

# MAINE STATE LEGISLATURE

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MAJORITY

L.D. 1386

Date: (6/3/19)

(Filing No. S-264)

LABOR AND HOUSING

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STATE OF MAINE

SENATE

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 430, L.D. 1386, Bill, "An Act Regarding the Determination of the Prevailing Wage Rate for Public Works Projects"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA §1308, sub-§1, as amended by PL 1997, c. 757, §7, is repealed and the following enacted in its place:

**1. Determination of wage and benefits rates.** The Bureau of Labor Standards shall investigate and determine the prevailing hourly wage and benefits rate paid in the construction industry in this State. To determine the prevailing hourly wage and benefits rate, the bureau shall:

A. Collect a set of data by conducting a survey of wages and benefits during the 2nd and 3rd week of July of each year; and

B. Collect a 2nd set of data through certified payroll submissions on state construction of public works during the 2nd and 3rd week of July of each year from any state agency that contracts for the construction of public works.

Survey data collected pursuant to paragraph A and certified payroll data collected pursuant to paragraph B must be submitted to the bureau by the 2nd week of October.

The bureau shall use the higher wage and benefits information of the 2 data sets collected pursuant to paragraphs A and B to determine the prevailing hourly wage and benefits rate. The bureau may also use wage and benefits information received from construction trade associations in its determination of prevailing rates. In determining the prevailing rate, the bureau may ascertain and consider the applicable wage and benefits rates established by collective bargaining agreements, if any, and those rates that are paid generally in the locality where the construction of the public works is to be performed.

For purposes of this subsection, "benefits" means health and welfare contributions, pension or individual retirement account contributions and vacation and annuity contributions, per diem in lieu of wages and any other form of payment, except for

COMMITTEE AMENDMENT

1 wages, made to or on behalf of the employee. If a defined contribution amount is not  
 2 established, the most accurate estimated value of contributions must be included.

3 **Sec. 2. 26 MRSA §1308, sub-§1-A**, as enacted by PL 1999, c. 181, §2, is  
 4 amended to read:

5 **1-A. Surveys.** The director may require any person to provide information on the  
 6 wages and benefits provided to that person's employees and such other information as is  
 7 needed to determine the prevailing wage and benefits. The director may assess a  
 8 forfeiture fine of up to \$50 \$250 for the first offense, \$500 for a 2nd offense and \$1,000  
 9 for any subsequent offense against any person who fails to provide the information as  
 10 requested.

11 **Sec. 3. Appropriations and allocations.** The following appropriations and  
 12 allocations are made.

13 **LABOR, DEPARTMENT OF**  
 14 **Regulation and Enforcement 0159**

15 Initiative: Provides funds for one-half of the cost of one Statistician II position and related  
 16 All Other costs for data collection and analysis necessary to determine the prevailing  
 17 hourly wage and benefits rate paid in the construction industry in the State.

18	<b>GENERAL FUND</b>	<b>2019-20</b>	<b>2020-21</b>
19	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
20	Personal Services	\$21,966	\$36,575
21	All Other	\$3,166	\$3,500
22			
23	<b>GENERAL FUND TOTAL</b>	<u>\$25,132</u>	<u>\$40,075</u>

24 **Safety Education and Training Programs 0161**

25 Initiative: Allocates funds for one-half of the cost of one Statistician II position and  
 26 related All Other costs for data collection and analysis necessary to determine the  
 27 prevailing hourly wage and benefits rate paid in the construction industry in the State.

28	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2019-20</b>	<b>2020-21</b>
29	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
30	Personal Services	\$21,966	\$36,575
31	All Other	\$5,319	\$6,667
32			
33	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$27,285</u>	<u>\$43,242</u>

34	<b>LABOR, DEPARTMENT OF</b>		
35	<b>DEPARTMENT TOTALS</b>	<b>2019-20</b>	<b>2020-21</b>
36			

ROPS

1	<b>GENERAL FUND</b>	<b>\$25,132</b>	<b>\$40,075</b>
2	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$27,285</b>	<b>\$43,242</b>
3			
4	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$52,417</b>	<b>\$83,317</b>
5			

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
7 section number to read consecutively.

8 **SUMMARY**

9 Like the bill, this amendment requires 2 data sets to be reported to the Department of  
10 Labor, Bureau of Labor Standards in order to determine the hourly prevailing wage and  
11 benefits rate paid in the construction industry but clarifies that the 2nd set of data, the  
12 certified payroll submissions on state construction of public works, is to come from  
13 reporting by state agencies that contract for the construction of public works. It also  
14 requires that all data must be submitted to the bureau by the 2nd week in October. It  
15 increases the penalties the director may assess against any person who fails to provide the  
16 information from \$250 for all offenses, as in the bill, to \$250 for the first offense, \$500  
17 for a 2nd offense and \$1,000 for any subsequent offense. Lastly, it adds an  
18 appropriations and allocations section to fund a position in the department necessary for  
19 the administration of requirements of the bill, as amended.

20 **FISCAL NOTE REQUIRED**

21 (See attached)



# 129th MAINE LEGISLATURE

LD 1386

LR 1897(02)

## An Act Regarding the Determination of the Prevailing Wage Rate for Public Works Projects

Fiscal Note for Bill as Amended by Committee Amendment *(S 204)*

Committee: Labor and Housing

Fiscal Note Required: Yes

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Net Cost (Savings)</b>				
General Fund	\$25,132	\$40,075	\$41,355	\$42,680
<b>Appropriations/Allocations</b>				
General Fund	\$25,132	\$40,075	\$41,355	\$42,680
Other Special Revenue Funds	\$27,285	\$43,242	\$44,522	\$45,847

#### Fiscal Detail and Notes

This bill includes General Fund appropriations of \$25,132 in fiscal year 2019-20 and \$40,075 in fiscal year 2020-21 to the Bureau of Labor Standards within the Department of Labor for one-half of the cost of one Statistician II position and related All Other costs necessary to collect and analyze the required data in order to determine the prevailing hourly wage and benefit rate paid in the construction industry within the State. This bill also includes Other Special Revenue Funds allocations of \$27,285 and \$43,242 in fiscal years 2019-20 and 2020-21, respectively for the remaining cost of the position.

This bill also increases the penalties that may be assessed for failing to provide the required wage and benefit information from \$250 for all offenses to \$250 for the first offense, \$500 for the second offense and \$1,000 for subsequent offenses. Any revenue from the increase in penalty amounts will be credited to the General Fund.