funds from this state, authorized to enter into a contract for a state project or to perform a state project by the direct employment of labor.

(k) "Solar energy facility" means a system that captures and converts solar energy into electricity, with a nameplate capacity of 2 megawatts or more, for the purpose of sale or for use in locations other than solely the solar energy facility property. Solar energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: photovoltaic solar panels; solar inverters; access roads; distribution, collection, and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit breakers and transformers; energy storage facilities; overhead and underground control; communications and radio relay systems and telecommunications equipment; utility lines and installations generation tie lines; solar monitoring stations; and accessory equipment and structures.

(*l*) "State project" means either of the following:

(*i*) New construction, alteration, repair, installation, painting, decorating, completion, demolition, conditioning, reconditioning, or improvement of public buildings, schools, works, bridges, highways, or roads that meets both of the following conditions:

(A) Is authorized by a public contracting agent.

(B) Is sponsored or financed in whole or in part by this state.

(*ii*) An energy facility project.

(m) "State project registration" means a registration granted under section 2a.

(n) "Wind energy facility" means a system that captures and converts wind energy into electricity, with a nameplate capacity of 2 megawatts or more, for the purpose of sale or for use in locations other than solely the wind energy facility property. Wind energy facility includes, but is not limited to, the following equipment and facilities to be constructed by an electric provider or independent power producer: wind towers; wind turbines; access roads; distribution, collection, and feeder lines; wires and cables; conduit; footings; foundations; towers; poles; crossarms; guy lines and anchors; substations; interconnection or switching facilities; circuit breakers and transformers; energy storage facilities; overhead and underground control; communications and radio relay systems and telecommunications equipment; monitoring and recording equipment and facilities; erosion control facilities; utility lines and installations generation tie lines; ancillary buildings; wind monitoring stations; and accessory equipment and structures.

Sec. 2. (1) Every contract executed between a contracting agent and a successful bidder as contractor and entered into pursuant to advertisement and invitation to bid for a state project that requires or involves the employment of construction mechanics, other than those subject to the jurisdiction of the state civil service commission, must include an express term that the rates of wages and fringe benefits to be paid to each class of mechanics by the bidder and all of its subcontractors must not be less than the wage and fringe benefit rates prevailing in the locality in which the work is to be performed. Contracts on state projects which contain provisions requiring the payment of prevailing wages as determined by the United States Secretary of Labor pursuant to 40 USC 3141 to 3148 or which contain minimum wage schedules which are the same as prevailing wages in the locality as determined by collective bargaining agreements or understandings between bona fide organizations of construction mechanics and their employers are exempt from the provisions of this act.

(2) A contractor or subcontractor shall pay to its construction mechanics wages and fringe benefits at the rates required under an applicable contract for a state project.

(3) A contractor shall not do any of the following:

(a) Submit a bid for a state project unless the contractor holds a state project registration.

(b) Perform work on a state project unless the contractor holds a state project registration.

(c) List a subcontractor on a bid proposal for a state project if the subcontractor does not hold a state project registration.

(d) Enter into an agreement with a subcontractor to perform work on a state project if the subcontractor does not hold a state project registration.

(4) A subcontractor shall not do either of the following unless the subcontractor holds a state project registration:

(a) Perform work on a state project.

(b) Enter into an agreement with a contractor to perform work on a state project.

(5) A contractor shall include in a bid for a state project a copy of the state project registration for the contractor and for each subcontractor of the contractor that has been selected at the time the contractor submits the bid.

Sec. 2a. (1) To obtain a state project registration or renew a state project registration, a contractor or subcontractor must do both of the following:

(a) Submit an application that meets the requirements of subsection (2) to the commissioner on a form and in a manner as prescribed by the commissioner.

(b) Pay the application fee described in subsection (3).

(2) An application for a state project registration must include all of the following:

(a) All of the following information for the contractor or subcontractor:

(*i*) Name.

(*ii*) Address of its principal place of business or, if this address is not in this state, the name and address of the custodian of records and agent for service of process in this state.

(*iii*) Telephone number.

(*iv*) Whether the contractor or subcontractor is a corporation, partnership, sole proprietorship, or, if a different type of legal entity, the type of legal entity.

(*v*) The name and address of each person with a financial interest in the contractor or subcontractor or, if the contractor or subcontractor is a publicly traded corporation, the name and address of each officer of the corporation.

(*vi*) Tax identification number.

(*vii*) Unemployment insurance identification number.

(b) A statement that the contractor or subcontractor is in compliance with all applicable laws.

(c) Documentation that shows, as determined by the commissioner, that the contractor or subcontractor is in compliance with all applicable laws, including, but not limited to, holding every license, registration, certificate, or other similar authorization required by law.

(d) Any other information or documentation as required by the commissioner.

(3) A state project registration is valid for 1 year. The commissioner shall establish an annual renewal date for all state project registrations. The commissioner shall establish a state project registration application fee in an amount that is sufficient to implement this act. The commissioner may allow an applicant for a state project registration to pay a prorated application fee based on the date that the applicant submits its application.

(4) Not later than 15 business days after the commissioner receives a complete application and application fee for a state project registration, the commissioner shall do 1 of the following:

(a) If the applicant meets the requirements for a state project registration, grant the state project registration to the applicant.

(b) If the applicant does not meet the requirements of a state project registration, deny the application and provide the applicant with a written statement that includes the reason for the denial.

(5) A contractor or subcontractor shall not submit an application for a state project registration if the contractor or subcontractor knows that the application contains a false statement.

(6) The commissioner may suspend or revoke a contractor's or subcontractor's state project registration if all of the following conditions are met:

(a) The commissioner determines that the contractor or subcontractor significantly or repeatedly violated this act or another law.

(b) The commissioner has promulgated a rule that establishes procedures for suspending or revoking a contractor's or subcontractor's state project registration.

(c) The rule described in subdivision (b) is in effect.

Sec. 8. (1) In addition to any other sanction provided for in this act, a person that violates this act is subject to a civil fine of not more than $5,000.00. The prosecutor of the county in which the violation occurred or the attorney general may bring an action to collect the fine.

(2) A contractor and its subcontractor are jointly and severally liable for a violation of this act.

Sec. 22. (1) A contracting agent, contractor, or subcontractor shall maintain certified payroll records and other records required under this act for a minimum of 3 years. Subject to subsection (6), not later than 10 days after the end of a pay period, a contractor or subcontractor shall transmit the certified payroll records for the pay period to the following:

(a) Before the date that is 1 year after the effective date of the amendatory act that added section 2a, the applicable contracting agent.

(b) On or after the date that is 1 year after the effective date of the amendatory act that added section 2a, the database described in subsection (2).

(2) By not later than the date that is 1 year after the effective date of the amendatory act that added section 2a, the commissioner shall create and maintain an internal certified payroll database that meets all of the following conditions:

(a) Allows a contractor, subcontractor, or contracting agent to submit certified payroll records to the database via the internet.

(b) Includes all of the following information for each construction mechanic:

(*i*) Classification.

(*ii*) Whether the construction mechanic is an apprentice, journeyman, or other skill level.

(*iii*) Gross wages paid in the pay period.

(*iv*) Number of hours worked each day.

(*v*) Starting and ending times of each day.

(*vi*) Hourly wage rate.

(*vii*) Hourly overtime wage rate.

(*viii*) Hourly fringe benefit rate.

(c) Does not display or otherwise include a construction mechanic's home address, telephone number, or Social Security number.

(d) Requires a contractor or subcontractor to attest at the time the contractor or subcontractor submits the certified payroll record, via electronic signature, that all of the following are true:

(*i*) The certified payroll record is complete and accurate.

(*ii*) The wage and fringe benefit rates paid to the construction mechanic are not less than the rates required under this act.

(*iii*) The person submitting the certified payroll record has reviewed the certified payroll record.

(*iv*) The person submitting the certified payroll record understands that a violation of this section may result in either of the following:

(A) The revocation or suspension of a state project registration.

(B) The denial of an application for a state project registration.

(3) A contracting agent that receives a certified payroll record under subsection (1)(a) shall, not later than 10 days after receiving the certified payroll record, transmit the certified payroll record to the commissioner on a form and in a manner as prescribed by the commissioner.

(4) By not later than the sixteenth day of each month, the commissioner shall update the database with the certified payroll records from the immediately preceding month.

(5) A contractor or subcontractor shall not submit a certified payroll record as required under this section if the contractor or subcontractor knows that the certified payroll record contains a false statement.

(6) A contractor or subcontractor is not required to transmit certified payroll records under subsection (1) if either of the following conditions applies:

(a) The contractor or subcontractor performs work on a state project and is otherwise required by law to transmit certified payroll records to the state transportation department.

(b) The contractor or subcontractor performs work on an energy facility project that is solely routine maintenance or repair.

Sec. 25a. (1) The prevailing wage fund is created in the state treasury.

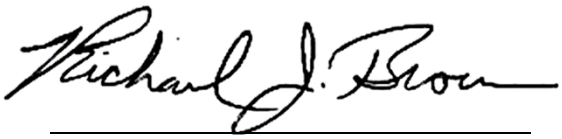
(2) The state treasurer shall deposit money and other assets received from fees or fines imposed under this act or from any other source in the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from the investments to the fund.

(3) Money in the fund at the close of the fiscal year does not lapse to the general fund.

(4) The commissioner is the administrator of the fund for audits of the fund.

(5) The commissioner shall expend money from the fund on appropriation only to implement this act.

Secretary of the Senate



Clerk of the House of Representatives

Approved_____

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Governor