

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2003 Legislative Session

Bill No. CB-1-2003
 Chapter No. 18
 Proposed and Presented by Council Member Hendershot
 Introduced by Council Members Hendershot, Harrington, Peters, Exum, Dean and Shapiro
 Co-Sponsors _____
 Date of Introduction May 6, 2003

BILL

1 AN ACT concerning

2 Wage Requirements for County Service Contracts

3 For the purpose of requiring that certain service contracts include minimum wage requirements
 4 under certain conditions.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 2. ADMINISTRATION.

7 Section 2-249,

8 The Prince George's County Code

9 (1999 Edition, 2002 Supplement)

10 SUBTITLE 10A. PURCHASING.

11 Section 10A-121,

12 The Prince George's County Code

13 (1999 Edition, 2002 Supplement).

14 BY adding:

15 SUBTITLE 10A. PURCHASING.

16 Section 10A-144,

17 The Prince George's County Code

18 (1999 Edition, 2002 Supplement).

19 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 20 Maryland, that Sections 2-249, and 10A-121 of the Prince George's County Code be and the
 21 same are hereby repealed and reenacted with the following amendments:

SUBTITLE 2. ADMINISTRATION.

**DIVISION 14. PREVAILING HOURS AND WAGE RATES ON PUBLIC
WORKERS**

Sec. 2-249. Determination of prevailing wage rate.

(a) The Board is hereby authorized and empowered to adopt, establish, repeal, modify, change or amend, from time to time, schedules of prevailing hourly rates of wages to be paid to workmen and apprentices employed on public works, as defined in Section 2-247(g), and service contract employees pursuant to Section 10A-144; provided, however, that the schedules of prevailing hourly rate of wages so established, shall be reviewed by the Board at least once every year and shall be revised to conform to the prevailing hourly rate of wages in the locality. Such schedules of prevailing hourly rate of wages, including the prevailing rate of wages for overtime work, shall be not less than the prevailing hourly rate of wages being paid to workmen and apprentices for work of the same or similar character in the locality; provided, however, that in no event shall the prevailing rate of wages for overtime work be less than time and a half the basic hourly rate of pay for straight time. If there is not a sufficient number of competent workmen engaged in work of the same or similar character within the locality, the Board may use the nearest established location from which such workmen may be obtained in sufficient numbers to perform the work to make the determination. The Board shall forthwith give notice by mail of all determinations of prevailing wage rates made pursuant to this Section to any labor organizations which request the Board to do so. The public body shall specify in the call for bids for every contract what is the prevailing hourly rate of wages, including the prevailing rate of wages for overtime work in the locality for the various classifications of workmen and apprentices needed to execute the contract; and such schedules of the prevailing hourly rate of wages shall be attached to and made a part of the contract for the work.

* * * * *

SUBTITLE 10A. PURCHASING.

DIVISION 2. AWARD OF CONTRACTS.

Sec. 10A-121. Prevailing wage rate.

(a) Each Invitation for Bids on contracts subject to the County prevailing wage law shall include the requirement that not less than the prevailing rates of pay, as established by the Wage

Determination Board, be paid to those classes of employees of contractors and subcontractors established by the Wage Determination Board.

(b) Each Invitation for Bids on service contracts subject to the wage requirements of Section 10A-144 shall include the requirement that not less than the minimum rates of pay shall be paid to employees performing work under the contract.

SECTION 2. BE IT FURTHER ENACTED that Section 10A-144 of the Prince George's County Code be and the same is hereby added:

SUBTITLE 10A. PURCHASING.

DIVISION 6. SPECIAL PROVISIONS.

Subdivision 5. Wage Requirements.

Sec 10A-144. Wage requirements for County service contracts.

(a) Any contract for services by a County agency shall require the contractor and any subcontractor to comply with the wage requirements of this Section. As used in this Section, "covered employer" refers to any contractor or subcontractor that is subject to this Section.

(b) This Section does not apply to:

(1) A contractor who employs fewer than 10 employees at any time the contract is in effect;

(2) A contractor who, at the time a contract is signed:

(A) Has received less than \$50,000 from the County in the most recent 12-month period; and

(B) Will be entitled to receive less than \$50,000 from the County in the next 12-month period;

(3) A contract with a public entity;

(4) A contract with a nonprofit organization that has qualified for an exemption from federal income taxes under Section 501(c)(3) of the Internal Revenue Code;

(5) A contract for electricity, telephone, water, sewer, or similar service delivered by a regulated public utility;

(6) A contract for services needed immediately to prevent or respond to an imminent threat to public health or safety;

(7) An employer to the extent that the employer is expressly precluded from complying with this Section by the terms of any federal, state or County law, federal or state

1 contract or grant; or

2 (8) A contract entered into under a participation agreement under Section 10A-141.

3 (c) Solicitation requirements.

4 (1) Each bid or proposal to provide services to the County shall specify how the
5 contractor and each subcontractor will comply with these wage requirements, and shall include
6 sufficient funds to meet these requirements.

7 (2) Each bid or proposal to provide services to the County which is submitted by an
8 organization that is exempt from coverage under subsection (b)(4) shall specify the wage the
9 organization intends to pay to those employees who will perform direct, measurable work under
10 the contract, and any health insurance the organization intends to provide to those employees. In
11 evaluating the cost of a bid or proposal the County shall disregard any additional cost attributable
12 to payment of the wage requirements of this Section by any organization that is exempt from
13 coverage under subsection (b)(4) when compared to a bid or proposal submitted by another
14 organization that is also exempt from coverage under subsection (b)(4).

15 (3) A contractor shall not split or subdivide a contract, pay an employee through a
16 third party, or treat an employee as a subcontractor or independent contractor, to avoid the
17 imposition of any requirement under this Section.

18 (d) Health insurance. If a contractor or subcontractor commits in its bid or proposal to
19 provide health insurance to any employee who provides services to the County, the contractor or
20 subcontractor may:

21 (1) Certify in its bid or proposal the per-employee hourly cost of the employer's share
22 of the premium for that insurance; and

23 (2) Reduce the wage paid under subsection (e) to any employee covered by the
24 insurance by all or part of the per-employee hourly cost of the employer's share of the premium.

25 (e) Wage requirement.

26 (1) Except as permitted under subsection (d)(2), each covered employer shall pay
27 each employee who is not exempt under subsection (f) at least \$10.50 per hour during the time
28 the employee actually provides services to the County.

29 (2) The Wage Determination Board shall adjust the wage rate required under this
30 subsection, effective July 1 of each year, by the annual average increase, if any, in the Consumer
31 Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any

1 successor index, for the previous calendar year. The Wage Determination Board shall calculate
 2 the adjustment to the nearest multiple of 5 cents, and shall publish the amount of this adjustment
 3 not later than March 1 of each year. Each adjustment under this paragraph applies to any
 4 contract covered by this Section which:

5 (A) Is in effect when the adjustment takes effect, or

6 (B) Takes effect during the next 12 months.

7 (f) The wage requirements of this Section do not apply to any employee:

8 (1) Who performs no measurable work related to any contract with the County;

9 (2) Who participates in a government-operated or -sponsored program that restricts
 10 the earnings of or wages paid to employees to a level below the wage required under this
 11 Section;

12 (3) Who participates for no longer than 120 days in any calendar year in a
 13 government-operated or -sponsored summer youth employment program; or

14 (4) For whom a lower rate is expressly set in a bona fide collective bargaining
 15 agreement.

16 (g) Enforcement.

17 (1) The Purchasing Agent shall require each covered employer to:

18 (A) certify that the employer and each subcontractor is aware of and will comply
 19 with the applicable wage requirements of this Section,

20 (B) keep and submit any records necessary to show compliance, and

21 (C) conspicuously post notices informing employees of the requirements of this
 22 Section, and send a copy of each notice to the Purchasing Agent;

23 (2) The Purchasing Agent shall enforce this Section, perform random audits and any
 24 other audit necessary to do so, and investigate any complaint of a violation;

25 (3) An employer must not discharge or otherwise retaliate against an employee for
 26 asserting any right under this Section or filing a complaint of a violation. Any retaliation is
 27 subject to all sanctions for noncompliance with this Section; and

28 (4) Each contract shall specify that liquidated damages for any noncompliance with
 29 this Section includes the amount of any unpaid wages, with interest, and that the contractor is
 30 jointly and severally liable for any noncompliance by a subcontractor. In addition, each contract
 31 shall specify that an aggrieved employee, as a third-party beneficiary, may by civil action

1 enforce the payment of wages due under this Section and recover any unpaid wages with interest,
2 a reasonable attorney's fee, and damages for any retaliation for asserting any right under this
3 Section.

4 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect July 1, 2004.

Adopted this 3rd day of June, 2003.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.