

**CITY OF BALTIMORE  
COUNCIL BILL 08-0146  
(First Reader)**

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Introduced by: The Council President  
At the request of: The Administration (Wage Commission)  
Introduced and read first time: July 21, 2008  
Assigned to: Taxation, Finance and Economic Development Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Wage Commission, Department of Finance, Minority and Women's Business Opportunity Office

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Prevailing Wages for Work Under Construction Contracts –**  
3 **Living Wages for Work Under Service Contracts**

4 FOR the purpose of clarifying and distinguishing the nomenclature used for the minimum wages  
5 to be paid workers under a construction contract and those to be paid workers under a service  
6 contract; deleting certain obsolete language; and correcting, clarifying, and conforming  
7 related provisions..

8 BY repealing and reordaining, with amendments  
9 Article 5 - Finance, Property, and Procurement  
10 Section(s) 25-5, 25-12(b), 25-15(a), 25-16, 25-17, 26-1,  
11 26-5, 26-8(a), 26-9(b), 26-13(b), 26-15(a), and 26-16  
12 Baltimore City Code  
13 (Edition 2000)

14 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
15 Laws of Baltimore City read as follows:

16 **Baltimore City Code**

17 **Article 5. Finance, Property, and Procurement**

18 **Subtitle 25. [Hours and Wages -]**  
19 **PREVAILING WAGES FOR WORK UNDER Construction Contracts**

20 **§ 25-5. [Minimum] PREVAILING wages - In general.**

21 (a) *Payment required.*

22 (1) Every [such] mechanic, laborer, and apprentice shall be paid not less often than once  
23 a week, and without subsequent deduction or rebate on any account (except [such]  
24 payroll deductions as are directed or permitted by law, by a collective bargaining  
25 agreement, or by specific written authorization from an employee), the full amount  
26 due at the time of payment computed at wage rates not less than the [minimum]

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

**Council Bill 08-0146**

1 PREVAILING hourly wage rate established by the Board of Estimates and set forth in  
2 the contract.

3 (2) No hourly employee, other than an apprentice, working directly upon the site of the  
4 work, [shall] MAY be paid less than the amount established for the lowest  
5 classification on the [said] project.

6 (b) *Rates to be posted.*

7 (1) A copy of [such minimum] THE PREVAILING hourly wage rates shall be kept posted by  
8 the contractor at the site of the work in a prominent place where it can be easily seen  
9 and read by the workers.

10 (2) [In the event] IF a copy of [such minimum] THE PREVAILING hourly wage rates is not  
11 posted, the contractor shall forfeit and pay to the City a penalty in the amount of \$20  
12 per day for each day on which the copy is not posted. Each day's violation [shall  
13 constitute] CONSTITUTES a separate offense.

14 **{§ 25-6. [Minimum] PREVAILING wages - Overtime.}**

15 **{§ 25-7. [Minimum] PREVAILING wages - Sanctions for underpayment.}**

16 **{§ 25-8. [Minimum] PREVAILING wages - Workers' complaints.}**

17 **§ 25-12. Mechanics, apprentices, and laborers.**

18 (b) *Laborers.*

19 (1) Nothing in this subtitle [shall prevent] PREVENTS the employment of laborers to  
20 perform work not ordinarily performed by a skilled mechanic or his OR HER  
21 apprentice of the trade, craft, or occupation, but no person receiving the rate of pay  
22 [which] THAT is the prevailing rate for laborers [shall] MAY perform work ordinarily  
23 performed by [any such] A skilled mechanic or apprentice of [such] THE trade, craft,  
24 or occupation.

25 (2) Where a laborer performs the work ordinarily performed by any skilled mechanic or  
26 his OR HER apprentice, SHE OR he shall be paid for the entire time SHE OR he has  
27 performed [such] THAT work at the [minimum] PREVAILING hourly wage rate  
28 applicable to a skilled mechanic; and in the event of [such] underpayment, restitution  
29 shall be made by the contractor to [said] THE employee and in addition, the contractor  
30 shall be subject to a penalty as [hereinafter] set forth IN THIS SECTION.

31 **§ 25-15. Penalties.**

32 (a) *Debarment for 1 year.*

33 [In the event] IF the Board of Estimates [shall determine], upon recommendation from the  
34 Wage Commission after notice and hearing, DETERMINES that any contractor or  
35 subcontractor has failed to pay the [minimum] PREVAILING wage rate or has otherwise  
36 violated the provisions of this subtitle and that [such] THE failure was intentional, no  
37 contract [shall] MAY be awarded to [such] THAT contractor or subcontractor, or to any  
38 firm, corporation, or partnership in which [such] THAT contractor or subcontractor has an  
39 interest until 1 year has elapsed from the date of [such] THE determination.

**Council Bill 08-0146**

1 **§ 25-16. Schedules of [minimum] PREVAILING wage rates.**

2 (a) *Board of Estimates to adopt, review, and revise.*

3 (1) The Board of Estimates [is hereby authorized and empowered to] MAY adopt,  
4 establish, repeal, modify, change, or amend, from time to time, schedules of  
5 [minimum] PREVAILING hourly wage rates to be paid to [any and] all classes of  
6 laborers, mechanics, or apprentices directly employed by any contractor or any  
7 subcontractor on the site in any of the various types of work or projects mentioned  
8 in[,] or contemplated by[,] this subtitle.

9 (2) [Provided, however, that the] THESE schedules of [minimum] PREVAILING hourly  
10 wage rates [so established] shall be reviewed and revised by the Board of Estimates at  
11 least once every year to conform to the area prevailing hourly wage rates.

12 (b) *Basis of revision.*

13 (1) [Such] THE revision may be based [upon] ON recommendations by the prevailing  
14 wage section of the Wage Commission.

15 (2) [Such] THE schedules of [minimum] PREVAILING hourly wage rates, including  
16 overtime rates for all hours worked on Saturdays[,] AND Sundays, and all hours  
17 worked in excess of 8 hours per day on Monday through Friday and all hours worked  
18 on legal holidays designated as overtime holidays by the Board of Estimates, [shall]  
19 MAY not be less in amount than the general prevailing hourly wage rates being paid to  
20 laborers, mechanics, and apprentices for doing work of a similar character in the  
21 locality in which the project is located.

22 (3) [And such] THESE general prevailing hourly wage rates shall be determined by the  
23 Board of Estimates, whose decision in the matter [shall be] IS final.

24 (c) *Authority of Board not restricted.*

25 Nothing in this Ordinance [shall be construed to limit] LIMITS or [restrict] RESTRICTS in  
26 any way the power and authority of the Board of Estimates to classify the type of work to  
27 be done for the Mayor and City Council of Baltimore and to establish schedules of  
28 [minimum] PREVAILING hourly wage rates for [such] THESE classifications[, established  
29 by the Board of Estimates].

30 **§ 25-17. [“Minimum” and “prevailing”] “PREVAILING” wage rates defined; obligation to**  
31 **pay.**

32 (a) *Definitions.*

33 (1) [As used in] IN this subtitle, [the terms “minimum hourly wage rate(s)” and]  
34 “prevailing hourly wage rate(s)” [shall include] INCLUDES:

35 (i) the regular hourly rate of pay; and

36 (ii) the amount of:

**Council Bill 08-0146**

1 (A) the rate of contribution irrevocably made by a contractor,  
2 subcontractor, or third person pursuant to a fund, plan, or program  
3 [which] THAT provides for medical or hospital care, pensions on  
4 retirement or death, compensation for time lost from work due to  
5 injuries or illness, compensation for injuries or illness resulting from  
6 occupational activity, or insurance to provide any of [the foregoing]  
7 THESE, for unemployment benefits, life insurance, or accident  
8 insurance, for vacation and holiday pay, for defraying costs of  
9 apprenticeship or other similar programs, or for other bona fide fringe  
10 benefits, but only where the contractor or subcontractor is not required  
11 by federal, state, or local law to provide any of [the foregoing] THESE  
12 benefits; and

13 (B) the rate of costs to the contractor or subcontractor [which] THAT may  
14 be incurred in providing the fringe benefits specified in subparagraph  
15 (A) to laborers, mechanics, and apprentices pursuant to an enforceable  
16 commitment to carry out a financially responsible plan or program  
17 [which] THAT is communicated to the laborers, mechanics, and  
18 apprentices affected.

19 (2) [Provided, that the] THE amount referred to in paragraph (1)(ii)(A) shall be  
20 determined by the Board of Estimates on the basis of those fringe benefits found to be  
21 generally prevailing for laborers, mechanics, and apprentices doing work of a similar  
22 character in the locality in which the project is located. The decision of the Board of  
23 Estimates [shall be] IS final.

24 (b) *Obligation to pay.*

25 [And provided further, that the] THE obligation of a contractor or subcontractor to make  
26 payment in accordance with the schedules of [minimum] PREVAILING hourly wage rates  
27 established by the Board of Estimates and fixed in contracts [pursuant to] UNDER this  
28 subtitle may be discharged by [the] making [of] payments in cash, by [the] making of  
29 contributions of any type referred to in subsection (a)(1)(ii)(A), or by [the assumption of]  
30 ASSUMING a plan or program of a type referred to in subsection (a)(1)(ii)(B), or any  
31 combination [thereof] OF THESE, where the aggregate of [any such] THE payments,  
32 contributions, and costs is not less than the rate of pay described in subsection (a)(1)(i)  
33 plus the amount referred to in subsection (a)(1)(ii).

34 **Subtitle 26. [Hours and Wages -]**  
35 **LIVING WAGES FOR WORK UNDER Service Contracts**

36 **§ 26-1. Definitions.**

37 (a) *In general.*

38 [As used in] IN this subtitle, the following terms have the meanings indicated unless the  
39 context clearly requires a different meaning.

**Council Bill 08-0146**

1 (b) *Index.*

2 “Index” means the most recent available figure stated in the publication “Poverty in the  
3 United States”, published by the Bureau of the Census and updated on an annual basis,  
4 which defines the national poverty level for a family of 4.

5 (c) *LIVING HOURLY WAGE RATE.*

6 “LIVING HOURLY WAGE RATE” MEANS THE RATE ESTABLISHED BY THE BOARD OF  
7 ESTIMATES UNDER THE FORMULA SET FORTH IN § 26-16 OF THIS SUBTITLE, AS THE  
8 MINIMUM HOURLY WAGE RATE THAT MUST BE PAID A WORKER EMPLOYED BY A SERVICE  
9 CONTRACTOR.

10 (D) [(c)] *Person.*

11 “Person” means any individual, business entity, corporation, partnership, or joint venture.

12 [(d)] *Prevailing rate.*

13 “Prevailing minimum hourly wage rate” means the rate established by the Board of  
14 Estimates as the minimum hourly wage rate that shall be paid a worker employed by a  
15 service contractor and professional services contractor pursuant to the formula set forth in  
16 § 26-16 of this subtitle.]

17 (e) *Service contract.*

18 “Service contract” means a contract designated by the Board of Estimates, on the  
19 recommendation of the City Purchasing Agent, as a service contract that is awarded to a  
20 service contractor.

21 (f) *Service contractor.*

22 “Service contractor” means the person awarded a City service contract and includes all  
23 subcontractors of [service contractors] THAT PERSON.

24 (g) *Service worker.*

25 “Service worker” means any non-professional employee of a service contractor, as  
26 defined by the Board of Estimates.

27 **§ 26-5. [Prevailing] LIVING wages - In general.**

28 (a) *Payment required.*

29 (1) Every service worker shall be paid not less often than biweekly, and without  
30 subsequent deduction or rebate on any account (except [such] payroll deductions as  
31 are directed or permitted by law, by a collective bargaining agreement, or by specific  
32 written authorization from an employee), the full amount due at the time of payment  
33 computed at wage rates not less than the [prevailing minimum] LIVING hourly wage  
34 rate established by the Board of Estimates and set forth in the service contract.

**Council Bill 08-0146**

1 (2) A service worker [shall] MAY not be paid less than the amount established by the  
2 Board of Estimates for the [prevailing minimum] LIVING hourly wage rate for a  
3 service contract.

4 (b) *Rates to be posted.*

5 A copy of the [prevailing minimum] LIVING hourly wage rate for the service contract  
6 shall be kept posted by the service contractor at the site of the work in a prominent place  
7 where it can be easily seen and read by the service workers[, and]. [ it shall be supplied  
8 to the service worker at] AT the request of [the] A service worker, A COPY SHALL BE  
9 GIVEN TO THE SERVICE WORKER within a reasonable period [of time] after the request.

10 **{§ 26-6. [Prevailing] LIVING wages - Overtime.**

11 **{§ 26-7. [Prevailing] LIVING wages - Sanctions for underpayment.}**

12 **§ 26-8. [Prevailing] LIVING wages - Workers' complaints.**

13 (a) *In general.*

14 [Any service worker may within] WITHIN 1 year from the date of the incident, ANY  
15 SERVICE WORKER MAY file a protest in writing with the Wage Commission, objecting to  
16 the [amount of] wages paid for services performed by the service worker on a service  
17 contract as being less than the [prevailing minimum] LIVING hourly wage rate for [such]  
18 THOSE services.

19 **§ 26-9. Required records - in general.**

20 (b) *Contents.*

21 The records shall contain:

- 22 (1) the name and address of each service worker;
- 23 (2) the service worker's classification in accordance with the classifications fixed in  
24 the contract;
- 25 (3) the number of hours worked each day;
- 26 (4) the [prevailing minimum] APPLICABLE LIVING hourly wage rate;
- 27 (5) the gross wages, deductions made, and actual wages paid;
- 28 (6) a copy of the Social Security returns and evidence of THEIR payment [thereof;]
- 29 (7) a record of fringe benefit payments, including contributions to approved plans,  
30 funds, or programs and[/or] ANY additional cash payments; and
- 31 (8) [such] ANY other data [as may be required by] THAT the Board of Estimates  
32 REQUIRES from time to time.

Council Bill 08-0146

1 § 26-13. Withholding payments.

2 (b) *For failure to post rates.*

3 The City may also withhold payments from any service contractor who has failed to post  
4 and keep posted a copy of the [prevailing minimum] LIVING hourly wage rate, as required  
5 [herein] BY THIS SUBTITLE, until [such] THE default [shall have] HAS been corrected.

6 § 26-15. Penalties.

7 (a) *Debarment for 1 year.*

8 [In the event] If the Board of Estimates [shall determine], upon recommendation from the  
9 Wage Commission after notice and hearing, DETERMINES that any service contractor has  
10 failed to pay the [minimum] LIVING wage rate or has otherwise violated the provisions of  
11 this subtitle and that [such] THE failure was intentional, no contract [shall] MAY be  
12 awarded to [such] THAT service contractor, or to any person in which [such] THAT service  
13 contractor has an interest until 1 year has elapsed from the date of [such] THE  
14 determination.

15 § 26-16. Establishment of [prevailing] LIVING wage.

16 (a) *[Initial rate] IN GENERAL.*

17 [Effective July 1, 1995, the initial prevailing minimum] THE LIVING hourly wage rate  
18 shall be AS established by Resolution of the Board of Estimates.

19 (b) *Annual revision.*

20 (1) By December 15[, 1995, and] OF each year [thereafter by that date], the Wage  
21 Commission shall recommend to the Board of Estimates a revised [prevailing  
22 minimum] LIVING hourly wage rate for the next fiscal year.

23 (2) This rate shall be based upon the Index and other [such] factors [as] the Commission  
24 is authorized to consider.

25 (c) *Goals.*

26 [(1)] The ongoing goal is to achieve a rate [which] THAT exceeds the poverty level, as  
27 defined in the Index.

28 [(2)] For the first 4 years of the effective date of this subtitle, the City's goal is to phase in  
29 an hourly wage rate of \$7.70 by Fiscal Year 1999, using the following timetable:]

[Fiscal Year	Wage Rate
1996	\$6.10
1997	\$6.60
1998	\$7.10
1999	\$7.70]

**Council Bill 08-0146**

1       **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
2 are not law and may not be considered to have been enacted as a part of this or any prior  
3 Ordinance.

4       **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day  
5 after the date it is enacted.