

FIRST REGULAR SESSION

# SENATE BILL NO. 486

90TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS WESTFALL AND BENTLEY.

Read 1st time February 24, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2030.021

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## AN ACT

To repeal sections 290.210 and 290.230, RSMo 1994, relating to the prevailing wage, and to enact in lieu thereof two new sections relating to the same subject.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 290.210 and 290.230, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 290.210 and 290.230, to read as follows:

290.210. As used in sections 290.210 to 290.340, unless the context indicates otherwise:

(1) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair.

(2) "Department" means the department of labor and industrial relations.

(3) "Locality" means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled workmen to construct the public works efficiently and properly, "locality" may include two or more counties adjacent to the one in which the work or construction is to be performed and from which such workers may be obtained in sufficient numbers to perform the work, and that, with respect to contracts with the state highways and transportation commission, "locality" may be construed to include two or more adjacent counties from which workmen may be accessible for work on such construction.

(4) "Maintenance work" means the repair, but not the replacement, of existing facilities when the size, type or extent of the existing facilities is not thereby changed or increased.

(5) "Prevailing hourly rate of wages" means the wages paid generally, in the locality in which the public works is being performed, to workmen engaged in work of a similar character including the basic hourly rate of pay and the amount of the rate of contributions irrevocably made

by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan or program, and the amount of the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to workmen and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workmen affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, 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 other federal or state law to provide any of the benefits; provided, that the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the department, insofar as sections 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the making of irrevocable contributions to trustees or third persons as provided herein, by the assumption of an enforceable commitment to bear the costs of a plan or program as provided herein, or any combination thereof, where the aggregate of such payments, contributions and costs is not less than the rate of pay plus the other amounts as provided herein.

(6) "Public body" means the state of Missouri or any officer, official, authority, board or commission of the state, or other political subdivision thereof, or any institution supported in whole or in part by public funds.

(7) "Public works" means all fixed works constructed for public use or benefit or paid for wholly or in part out of public funds. It also includes any work done directly by any public utility company when performed by it pursuant to the order of the public service commission or other public authority whether or not it be done under public supervision or direction or paid for wholly or in part out of public funds when let to contract by said utility. It does not include any work done for or by any drainage or levee district. **It does not include any work done for public use or benefit that is paid for wholly by any organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such organization receives no public funds for such work.**

(8) "Workmen" means laborers, workmen and mechanics.

290.230. 1. Not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work, shall be paid to all workmen employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work. Only such workmen as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works. **The provisions of this subsection shall not apply to any work done**

**for public use or benefit that is paid for wholly by any organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such organization receives no public funds for such work.**

2. When the hauling of materials or equipment includes some phase of construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed employed directly on public works.

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