



Legislation Details (With Text)

File #: 08-0146 **Version:** 0 **Name:** Prevailing Wages for Work Under Construction Contracts - Living Wages for Work Under Service Contracts
Type: Ordinance **Status:** Enacted
File created: 7/21/2008 **In control:** City Council
On agenda: **Final action:** 10/31/2008
Enactment date: **Enactment #:** 08-85

Title: Prevailing Wages for Work Under Construction Contracts - Living Wages for Work Under Service Contracts

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

Sponsors: City Council President (Administration)

Indexes: Construction, Contracts, Living Wage, Prevailing Wage, Wages

Code sections:

Attachments: 1. 08-0146 - 1st Reader.pdf, 2. Wage Commission - 08-0146.pdf, 3. Finance - 08-0146.pdf, 4. Law - 08-0146.pdf, 5. MWBOO - 08-0146.pdf, 6. 08-0146 - 3rd Reader.pdf

Date	Ver.	Action By	Action	Result
10/31/2008	0	Mayor	Signed by Mayor	
10/27/2008	0	City Council	Approved and Sent to the Mayor	
10/6/2008	0	Taxation, Finance and Economic Development Committee	Recommended Favorably	
10/6/2008	0	City Council	Advanced to 3rd Rdr., Adopted Comm. Report	
9/8/2008	0	Taxation, Finance and Economic Development Committee	Scheduled for a Public Hearing	
7/24/2008	0	The City Council	Referred for a Report	
7/24/2008	0	The City Council	Referred for a Report	
7/24/2008	0	The City Council	Referred for a Report	
7/24/2008	0	The City Council	Referred for a Report	
7/21/2008	0	City Council	Assigned	
7/21/2008	0	City Council	Introduced	

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

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THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.
INTRODUCTORY*

CITY OF BALTIMORE

COUNCIL BILL

Introduced by: The Council President
At the request of: The Administration (Wage Commission)

A BILL ENTITLED

AN ORDINANCE concerning
Prevailing Wages for Work Under Construction Contracts - Living Wages for Work Under Service Contracts

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

BY repealing and reordaining, with amendments

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

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

Baltimore City Code

Article 5. Finance, Property, and Procurement

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

§ 255. [Minimum] PREVAILING wages - In general.

(a) Payment required.

(1) Every [such] mechanic, laborer, and apprentice shall be paid not less often than once a week, and without subsequent deduction or rebate on any account (except [such] payroll deductions as are directed or permitted by law, by a collective bargaining agreement, or by specific written authorization from an employee), the full amount due at the time of payment computed at wage rates not less than the [minimum] PREVAILING hourly wage rate established by the Board of Estimates and set forth in the contract.

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

(b) Rates to be posted.

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

(2) [In the event] IF a copy of [such minimum] THE PREVAILING hourly wage rates is not posted, the contractor shall forfeit and pay to the City a penalty in the amount of \$20 per day for each day on which the copy is

not posted. Each day's violation [shall constitute] CONSTITUTES a separate offense.

{§ 256. [Minimum] PREVAILING wages - Overtime.}

{§ 257. [Minimum] PREVAILING wages - Sanctions for underpayment.}

{§ 258. [Minimum] PREVAILING wages - Workers' complaints.}

§ 2512. Mechanics, apprentices, and laborers.

(b) Laborers.

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

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

§ 2515. Penalties.

(a) Debarment for 1 year.

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

§ 2516. Schedules of [minimum] PREVAILING wage rates.

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

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

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

(b) Basis of revision.

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

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

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

(c) Authority of Board not restricted.

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

§ 2517. ["Minimum" and "prevailing"] "PREVAILING" wage rates defined; obligation to pay.

(a) Definitions.

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

(i) the regular hourly rate of pay; and

(ii) the amount of:

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

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

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

(b) Obligation to pay.

[And provided further, that the] THE obligation of a contractor or subcontractor to make payment in accordance with the schedules of [minimum] PREVAILING hourly wage rates established by the Board of Estimates and fixed in contracts [pursuant to] UNDER this subtitle may be discharged by [the] making [of] payments in cash, by [the]

making of contributions of any type referred to in subsection (a)(1)(ii)(A), or by [the assumption of] ASSUMING a plan or program of a type referred to in subsection (a)(1)(ii)(B), or any combination [thereof] OF THESE, where the aggregate of [any such] THE payments, contributions, and costs is not less than the rate of pay described in subsection (a)(1)(i) plus the amount referred to in subsection (a)(1)(ii).

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

§ 261 Definitions.

(a) In general.

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

(b) Index.

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

(C) LIVING HOURLY WAGE RATE.

"LIVING HOURLY WAGE RATE" MEANS THE RATE ESTABLISHED BY THE BOARD OF ESTIMATES UNDER THE FORMULA SET FORTH IN § 2616 OF THIS SUBTITLE, AS THE MINIMUM HOURLY WAGE RATE THAT MUST BE PAID A WORKER EMPLOYED BY A SERVICE CONTRACTOR.

(D) [(c)] Person.

"Person" means any individual, business entity, corporation, partnership, or joint venture.

[(d) Prevailing rate.

"Prevailing minimum hourly wage rate" means the rate established by the Board of Estimates as the minimum hourly wage rate that shall be paid a worker employed by a service contractor and professional services contractor pursuant to the formula set forth in § 2616 of this subtitle.]

(e) Service contract.

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

(f) Service contractor.

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

(g) Service worker.

"Service worker" means any nonprofessional employee of a service contractor, as defined by the Board of Estimates.

§ 265: [Prevailing] LIVING wages - In general.

(a) Payment required.

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

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

(b) Rates to be posted.

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

{§ 266: [Prevailing] LIVING wages - Overtime.

{§ 267: [Prevailing] LIVING wages - Sanctions for underpayment.}

§ 268: [Prevailing] LIVING wages - Workers' complaints.

(a) In general.

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

§ 269: Required records - in general.

(b) Contents.

The records shall contain:

- (1) the name and address of each service worker;
- (2) the service worker's classification in accordance with the classifications fixed in the contract;
- (3) the number of hours worked each day;
- (4) the [prevailing minimum] APPLICABLE LIVING hourly wage rate;
- (5) the gross wages, deductions made, and actual wages paid;
- (6) a copy of the Social Security returns and evidence of THEIR payment [thereof;]

- (7) a record of fringe benefit payments, including contributions to approved plans, funds, or programs and[/or] ANY additional cash payments; and
- (8) [such] ANY other data [as may be required by] THAT the Board of Estimates REQUIRES from time to time.

§ 2613. Withholding payments.

- (b) For failure to post rates.

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

§ 2615. Penalties.

- (a) Debarment for 1 year.

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

§ 2616. Establishment of [prevailing] LIVING wage.

- (a) [Initial rate] IN GENERAL.

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

- (b) Annual revision.

- (1) By December 15[, 1995, and] OF each year [thereafter by that date], the Wage Commission shall recommend to the Board of Estimates a revised [prevailing minimum] LIVING hourly wage rate for the next fiscal year.
- (2) This rate shall be based upon the Index and other [such] factors [as] the Commission is authorized to consider.

- (c) Goals.

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

[(2)] For the first 4 years of the effective date of this subtitle, the City's goal is to phase in 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]

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

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

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