

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1400

H. P. 1174

House of Representatives, March 31, 1977

Referred to Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Davies of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT to Establish Penalties for Contractors who Violate Laws Governing
Public Works Contracts.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 26 MRSA § 1309, as repealed and replaced by PL 1967, c. 403, is amended by adding at the end the following:

The contract shall contain the further provision that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the public authority to pay to laborers, workmen and mechanics employed by the contractor or any subcontractor on the work any difference between the fair minimum wage and the rates of wages received by those laborers, workmen and mechanics and not refunded to the contractor, subcontractors or their agents.

Sec. 2. 26 MRSA § 1309-A is enacted to read:

§ 1309-A. Termination of work on failure to pay minimum wages

Every contract for the construction of public works shall contain the provision that in the event it is found by the public authority that any laborer, workman or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the fair minimum wage, the Director of Public Improvements may, by written notice to the contractor, terminate his right to proceed with the work or any part of the work as to which there has been a failure to pay the fair minimum wage and to prosecute the work to completion by contract or otherwise and the contractor and his sureties shall be liable to the State for any excess costs occasioned the State.

Sec. 3. 26 MRSA § 1312-A is enacted to read:

**§ 1312-A. Payment of wages from withheld payments;
listing contractors violating contracts**

The Department of Finance and Administration, through the Bureau of Public Improvements, is authorized and directed to pay directly to laborers, workmen and mechanics from any accrued payments withheld under the terms of any contract pursuant to section 1309 any wages found to be due laborers, workmen and mechanics. The Director of Public Improvements is further authorized and directed to distribute a list to all departments, public authorities and agencies of the State giving the names of persons or firms who he has found to have disregarded their obligations to employees and sub-contractors, either knowingly or on more than one occasion. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership or association in which these persons or firms have an interest until 3 years have elapsed from the date of publication of the list containing the names of these persons or firms.

STATEMENT OF FACT

This bill would provide that under the State Davis Bacon Act a public authority may withhold from payments due a contractor moneys to pay any employee of that contractor who is not receiving the fair minimum wage. The State would also be permitted to terminate any contract when a contractor is not paying the fair minimum wage and to prevent those contractors who violate these provisions to be barred from the granting of future contracts for a period of 3 years.