



SPONSOR: Rep. Briggs King & Rep. Gray & Sen. Hocker  
Reps. Collins, Hudson, Kenton, Postles, D. Short,  
Spiegelman, Wilson, Yearick; Sens. Lavelle, Pettyjohn,  
Simpson

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 293

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO PREVAILING WAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 6960, Title 29 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 6960. Prevailing wage requirements.

4           (a) The specifications for every contract or aggregate of contracts relating to a public works project in excess of  
5     \$500,000 for new construction (including painting and decorating) or \$45,000 for alteration, repair, renovation,  
6     rehabilitation, demolition or reconstruction (including painting and decorating of buildings or works) to which this State or  
7     any subdivision thereof is a party and for which the State appropriated any part of the funds and which requires or involves  
8     the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various  
9     classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware  
10    Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed. As  
11    of ~~January 1, 2016~~ January 1, 2019, the Delaware Department of Labor, Division of Industrial Affairs shall establish the  
12    prevailing wage for each respective craft or class of laborers and mechanics at the same rates established in collective  
13    bargaining agreements between labor organizations and their employers, or when collective bargaining agreement rates do  
14    not prevail, that govern work of a similar nature and similar crafts or classes of laborers and mechanics for the county  
15    where the public works contract will be performed if that particular labor organization's collective bargaining rate prevailed  
16    and they ~~participated in the survey~~ provided the payroll information required by subsection (c) of this section, for that  
17    particular trade or craft in that particular county for 4 consecutive years. When collective bargaining rates do not apply, the  
18    prevailing wage shall be the highest rate of the 4 years. If the agreed rate of pay is designated to be the craft's collective  
19    bargaining agreement, the annual rate adjustment will be determined by the collective bargaining agreement rate for each  
20    craft and county, each year. When collective bargaining rates do not prevail, the annual rate adjustment shall be the  
21    Consumer Price Index-Construction. If the prevailing wage cannot be reasonably and fairly determined in any locality  
22    because no such agreements exists or the collective bargaining rate has not prevailed for 4 consecutive years the

Department shall use the prevailing wage as established by the ~~Department's annual prevailing wage survey~~ Department based on the payroll information required by subsection (c) of this section. The Department shall establish the prevailing wage as the wage paid to the majority of workers or, in the absence of a majority, the average of the wages paid, weighted by the number of workers paid at each rate. There will be a 1-time challenge of the prevailing wage rate per cycle as in the Department regulations.

~~For each respective craft or class of laborers or mechanics, the craft or class whose collectively bargained wages as of January 1, 2015, for that particular labor organization's collective bargaining rate prevailed for that particular trade or craft in that particular county is the prevailing wage rate and whose rate has prevailed for 4 of the last 5 years, or will prevail in the future for 4 consecutive years, shall have their collective bargaining agreement adopted as the prevailing wage rate negotiated by industry standards between workers and employers and the raise be determined by the collective bargaining agreement rate as of September 1 for that craft, county, and year.~~

All other provisions of this law are to remain unchanged.

(c) Every contract based upon these specifications shall contain a stipulation that sworn payroll information, as required by the Department of Labor, be furnished weekly. The Department of Labor shall keep and maintain the sworn payroll information ~~for a period of 6 months from the last day of the work week covered by the payroll~~ as long as the Department determines is necessary to use this information to set the prevailing wage under subsection (a) of this section.

~~(1) A Prevailing Wage Advisory Committee is established to provide advice to the General Assembly as to how the prevailing wage survey can be improved or whether the survey should be eliminated. The Prevailing Wage Advisory Committee shall provide a report to the General Assembly no later than January 20, 2016. The Committee shall have 7 members appointed to 4-year terms. There shall be:~~

~~(1) Two members of the House of Representative appointed by the Speaker of the House of Representatives;~~

~~(2) Two members of the Senate appointed by the President Pro Tempore;~~

~~(3) The Secretary of the Department of Labor or designee appointed by the Secretary of the Department of Labor, who shall be the chair of the committee;~~

~~(4) A member of the Delaware Building and Construction Trades Council appointed by the President of the Council; and~~

~~(5) A member of the Associated Builders and Contractors, Inc. appointed by the President of the Associated Builders and Contractors, Inc.~~

~~The committee shall have its first meeting no later than September 1, 2015. The Committee will sunset after 4 years unless extended by law. [Repealed.]~~

SYNOPSIS

This Act replaces the prevailing wage survey method of setting the prevailing wage with a method based on payroll information currently being provided to the Department of Labor.

Also, this Act removes the prevailing wage lock-in authorized by House Substitute No. 1 for House Bill No. 145 (148th General Assembly). This Act also removes the Prevailing Wage Advisory Committee ("Committee") from the Delaware Code. The Committee was established to advise the General Assembly how the prevailing wage survey may be improved or if the survey should be eliminated. The Committee reported in January 2016 that "the best option is to continue the survey for 2016 and report back to the legislature in the future." Because this Act replaces the prevailing wage survey, the Committee is no longer needed.

Finally, this Act takes effect on January 1, 2019.