

FIRST REGULAR SESSION

# HOUSE BILL NO. 876

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FISHER.

2018L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 290.210 and 290.220, RSMo, and to enact in lieu thereof two new sections relating to the public works projects.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 290.210 and 290.220, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 290.210 and 290.220, to read as follows:

290.210. As used in sections 290.210 to 290.340, unless the context indicates otherwise:

(1) "Construction" includes **new** construction, [reconstruction, improvement,] enlargement, [alteration, painting and decorating,] or major [repair.] **alteration**;

(2) "Department" means the department of labor and industrial relations[.] ;

(3) "Locality" means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled workmen to construct the public works efficiently and properly, "locality" may include two or more counties adjacent to the one in which the work or construction is to be performed and from which such workers may be obtained in sufficient numbers to perform the work, and that, with respect to contracts with the state highways and transportation commission, "locality" may be construed to include two or more adjacent counties from which workmen may be accessible for work on such construction[.] ;

(4) "Maintenance work" means the repair, but not the replacement, of existing facilities when the size, type or extent of the existing facilities is not thereby changed or increased[.] ;

(5) "Prevailing hourly rate of wages" means the wages paid generally, in the locality in which the public works is being performed, to workmen engaged in work of a similar character including the basic hourly rate of pay and the amount of the rate of contributions irrevocably

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan  
19 or program, and the amount of the rate of costs to the contractor or subcontractor which may be  
20 reasonably anticipated in providing benefits to workmen and mechanics pursuant to an  
21 enforceable commitment to carry out a financially responsible plan or program which was  
22 communicated in writing to the workmen affected, for medical or hospital care, pensions on  
23 retirement or death, compensation for injuries or illness resulting from occupational activity, or  
24 insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability  
25 and sickness insurance, accident insurance, for vacation and holiday pay, for defraying costs of  
26 apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where  
27 the contractor or subcontractor is not required by other federal or state law to provide any of the  
28 benefits; provided, that the obligation of a contractor or subcontractor to make payment in  
29 accordance with the prevailing wage determinations of the department, insofar as sections  
30 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the  
31 making of irrevocable contributions to trustees or third persons as provided herein, by the  
32 assumption of an enforceable commitment to bear the costs of a plan or program as provided  
33 herein, or any combination thereof, where the aggregate of such payments, contributions and  
34 costs is not less than the rate of pay plus the other amounts as provided herein[.] ;

35 (6) "Public body" means the state of Missouri or any officer, official, authority, board  
36 or commission of the state, or other political subdivision thereof, or any institution supported in  
37 whole or in part by public funds[.] ;

38 (7) "Public works" means all fixed works constructed for public use or benefit or paid  
39 for wholly or in part out of public funds. It also includes any work done directly by any public  
40 utility company when performed by it pursuant to the order of the public service commission or  
41 other public authority whether or not it be done under public supervision or direction or paid for  
42 wholly or in part out of public funds when let to contract by said utility. It does not include any  
43 work done for or by any drainage or levee district[.] ;

44 (8) "Workmen" means laborers, workmen and mechanics.

290.220. **1.** It is hereby declared to be the policy of the state of Missouri that a wage of  
2 no less than the prevailing hourly rate of wages for work of a similar character in the locality in  
3 which the work is performed shall be paid to all workmen employed by or on behalf of any  
4 public body engaged in public works exclusive of maintenance work.

5 **2. In applying the provisions of sections 290.210 to 290.340, it is the intent of the**  
6 **legislature to abrogate the holding in Utility Service Co., Inc. v. the Department of Labor**  
7 **and Industrial Relations, and the Labor and Industrial Relations Commission of Missouri,**  
8 **No. SC90963 (Mo. banc 2011).**