

SECOND REGULAR SESSION

HOUSE BILL NO. 1198

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FISHER (Sponsor), FRANZ, REIBOLDT,
LANT AND LAIR (Co-sponsors).

4897L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 290.210 and 290.220, RSMo, and to enact in lieu thereof two new sections relating to prevailing wages on public work projects, with an emergency clause.

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Section A. Sections 290.210 and 290.220, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 290.210 and 290.220, to read as follows: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,] **or restoration of the material condition or operation, or the painting or repainting** of existing facilities when the size, type or extent of the existing facilities is not thereby changed or increased[.] ;

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.

16 **(5) "Major alteration" means an alteration or structural change to an existing**
17 **facility which increases the size, type, or extent of the facility;**

18 [(5)] **(6)** "Prevailing hourly rate of wages" means the wages paid generally, in the locality
19 in which the public works is being performed, to workmen engaged in work of a similar
20 character including the basic hourly rate of pay and the amount of the rate of contributions
21 irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a
22 fund, plan or program, and the amount of the rate of costs to the contractor or subcontractor
23 which may be reasonably anticipated in providing benefits to workmen and mechanics pursuant
24 to an enforceable commitment to carry out a financially responsible plan or program which was
25 communicated in writing to the workmen affected, for medical or hospital care, pensions on
26 retirement or death, compensation for injuries or illness resulting from occupational activity, or
27 insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability
28 and sickness insurance, accident insurance, for vacation and holiday pay, for defraying costs of
29 apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where
30 the contractor or subcontractor is not required by other federal or state law to provide any of the
31 benefits; provided, that the obligation of a contractor or subcontractor to make payment in
32 accordance with the prevailing wage determinations of the department, insofar as sections
33 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the
34 making of irrevocable contributions to trustees or third persons as provided herein, by the
35 assumption of an enforceable commitment to bear the costs of a plan or program as provided
36 herein, or any combination thereof, where the aggregate of such payments, contributions and
37 costs is not less than the rate of pay plus the other amounts as provided herein[.] ;

38 [(6)] **(7)** "Public body" means the state of Missouri or any officer, official, authority,
39 board or commission of the state, or other political subdivision thereof, or any institution
40 supported in whole or in part by public funds[.] ;

41 [(7)] **(8)** "Public works" means all fixed works constructed for public use or benefit or
42 paid for wholly or in part out of public funds. It also includes any work done directly by any
43 public utility company when performed by it pursuant to the order of the public service
44 commission or other public authority whether or not it be done under public supervision or
45 direction or paid for wholly or in part out of public funds when let to contract by said utility. It
46 does not include any work done for or by any drainage or levee district[.] ;

47 [(8)] **(9)** "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).**

 Section B. Because localities are delaying public works projects in light of recent judicial
2 rulings that have made the law regarding prevailing wage unclear this act is deemed necessary
3 for the immediate preservation of the public health, welfare, peace, and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and this act shall be in
5 full force and effect upon its passage and approval.

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