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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 49

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE PREVAILING WAGE LAW AND ITS APPLICABILITY TO THE STATE PROCUREMENT ACT.

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

Section 1. Amend § 6902, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 6902 Definitions

(1) "Agency" means every board, department, bureau, commission, person or group of persons or other authority which directly receives moneys under any budget appropriation act or supplemental appropriation act and which was created and now exists or hereafter is created to:

a. Execute, supervise, control ~~and~~/or administer governmental functions under the laws of this State;

~~and/or~~

b. ~~To perform~~ Perform such governmental functions under the laws of this State, or to perform such other duties as may be prescribed; ~~and/or~~

c. ~~To collect~~ Collect ~~and/or~~ use any taxes, fees, licenses, permits or other receipts for service or otherwise for the performance of any function or related to or supported in whole or in part by the laws of this State; ~~and/or~~

d. ~~To administer~~ Administer any laws providing for the collection of taxes, fees, permits, licenses or other forms of receipts from any sources whatsoever for the use of the State or any agency of the State.

"Agency" ~~shall include~~ includes the University of Delaware, Delaware Technical and Community College, and the Delaware State University but shall not include any local government unit or agency receiving only grants-in-aid appropriations from the State and no other appropriations, as described herein, ~~the University of Delaware,~~ volunteer ambulance/rescue companies, volunteer fire departments and the Delaware Transit Corporation. Nothing in this paragraph shall be deemed to exempt any entity that is otherwise required to comply with § 6960 of this title.

(6) "Covered agency" means any agency except school districts, Delaware Technical & Community College, the Delaware State University, the University of Delaware, and the Legislative Branch of State government.

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

(a) The specifications for every contract or aggregate of contracts relating to a public works project in excess of \$500,000 for new construction (including painting and decorating) or \$45,000 for alteration, repair, renovation, rehabilitation, demolition or reconstruction (including painting and decorating of buildings or works) to which this State or any subdivision thereof, for which State funds are appropriated, including the University of Delaware, is a party ~~and for which the State appropriated any part of the funds~~ and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed.

§ 7419 Approval of plans, specifications, estimates and cash flows of projects.

Section 3. Amend § 7419 of Chapter 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) University of Delaware, Delaware Technical and Community College, Delaware State University and all state departments and agencies shall submit to Facilities Management of the Office of Management and Budget all proposed contracts for architectural services and all architectural, structural, electrical and mechanical plans, specifications and cost estimates. Facilities Management of the Office of Management and Budget shall be responsible for reviewing and approving such plans, specifications and cost estimates prior to bid advertisement, and no such contracts nor contracts for construction and reconstruction of such projects (except highway construction and reconstruction contracts and school district minor capital improvements contracts) shall be executed without the prior approval of Facilities Management of the Office of Management and Budget. All such contracts shall be let on the condition, among others, that the contractor comply with the State's equal opportunity laws. Facilities Management of the Office of Management and Budget shall insure that approved projects are not inconsistent with any authorization of budget act.

(b) Each state agency, department and institution of higher learning to which proceeds of bonds or notes are appropriated, must, on an annual basis, report to the Director of the Office of Management and Budget the status and anticipated cash flow for each project which is not complete.

SYNOPSIS

This act clarifies that the University of Delaware, like other institutes of higher learning including Delaware State University and Delaware Technical and Community College, must comply with the terms of the Prevailing Wage Law for projects secured under the State Procurement Act. This Act ensures that laborers and trade unions working on public work projects at or for the University of Delaware enjoy the same protections of the Prevailing Wage Law as they would on any

other project governed by the SPA. The bill is curtailed such that it will only apply to the University's designation as a "state agency" for the limited purpose of the application of the Prevailing Wage Law, and does not otherwise expand or limit the entity's duties and liabilities under any other governing statute.

This Act makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including to ensure the consistency of language throughout the provisions included in this Act.

Author: Senator Walsh