

MAINE STATE LEGISLATURE

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N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

No. 831

S. P. 320

In Senate, February 14, 1945.

Referred to the Committee on Labor in concurrence and ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Townsend of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

**AN ACT Establishing* Minimum Wages of Labor on Public Works
Projects Supported by State Funds.**

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

Sec. 1. R. S., c. 25, §§ 40, 42, 43, repealed. Sections 40, 42 and 43 of chapter 25 of the revised statutes are hereby repealed.

Sec. 2. R. S., c. 25, § 40, additional. Chapter 25 of the revised statutes is hereby amended by adding thereto the following new section to be numbered section 40, and to read as follows:

'Sec. 40. Minimum wages of labor on public works. Terms used in this section shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

I. Definitions. "Commissioner", the commissioner of labor and industry and state factory inspector.

"Public authority", any officer, agent or representative, board, commission or authority of the state, or any political subdivision thereof, or any county, city or town or subdivision or department thereof, or any institution which is supported in whole or in part by aid granted by the state or by any municipality, who is authorized by law to enter into any contracts for the construction of public works.

“Public works”, all buildings, roads, streets, sidewalks, alleys, sewers, ditches, sewage disposal plants, water works and all other structures or works constructed under contract with the state, or any department or agency thereof, or any political subdivision thereof, or county, city or town, or any subdivision thereof, which is supported in whole or in part by aid granted by the state, or any charitable or educational institution which is supported in whole or in part by aid granted by the state or by any municipality.

“Construction”, any construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than \$1,000.

“Contractor” and “subcontractor”, any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority.

“Locality”, the county wherein the physical work upon any public works is being performed, except and subject to:

A. If there is not available in said county a sufficient number of laborers to efficiently and properly construct the public works, the term locality shall be construed to include such county or counties nearest the county in which the public work is to be performed and in which such laborers are available and may be obtained for such work of construction;

B. Said term with respect to contracts with the state highway department may, in the discretion of the state highway commission, be construed to include two or more adjacent counties from which such laborers may be reasonably accessible for work on such construction.

“Laborer”, any workman, skilled or unskilled, mechanic, teamster, chauffeur, assistant and apprentice able to efficiently and properly construct any public work.

II. Preference to veterans, citizens and contractors on public work projects. In the employment of laborers in the constructing of public works by the public authority or by persons contracting or subcontracting for such works, preference shall first be given to citizens of the state, men and women, who have served in the army, navy and merchant marine of the United States in time of war and have been honorably discharged therefrom or released from active duty therein, and who are qualified to perform

the work to which the employment relates; secondly, to citizens of the state, generally, and if they cannot be obtained in sufficient numbers, then to citizens of the United States, and every contract for such work shall contain a provision to this effect, and in addition to such other provisions as are necessary and prescribed by law, a provision that in the execution of such contract, fair labor standards shall be maintained. Each county, city or town, in the construction of public works, or persons contracting or sub-contracting for such works, shall give preference to veterans and citizens who are residents of such county, city or town.

III. Commissioner to list and classify jobs; determine prevailing wages. The commissioner shall prepare, from time to time, according to changing conditions, for the use of the public authorities whose duties it shall be to cause public works to be constructed, a list of the several jobs usually performed on various types of public works upon which laborers are employed. He shall classify said jobs and may revise such classification from time to time, as he may deem advisable. The rate per hour of the wages to be paid laborers for construction of public works shall not be less than the rate or rates of wages to be determined by the commissioner based on the prevailing wages paid in the same trade or occupation in the locality where such work is being performed.

IV. Public authority to submit list of jobs to commissioner and ascertain prevailing wage; exception. Every public authority authorized to enter into any contract for the construction of public works shall, prior to advertising for bids or entering into any contract for such construction, submit to the commissioner a list of the jobs upon which laborers are to be employed, and ascertain and request the commissioner to determine the prevailing rate of wage or wages to be paid for the class of work called for in said construction, in the locality where the work is to be performed. The commissioner shall proceed forthwith to determine the rate of wage or wages and shall furnish the public authority with a schedule of such rate or rates of wages immediately upon such determination. Excepting however, it shall not apply to the construction of public works in any case where the federal government, if any of its agencies furnish by loans or grants all or any part of the funds used in constructing such public works, provided the federal government or its agencies prescribe predetermined minimum wages to be paid to laborers employed in the construction of such public works.

V. Appeal from classification of employment or wage determination. Within 7 days from the date of the first advertisement or call for bids, two or more employers of labor, or two or more laborers, or the awarding

public authority, may appeal to the state board of arbitration and conciliation of employment or a wage determination as made by the commissioner, by serving on the commissioner a written notice to that effect. Thereupon, the commissioner shall, within 10 days, cause the state board of arbitration and conciliation to hold a public hearing on the commissioner's action appealed from. The state board of arbitration and conciliation shall render their decision not later than 3 days after the closing of the hearing. The decision of a majority of said board shall be final and notice thereon shall be given forthwith to the awarding public authority.

VI. Public authority to print schedule of wages; proposals and bids to be recorded. The schedule of wages in the advertising for bids for the construction of any public work shall be attached to and made a part of the specifications by an appropriate reference thereto and shall be printed on the bidding blanks and incorporated in and made a part of each and every contract. Every public authority calling for bids shall enter proposal and bids upon its books, showing the name and residence of each bidder, and the amount and terms of each bid, and to whom the work or contract was awarded; and the same shall be open to the inspection of the commissioner or his duly authorized agent or representative.

VII. Contractors to pay prevailing rate of wages; exception; keep accurate registers and records. It shall be the duty of the successful bidder or contractor and all subcontractors to pay the rate of wages so established and fixed and to strictly comply with such provisions of the contract. The contract executed between the public authority and contractor and subcontractor shall contain a provision requiring the successful bidder and all of his subcontractors to pay the rate of wages so established and fixed. All wages paid by the contractors and subcontractors shall be paid in lawful money of the United States, without any deduction for food, sleeping accommodations, transportation, use of small tools or any other thing of any kind of description; excepting however, all deductible taxes, or when employer and employee agree in writing concerning such deductions at the beginning of or during employment and providing that such agreement is submitted by the employer to the commissioner and such agreement is approved by him as fair and reasonable. All contractors and subcontractors shall keep true and accurate registers of all employees, showing the name, address and occupational classification of each employee. They shall also keep full and accurate payroll records covering all disbursements of wages to their employees to which they are required to pay not less than the prevailing rate or rates of wages, and such pay-roll records shall not be destroyed or removed from the state for a period of 2 years following

the completion of the construction in connection with which the same are made. Such records shall be kept in such manner as the commissioner shall prescribe, and shall be open to inspection by him or his authorized representative at any reasonable time and as often as necessary, and upon his request, he shall be furnished with a true statement of the same.

VIII. Complaint of employee and enforcement assistance. Any laborer on public works may file a complaint for the violation of any of the provisions of this section and of the failure to pay the prevailing rate or rates of wages with the commissioner and it shall be the duty of the commissioner to assist to the fullest extent in the administration and enforcement hereof. Whoever shall pay less than said rate or rates of wages to an employee on said public works shall forfeit to the commissioner a sum equal to twice the difference between said rate or rates actually paid to said employee, said sum to be recovered by the commissioner in an action of debt. One-half of said forfeiture shall be paid to the employee by the commissioner and the remaining half shall be paid to the treasurer of the state and credited to the department of labor.

IX. Penalties; effect of 2nd conviction. Whoever, for himself, or as representative, agent or officer of another, shall take or receive for his own use or for the use of any other person, as a rebate, refund, or gratuity, or in any other guise, any part or portion of the wages paid to an employee for work done or services rendered on said public works; or whoever, either by himself or an agent, superintendent or foreman for another violates any provision hereof, shall be punished, upon conviction, by a fine of not less than \$100, nor more than \$300, or by imprisonment for not more than 3 months, or by both such fine and imprisonment, for the first offense, and for a subsequent offense, by a fine of not less than \$300, nor more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment. Whoever shall have been convicted of a second violation of said provisions shall be prohibited from contracting, directly or indirectly, with the state or any county, city or town for the construction of public works, or from performing any work on the same as contractor or subcontractor for a period of 2 years from the date of said conviction.'