

PUBLIC CONTRACTS LABOR AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Owens

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses wages and payment standards.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Labor Commission to determine the wages for all occupations required for construction projects for each county within the state; and
- ▶ establishes:
 - a minimum a contractor may pay a qualifying employee;
 - record keeping requirements; and
 - penalties for noncompliance.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-58-101, Utah Code Annotated 1953

34-58-102, Utah Code Annotated 1953

34-58-103, Utah Code Annotated 1953



- 28 [34-58-104](#), Utah Code Annotated 1953
- 29 [34-58-105](#), Utah Code Annotated 1953
- 30 [34-58-106](#), Utah Code Annotated 1953
- 31 [34-58-107](#), Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section [34-58-101](#) is enacted to read:

35 **CHAPTER 58. INDUSTRY STABILIZATION ACT**

36 **Part 1. General Provisions**

37 **[34-58-101](#). Definitions.**

38 As used in this chapter:

39 (1) "Commission" means the Labor Commission created in Section [34A-1-103](#).

40 (2) (a) "Construction project" means a project for the construction, renovation,
41 alteration, or improvement of a public facility on real property, including all services, labor,
42 supplies, and materials for the project.

43 (b) "Construction project" does not include:

44 (i) services and supplies for the routine, day-to-day operation, repair, or maintenance of
45 an existing public facility; or

46 (ii) a project estimated to cost less than \$100,000.

47 (3) "Contractor" means a contractor, subcontractor, or a public entity.

48 (4) "Division" means the Division of Purchasing and General Services, created in
49 Section [63A-2-101](#).

50 (5) "Prevailing wages" means the list of prevailing wages and fringe benefits published
51 by the commission under Section [34-58-102](#).

52 (6) "Procurement unit" means the same as that term is defined in Section [63G-6a-103](#).

53 (7) "Public entity" means the same as that term is defined in Section [63G-6a-103](#).

54 (8) "Public facility" means the same as that term is defined in Section [63G-6a-103](#).

55 (9) (a) "Qualifying employee" means a laborer, workman, or mechanic employed
56 directly upon the site of a construction project by a contractor, subcontractor, or a public entity.

57 (b) "Qualifying employee" does not include:

58 (i) an employee whose work includes only the transportation of materials or equipment

59 to or from the site of a construction project; or

60 (ii) a prisoner employed through the penal system.

61 Section 2. Section **34-58-102** is enacted to read:

62 **34-58-102. Commission to maintain list of prevailing wages.**

63 (1) Subject to Subsection (2), the commission shall determine the prevailing wages for
64 each county within the state for all occupations required for construction projects within the
65 state.

66 (2) The prevailing wages for an occupation in a county within the state may not be less
67 than the wage determination provided by the United States Department of Labor for the
68 occupation in the county.

69 (3) The commission:

70 (a) may review the prevailing wages at any time;

71 (b) shall review the prevailing wages at least once per year; and

72 (c) shall review the prevailing wages whenever there is a change to the wage
73 determinations made by the United States Department of Labor.

74 Section 3. Section **34-58-103** is enacted to read:

75 **34-58-103. Qualifying employees to be paid prevailing wages.**

76 (1) Except as provided by Subsection (2), a contractor shall pay a qualifying employee
77 no less than the prevailing wage published by the commission for the type of work performed
78 by the qualifying employee in the county where the construction site is located.

79 (2) A contractor shall pay a qualifying employee who is registered in a training or
80 apprenticeship program, approved by the United States Department of Labor Office of
81 Apprenticeship, under the respective training or apprenticeship program guidelines.

82 (3) A contractor may not pay a qualifying employee described in Subsection (2) wages
83 less than 60% of the prevailing wage described in Subsection (1).

84 Section 4. Section **34-58-104** is enacted to read:

85 **34-58-104. Prevailing wages to be included in procurement bids and contracts.**

86 In addition to the requirements described in Section [63G-6a-603](#), a procurement unit
87 shall include in an invitation for bids:

88 (1) the prevailing wages for each occupation required for the construction project in the
89 county where the construction site is located; and

- 90 (2) notice that the procurement contract shall include a provision:
- 91 (a) affirmatively stating the contractor's obligation to pay qualifying employees no less
- 92 than the prevailing wages described in Section 34-58-103;
- 93 (b) that requires the executed procurement contract to specify that the contractor shall
- 94 pay the contractor's qualifying employees no less than the prevailing wages described in
- 95 Section 34-58-103; and
- 96 (c) that requires the contractor to verify that the contractor's bond is in compliance with
- 97 this section.

98 Section 5. Section 34-58-105 is enacted to read:

99 **34-58-105. Recordkeeping -- Reporting requirement.**

- 100 (1) A contractor shall keep payroll records of all qualifying employees showing each
- 101 employee's name, occupation, hours worked, and wages paid.
- 102 (2) A contractor shall maintain the records described in Subsection (1) for at least three
- 103 years after the completion of the contract.

104 Section 6. Section 34-58-106 is enacted to read:

105 **34-58-106. Civil penalties.**

- 106 (1) In addition to the criminal penalties described in this chapter, a qualifying employee
- 107 may bring a civil action against a contractor to enforce the provisions of this chapter.
- 108 (2) (a) An aggrieved qualifying employee may seek injunctive relief against the
- 109 contractor and may recover the difference between the wage paid and the prevailing wages at
- 110 the time of employment, plus interest.
- 111 (b) The court may award court costs and attorney fees to the prevailing party.
- 112 (3) A qualifying employee shall bring an action against the contractor under this
- 113 section within two years after completion of the contract for the construction project.

114 Section 7. Section 34-58-107 is enacted to read:

115 **34-58-107. Criminal penalties -- Enforcement.**

- 116 (1) A violation of Section 34-58-103 is a class B misdemeanor.
- 117 (2) For a violation of Section 34-58-103, the court may impose an additional fine
- 118 against the contractor equal to the difference between the wage paid to a qualifying employee
- 119 and the prevailing wage at the time of employment.
- 120 (3) Upon a contractor's violation of Section 34-58-103, the commission may refer the

121 criminal action to the county attorney, district attorney, or attorney general.

122 (4) The county attorney, district attorney, or attorney general is responsible for
123 prosecuting violations of this section.

124 Section 8. **Effective date.**

125 This bill takes effect on May 1, 2024.