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**REPORTS:** No

**HEARINGS:** No

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IS 3/19/08

P.L. 2005, CHAPTER 379, *approved January 12, 2006*  
Assembly, No. 4161 (*Second Reprint*)

1 **AN ACT** establishing prevailing wage standards for State building  
2 service contracts and supplementing chapter 11 of Title 34 of the  
3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. It is declared to be the public policy of this State to establish  
9 prevailing wage levels for the employees of contractors and  
10 subcontractors furnishing building services for any property or  
11 premises owned or leased by the State in order to safeguard the  
12 efficiency and general well-being of those employees and to protect  
13 them and their employers from the effects of serious and unfair  
14 competition based on low wage levels which are detrimental to  
15 efficiency and well-being.

16

17 2. As used in this act:

18 "Commissioner" means the Commissioner of Labor and Workforce  
19 Development or <sup>1</sup>[his duty] the commissioner's duty<sup>1</sup> authorized  
20 representatives.

21 "Building services" means any cleaning or building maintenance  
22 work, including but not limited to sweeping, vacuuming, floor  
23 cleaning, cleaning of rest rooms, collecting refuse or trash, window  
24 cleaning, engineering, securing, patrolling, or other work in connection  
25 with the care, securing, or maintenance of an existing building <sup>1</sup>,  
26 except that "building services" shall not include any maintenance work  
27 or other public work for which a contractor is required <sup>2</sup>[pay]<sup>2</sup> to  
28 <sup>2</sup>pay<sup>2</sup> the "prevailing wage" as defined in section 2 of P.L.1963, c.150  
29 (C.34:11-56.26).

30 "Leased by the State" means that not less than 55% of the property  
31 or premises is leased by the State, provided that the portion of the  
32 property or premises that is leased by the State measures more than  
33 20,000 square feet.

34 "Prevailing <sup>2</sup>[wage]" wage<sup>2</sup> for building <sup>2</sup>[services] services<sup>2</sup>  
35 means the wage and benefit rates designated by the commissioner  
36 based on the determinations made by the General Services  
37 Administration pursuant to the federal "Service Contract Act of 1965"  
38 (41 U.S.C. s.351 et seq.), for the appropriate localities and

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AAP committee amendments adopted December 8, 2005.

<sup>2</sup> Assembly floor amendments adopted December 12, 2005.

1 classifications of building service employees.

2 "The State" means the State of New Jersey and all of its  
3 departments, bureaus, boards, commissions, agencies and  
4 instrumentalities, including any State institutions of higher education,  
5 but does not include political subdivisions.

6 "State institutions of higher education," means Rutgers, The State  
7 University of New Jersey, the University of Medicine and Dentistry of  
8 New Jersey and the New Jersey Institute of Technology, and any of  
9 the State colleges or universities established pursuant to chapter 64 of  
10 Title 18A of the New Jersey Statutes, but does not include any county  
11 college established pursuant to chapter 64A of Title 18A of the New  
12 Jersey Statutes.

13

14 3. Every contract to furnish building services for any property or  
15 premises owned or leased by the State shall contain a provision stating  
16 the prevailing wage <sup>2</sup>for building services<sup>2</sup> rates that are applicable to  
17 the workers employed in the performance of the contract and shall  
18 contain a stipulation that those workers shall be paid not less than the  
19 indicated prevailing wage <sup>2</sup>for building services<sup>2</sup> rates. The contract  
20 shall provide for annual adjustments of the prevailing wage <sup>2</sup>for  
21 building services<sup>2</sup> during the term of the contract, and shall provide  
22 that if it is found that any worker employed by the contractor or any  
23 subcontractor covered by the contract, has been paid less than the  
24 required prevailing wage, the State <sup>2</sup>~~[shall]~~ Treasurer may<sup>2</sup> terminate  
25 the contractor or subcontractor's right to proceed with the work, and  
26 the contractor and his sureties shall be liable to the Sate for any excess  
27 costs occasioned by the termination.

28

29 4. Each contractor and subcontractor shall keep an accurate record  
30 showing the name, classification, and actual hourly rate of wages and  
31 any benefits paid to each worker employed by him to perform building  
32 services pursuant to a State contract or subcontract, and shall preserve  
33 those records for two years after the date of payment. The record  
34 shall be open at all reasonable hours to inspection by the Director of  
35 the Division of Purchase and Property and the commissioner.

36

37 5. Any worker paid less than the prevailing wage <sup>2</sup>for building  
38 services<sup>2</sup> to which the worker is entitled by the provisions of this act  
39 may recover in a civil action the full amount of the prevailing wage  
40 <sup>2</sup>for building services<sup>2</sup> less any amount actually paid to the worker by  
41 the employer together with any costs and reasonable attorney's fees  
42 allowed by the court, and an agreement between the worker and the  
43 employer to work for less than the prevailing wage <sup>2</sup>for building  
44 services<sup>2</sup> shall not be a defense to the action. The worker shall be  
45 entitled to maintain an action for and on behalf of the worker or other

1 workers similarly situated and the worker or workers may designate  
2 an agent or representative to maintain such actions for and on behalf  
3 of all workers similarly situated. At the request of any worker paid  
4 less than the prevailing wage <sup>2</sup>for building services<sup>2</sup> required under the  
5 provisions of this act, the commissioner may take an assignment of the  
6 wage claim in trust for the assigning worker or workers and may bring  
7 any legal action necessary to collect the claim, and the employer shall  
8 be required to pay any costs and such reasonable attorney's fee as are  
9 allowed by the court.

10  
11 <sup>1</sup>6. The commissioner shall have the authority to:

12 a. investigate and ascertain the wages of any employees of a  
13 contractor or subcontractor furnishing building services for any  
14 property or premises owned or leased by the State;

15 b. enter and inspect the place of business or employment of any  
16 contractor or subcontractor furnishing building services for any  
17 property or premises owned or leased by the State, for the purpose of  
18 examining and inspecting any or all books, registers, payrolls, and  
19 other records of any such contractor or subcontractor that in any way  
20 relate to or have a bearing upon the question of wages, hours, and  
21 other conditions of employment of any employees of such contractor  
22 or subcontractor; copy any or all of such books, registers, payrolls,  
23 and other records as the commissioner may deem necessary or  
24 appropriate; and question the employees of such contractor or  
25 subcontractor for the purpose of ascertaining whether the provisions  
26 of this act have been and are being complied with;

27 c. require from such contractor or subcontractor full and correct  
28 statements in writing, including sworn statements, with respect to  
29 wages, hours, names, addresses, and other information pertaining to  
30 the contractor or subcontractor's workers and their employment as the  
31 commissioner may deem necessary or appropriate; and

32 d. require any contractor or subcontractor to file, within 10 days  
33 of receipt of a request, any records enumerated in subsections b. and  
34 c. of this section, sworn as to their validity and accuracy. If the  
35 contractor or subcontractor fails to provide the requested records  
36 within 10 days, the State Treasurer may immediately withhold from  
37 payment to the employer up to 25% of the amount, not to exceed  
38 \$100,000, to be paid to the employer under the terms of the contract  
39 pursuant to which the building services work is being performed. The  
40 amount withheld shall be immediately released upon receipt by the  
41 State Treasurer of a notice from the commissioner indicating that the  
42 request for records has been satisfied.<sup>1</sup>

43  
44 <sup>1</sup>7. Any contractor or subcontractor who willfully hinders or delays  
45 the commissioner in the performance of the commissioner's duties in  
46 the enforcement of this act, or fails to make, keep, and preserve any

1 records as required under the provisions of this act, or falsifies any  
2 such record, or refuses to make any such record accessible to the  
3 commissioner upon demand, or refuses to furnish a sworn statement  
4 of such record or any other information required for the proper  
5 enforcement of this act to the commissioner upon demand, or pays or  
6 agrees to pay wages at a rate less than the rate applicable under this  
7 act or otherwise violates any provision of this act or of any regulation  
8 or order issued under this act shall be guilty of a disorderly persons  
9 offense and shall, upon conviction therefore, be fined not less than  
10 \$100.00 nor more than \$1,000 or be imprisoned for not less than 10  
11 nor more than 90 days, or by both such fine and imprisonment. Each  
12 week, in any day of which a worker is paid less than the rate applicable  
13 to that worker under this act and each worker so paid, shall constitute  
14 a separate offense.

15 As an alternative to or in addition to any other sanctions provided  
16 by law for violations of any provision of this act, if the commissioner  
17 finds that a contractor or subcontractor has violated the act, the  
18 commissioner is authorized to assess and collect administrative  
19 penalties, up to a maximum of \$250 for a first violation and up to a  
20 maximum of \$500 for each subsequent violation, specified in a  
21 schedule of penalties to be promulgated as a rule or regulation by the  
22 commissioner in accordance with the "Administrative Procedure Act,"  
23 P.L.1968, c. 410 (C. 52:14B-1 et seq.). When determining the amount  
24 of the penalty imposed because of a violation, the commissioner shall  
25 consider factors which include the history of previous violations by the  
26 contractor or subcontractor, the seriousness of the violation, the good  
27 faith of the contractor or subcontractor and the size of the contractor's  
28 or subcontractor's business. No administrative penalty shall be levied  
29 pursuant to this section unless the commissioner provides the alleged  
30 violation with notification of the violation and of the amount of the  
31 penalty by certified mail and an opportunity to request a hearing before  
32 the commissioner or the commissioner's designee within 15 days  
33 following the receipt of the notice. If a hearing is requested, the  
34 commissioner shall issue a final order upon such hearing and a finding  
35 that a violation has occurred. If no hearing is requested, the notice  
36 shall become a final order upon expiration of the 15-day period.  
37 Payment of the penalty shall be due when a final order is issued or  
38 when the notice becomes a final order. Any penalty imposed pursuant  
39 to this section may be recovered with costs in a summary proceeding  
40 commenced by the commissioner pursuant to "the penalty enforcement  
41 laws" (N.J.S. 2A:58-1 et seq.). Any sum collected as a fine or penalty  
42 pursuant to this section shall be applied toward enforcement and  
43 administration costs of the Division of Workplace Standards in the  
44 Department of Labor and Workforce Development.<sup>1</sup>

45

46 <sup>1</sup>8. As an alternative to any other sanctions or in addition thereto,

1 herein or otherwise provided by law for violation of this act, the  
2 commissioner is authorized to supervise the payment of amounts due  
3 to workers under this act, and the contractor or subcontractor may be  
4 required to make these payments to the commissioner to be held in a  
5 special account in trust for the workers, and paid on order of the  
6 commissioner directly to the worker or workers affected. The  
7 contractor or subcontractor shall also pay the commissioner an  
8 administrative fee equal to not less than 10% or more than 25% of any  
9 payment made to the commissioner pursuant to this section. The  
10 amount of the administrative fee shall be specified in a schedule of fees  
11 to be promulgated by rule or regulation of the commissioner in  
12 accordance with the "Administrative Procedure Act," P.L.1968, c. 410  
13 (C. 52:14B-1 et seq.). The fee shall be applied toward enforcement  
14 and administration costs of the Division of Workplace Standards in the  
15 Department of Labor and Workforce Development.<sup>1</sup>

16

17 <sup>19.</sup> Any contractor or subcontractor who discharges or in any other  
18 manner discriminates against any worker because the worker has made  
19 any complaint to the worker's employer, to the State Treasurer or to  
20 the commissioner that the worker has not been paid wages in  
21 accordance with the provisions of this act, or because the worker has  
22 caused to be instituted or is about to cause to be instituted any  
23 proceeding under or related to this act, or because the worker has  
24 testified or is about to testify in any such proceeding shall be guilty of  
25 a disorderly persons offense and shall, upon conviction therefor, be  
26 fined not less than \$100 nor more than \$1,000.

27 As an alternative to or in addition to any other sanctions provided  
28 by law for violations of any provision of this act, if the commissioner  
29 finds that a contractor or subcontractor has violated the act, the  
30 commissioner is authorized to assess and collect administrative  
31 penalties, up to a maximum of \$250 for a first violation and up to a  
32 maximum of \$500 for each subsequent violation, specified in a  
33 schedule of penalties to be promulgated as a rule or regulation by the  
34 commissioner in accordance with the "Administrative Procedure Act,"  
35 P.L.1968, c. 410 (C. 52:14B-1 et seq.). When determining the amount  
36 of the penalty imposed because of a violation, the commissioner shall  
37 consider factors which include the history of previous violations by the  
38 contractor or subcontractor, the seriousness of the violation, the good  
39 faith of the contractor or subcontractor and the size of the contractor's  
40 or subcontractor's business. No administrative penalty shall be levied  
41 pursuant to this section unless the commissioner provides the alleged  
42 violation with notification of the violation and of the amount of the  
43 penalty by certified mail and an opportunity to request a hearing before  
44 the commissioner or the commissioner's designee within 15 days  
45 following the receipt of the notice. If a hearing is requested, the  
46 commissioner shall issue a final order upon such hearing and a finding

1 that a violation has occurred. If no hearing is requested, the notice  
2 shall become a final order upon expiration of the 15-day period.  
3 Payment of the penalty shall be due when a final order is issued or  
4 when the notice becomes a final order. Any penalty imposed pursuant  
5 to this section may be recovered with costs in a summary proceeding  
6 commenced by the commissioner pursuant to "the penalty enforcement  
7 laws" (N.J.S. 2A:58-1 et seq.). Any sum collected as a fine or penalty  
8 pursuant to this section shall be applied toward enforcement and  
9 administration costs of the Division of Workplace Standards in the  
10 Department of Labor and Workforce Development.<sup>1</sup>

11

12 <sup>1</sup>10. Nothing in this act shall be deemed to interfere with, impede,  
13 or in any way diminish the right of workers to bargain collectively  
14 through representatives of their own choosing in order to establish  
15 wages in excess of any applicable minimum under this act.<sup>1</sup>

16

17 <sup>1</sup>11. If any provision of this act, or the application thereof to any  
18 person or circumstance, is held invalid, the remainder of the act and  
19 the application thereof, to other persons or circumstances shall not be  
20 affected thereby.<sup>1</sup>

21

22 <sup>1</sup>12. The commissioner is hereby authorized and empowered to  
23 prescribe, adopt, promulgate, rescind and enforce rules and regulations  
24 as may be required for the administration and enforcement of the  
25 provisions of this act.<sup>1</sup>

26

27 <sup>1</sup>13. For any occupation for which prevailing wage for building  
28 services rates are established by or pursuant to this act, the  
29 commissioner or the Director of Wage and Hour Compliance in the  
30 Department of Labor and Workforce Development may cause to be  
31 issued to any employee, including a learner, apprentice, or student,  
32 whose earning capacity is impaired by age or physical or  
33 developmental disability or injury, a special license authorizing  
34 employment at wages less than the prevailing wage for building  
35 services for a period of time as shall be fixed by the commissioner or  
36 the Director of Wage and Hour Compliance and stated in the license.

37 Nothing in this section is intended to undermine the purposes of this  
38 act.<sup>1</sup>

39

40 <sup>1</sup>[6.] 14.<sup>1</sup> This act shall take effect <sup>1</sup>[immediately] on the 60th  
41 day following enactment and apply to contracts entered or renewed on  
42 or after that date.<sup>1</sup>



1

\_\_\_\_\_

2

3 Establishes prevailing wage standards for State building service  
4 contracts.

# ASSEMBLY, No. 4161

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 13, 2005

**Sponsored by:**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Assemblyman ALBIO SIRES**

**District 33 (Hudson)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Co-Sponsored by:**

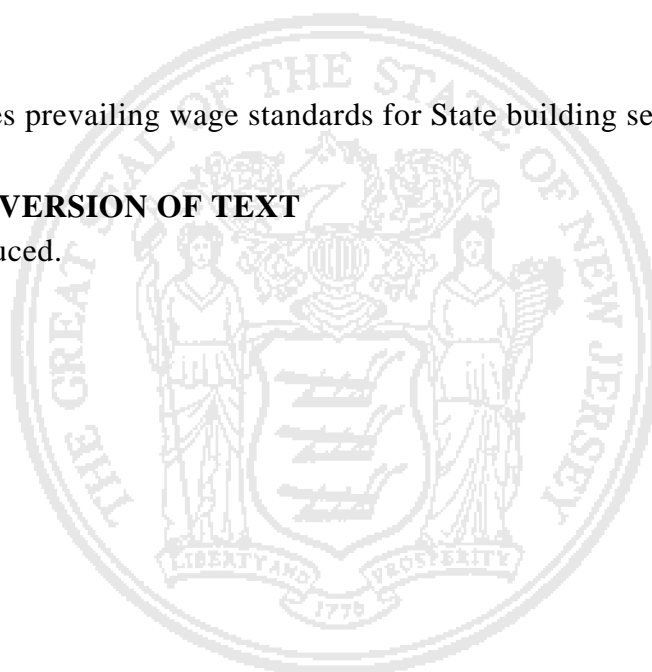
**Assemblyman Barnes, Assemblywoman Cruz-Perez and Assemblyman Diegnan**

**SYNOPSIS**

Establishes prevailing wage standards for State building service contracts.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 12/9/2005)

1 AN ACT establishing prevailing wage standards for State building  
2 service contracts and supplementing chapter 11 of Title 34 of the  
3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. It is declared to be the public policy of this State to establish  
9 prevailing wage levels for the employees of contractors and  
10 subcontractors furnishing building services for any property or  
11 premises owned or leased by the State in order to safeguard the  
12 efficiency and general well-being of those employees and to protect  
13 them and their employers from the effects of serious and unfair  
14 competition based on low wage levels which are detrimental to  
15 efficiency and well-being.

16

17 2. As used in this act:

18 "Commissioner" means the Commissioner of Labor and Workforce  
19 Development or his duty authorized representatives.

20 "Building services" means any cleaning or building maintenance  
21 work, including but not limited to sweeping, vacuuming, floor  
22 cleaning, cleaning of rest rooms, collecting refuse or trash, window  
23 cleaning, engineering, securing, patrolling, or other work in connection  
24 with the care, securing, or maintenance of an existing building.

25 "Leased by the State" means that not less than 55% of the property  
26 or premises is leased by the State, provided that the portion of the  
27 property or premises that is leased by the State measures more than  
28 20,000 square feet.

29 "Prevailing wage" for building services means the wage and benefit  
30 rates designated by the commissioner based on the determinations  
31 made by the General Services Administration pursuant to the federal  
32 "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the  
33 appropriate localities and classifications of building service employees.

34 "The State" means the State of New Jersey and all of its  
35 departments, bureaus, boards, commissions, agencies and  
36 instrumentalities, including any State institutions of higher education,  
37 but does not include political subdivisions.

38 "State institutions of higher education," means Rutgers, The State  
39 University of New Jersey, the University of Medicine and Dentistry of  
40 New Jersey and the New Jersey Institute of Technology, and any of  
41 the State colleges or universities established pursuant to chapter 64 of  
42 Title 18A of the New Jersey Statutes, but does not include any county  
43 college established pursuant to chapter 64A of Title 18A of the New  
44 Jersey Statutes.

45

46 3. Every contract to furnish building services for any property or

1 premises owned or leased by the State shall contain a provision stating  
2 the prevailing wage rates that are applicable to the workers employed  
3 in the performance of the contract and shall contain a stipulation that  
4 those workers shall be paid not less than the indicated prevailing wage  
5 rates. The contract shall provide for annual adjustments of the  
6 prevailing wage during the term of the contract, and shall provide that  
7 if it is found that any worker employed by the contractor or any  
8 subcontractor covered by the contract, has been paid less than the  
9 required prevailing wage, the State shall terminate the contractor or  
10 subcontractor's right to proceed with the work, and the contractor and  
11 his sureties shall be liable to the Sate for any excess costs occasioned  
12 by the termination.

13

14 4. Each contractor and subcontractor shall keep an accurate record  
15 showing the name, classification, and actual hourly rate of wages and  
16 any benefits paid to each worker employed by him to perform building  
17 services pursuant to a State contract or subcontract, and shall preserve  
18 those records for two years after the date of payment. The record  
19 shall be open at all reasonable hours to inspection by the Director of  
20 the Division of Purchase and Property and the commissioner.

21

22 5. Any worker paid less than the prevailing wage to which the  
23 worker is entitled by the provisions of this act may recover in a civil  
24 action the full amount of the prevailing wage less any amount actually  
25 paid to the worker by the employer together with any costs and  
26 reasonable attorney's fees allowed by the court, and an agreement  
27 between the worker and the employer to work for less than the  
28 prevailing wage shall not be a defense to the action. The worker shall  
29 be entitled to maintain an action for and on behalf of the worker or  
30 other workers similarly situated and the worker or workers may  
31 designate an agent or representative to maintain such actions for and  
32 on behalf of all workers similarly situated. At the request of any  
33 worker paid less than the prevailing wage required under the  
34 provisions of this act, the commissioner may take an assignment of the  
35 wage claim in trust for the assigning worker or workers and may bring  
36 any legal action necessary to collect the claim, and the employer shall  
37 be required to pay any costs and such reasonable attorney's fee as are  
38 allowed by the court.

39

40 6. This act shall take effect immediately.

41

42

#### STATEMENT

43

44 This bill establishes prevailing wage rates for workers employed by  
45 contractors performing building services for properties or premises  
46 owned or leased by the State. The purpose of the bill is to safeguard

1 the efficiency and general well-being of the employees of contractors  
2 and subcontractors furnishing building services to State agencies and  
3 to protect those employees and their employers from the effects of  
4 unfair competition based on low wage levels which are detrimental to  
5 efficiency and well-being.

6 The bill requires each State contract for building services to state  
7 the required prevailing wage and stipulate that the workers not be paid  
8 less than the prevailing wage. The contract is required to provide  
9 annual adjustments of the prevailing wage during the term of the  
10 contract, and provide that if the contractor or a subcontractor pays  
11 less than the prevailing wage, the State will terminate the contractor  
12 or subcontractor's right to finish the work, and hold the contractor and  
13 his sureties liable to the State for any resulting excess costs.

14 The prevailing wage and benefit rates established by the bill are the  
15 wage and benefit rates determined by the federal General Services  
16 Administration pursuant to the federal "Service Contract Act of 1965"  
17 (41 U.S.C. s.351 et seq.), for the applicable localities and  
18 classifications of building service employees. The building services  
19 covered by the bill include cleaning or building maintenance work,  
20 sweeping, vacuuming, floor cleaning, cleaning of rest rooms,  
21 collecting refuse or trash, window cleaning, engineering, securing,  
22 patrolling, or other work in connection with the care, securing, or  
23 maintenance of an existing building.

24 A worker paid less than the prevailing required wage is permitted  
25 by the bill to maintain an action to recover the unpaid prevailing wage  
26 together with costs and reasonable attorney's fees. The action may  
27 also be taken on behalf of other similarly situated workers and be  
28 maintained through a designated agent. The Commissioner of Labor  
29 and Workforce Development may, upon request, take an assignment  
30 of the wage claim in trust for the assigning workers and collect the  
31 claim together with costs and reasonable attorney's fees.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 4161

# STATE OF NEW JERSEY

DATED: JUNE 13, 2005

The Assembly Labor Committee reports favorably Assembly Bill No. 4161.

This bill establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The purpose of the bill is to safeguard the efficiency and general well-being of the employees of contractors and subcontractors furnishing building services to State agencies and to protect those employees and their employers from the effects of unfair competition based on low wage levels which are detrimental to efficiency and well-being.

The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The contract is required to provide annual adjustments of the prevailing wage during the term of the contract, and provide that if the contractor or a subcontractor pays less than the prevailing wage, the State will terminate the contractor or subcontractor's right to finish the work, and hold the contractor and his sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

A worker paid less than the prevailing required wage is permitted by the bill to maintain an action to recover the unpaid prevailing wage together with costs and reasonable attorney's fees. The action may also be taken on behalf of other similarly situated workers and be maintained through a designated agent. The Commissioner of Labor and Workforce Development may, upon request, take an assignment of the wage claim in trust for the assigning workers and collect the claim together with costs and reasonable attorney's fees.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4161**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 8, 2005

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4161, with committee amendments.

Assembly Bill No. 4161, as amended, establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The purpose of the bill is to safeguard the efficiency and general well-being of the employees of contractors and subcontractors furnishing building services to State agencies and to protect those employees and their employers from the effects of unfair competition based on low wage levels which are detrimental to efficiency and well-being.

The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The bill requires that the contract provide annual adjustments of the prevailing wage during the term of the contract, and provide that if the contractor or a subcontractor pays less than the prevailing wage, the State will terminate the contractor or subcontractor's right to finish the work, and hold the contractor and the contractor's sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

The bill permits a worker paid less than the prevailing required to maintain an action to recover the unpaid prevailing wage together with costs and reasonable attorney's fees. The action may also be taken on behalf of other similarly situated workers and be maintained through a designated agent. The Commissioner of Labor and Workforce Development may, upon request, take an assignment of the wage claim

in trust for the assigning workers and collect the claim together with costs and reasonable attorney's fees.

The bill gives the Commissioner of Labor and Workforce Development authority to investigate the wages of covered workers, inspect premises, examine employers' books, question workers, and require employers to provide statements and other information in furtherance of the purposes of the act. The commissioner may require the filing of records, and the bill allows the State Treasurer to withhold 25% of the amount, not to exceed \$100,000, from contract payments due the employer until the request for records is satisfied.

The bill provides criminal and administrative penalties for an employer's interference with the commissioner's investigative powers, for failure to comply with the commissioner's requests for records and other information, for failure to comply with wage payment requirements or violation of any other provisions of the bill.

As an alternative remedy, the bill authorizes the commissioner to supervise the payment of amounts due workers under the act, for which the bill authorizes the commissioner to be paid an administrative fee of not less than 10% or more than 25% of the payments made through the commissioner's supervision.

The bill provides a criminal penalty for employer discrimination against a worker who asserts rights under the act by making a complaint to the employer, to the Treasurer or to the commissioner, by instituting or preparing to institute a proceeding under the bill, or by testifying or preparing to testify in such a proceeding. Upon conviction, a contractor or subcontractor who has so discriminated against a worker shall be guilty of a disorderly persons offense and subject to fine.

FISCAL IMPACT:

The Office of Legislative Services has made a preliminary estimate that this bill will increase State costs by approximately \$10 million to \$15 million annually.

COMMITTEE AMENDMENTS:

The amendments exclude from coverage by the bill maintenance work or other public work for which a contractor is required pay to the prevailing wage pursuant to a current prevailing wage law, P.L.1963, c. 150 (C.34:11-56.25 et seq.).

The amendments provide the commissioner's investigative powers, criminal and administrative penalties, antidiscrimination provisions, and alternative supervision of wages remedy discussed above.

The amendments authorize the commissioner to grant special exceptions to the prevailing wage requirements to employees whose earning capacity is impaired by age, disability or injury.



# STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 4161**

with Assembly Floor Amendments  
(Proposed by Assemblyman ROBERTS)

ADOPTED: DECEMBER 12, 2005

These Assembly amendments eliminate the bill's requirement that the State terminate a contract for building services if the contractor or subcontractor is found to pay building services employees under the contract less than the prevailing wage required by the bill. The amendments instead permit, rather than require, the State to terminate the contract under those circumstances. The amendments also specify that the State Treasurer is the State official given the authority to terminate the contracts.

Finally, the amendments also clarify that the prevailing wage levels required for building services by the bill are distinct from the prevailing wage levels required for public works by existing law.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 4161**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: DECEMBER 27, 2005

**SUMMARY**

**Synopsis:** Establishes prevailing wage standards for State building service contracts.  
**Type of Impact:** General Fund expenditure  
**Agencies Affected:** State departments, bureaus, boards, commissions, agencies and higher education institutions

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	\$10 million to \$15 million	\$10 million to \$15 million	\$10 million to \$15 million

- ! The Office of Legislative Services estimates the cost of this bill at approximately \$10 million to \$15 million annually.
- ! The bill establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State.
- ! The bill sets the prevailing wage at the rates set by the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), which provides prevailing wage rates for service workers employed by businesses contracting with the federal government.
- ! The bill also sets hourly pro-rated benefit rates for employees of State building services contractors and subcontractors as set by the federal Service Contract Act of 1965. All counties are subject to an hourly rate of \$2.87 in employer contributions for health benefits. Cash amounts are not provided for other fringe benefits, but two to five weeks of paid vacation are required, depending on the length of service, as well as a minimum of 11 paid holidays.
- ! The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing or maintenance of an existing building.
- ! Information concerning building service contracts, collected from the State Division of Purchasing website contract listings, indicates that approximately 500 workers may be effected by the bill. It may be assumed that a majority of these workers are currently paid the \$6.15 hourly minimum wage. The

average hourly federal prevailing wage rate for New Jersey is \$13.16 (it should be noted that the prevailing wage fluctuates by county and that this average is based on all county wage rates).

- ! Assuming the average full-time worker subject to the bill is paid \$12,800 a year on the minimum wage rate, the worker will be paid approximately \$33,300 a year on the federal prevailing wage rate plus benefits, an increase of \$20,500. When applied to approximately 500 workers, the increase is a total of \$10.3 million in State cost for wages annually. It should be noted that security workers are not covered in this fiscal estimate of \$10.3 million because the data concerning security personnel contracts is not readily available. In addition, not all public college and New Jersey Transit building service contract data are available. However, most public college and building service workers are already receiving a rate comparable to the prevailing wage because many are unionized. In addition, many of the security employees in State entities effected by the bill are in-house rather than contracted out. Those minimal number of security and remaining building service workers are specifically unaccounted for but are assumed and represented in the final estimate. Given projected scenarios concerning wage increases and benefits provided by the bill, the bill is estimated to cost \$10 million to \$15 million annually.

## **BILL DESCRIPTION**

Assembly Bill No. 4161 of 2005 establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The contract is required to provide annual adjustments of the prevailing wage during the term of the contract, and provide that if the contractor or a subcontractor pays less than the prevailing wage, the State will terminate the contractor or subcontractor's right to finish the work, and hold the contractor and his sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration, pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

A worker paid less than the prevailing required wage is permitted by the bill to maintain an action to recover the unpaid prevailing wage together with costs and reasonable attorney's fees. The action may also be taken on behalf of other similarly situated workers and be maintained through a designated agent. The Commissioner of Labor and Workforce Development may, upon request, take an assignment of the wage claim in trust for the assigning workers and collect the claim together with costs and reasonable attorney's fees.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services estimates the cost of this bill at approximately \$10 million to \$15 million annually. Information concerning building service contracts, collected from the State Division of Purchasing website contract listings, indicates that approximately 500 workers may be effected by the bill. It may be assumed that a majority of these workers are currently paid the \$6.15 hourly minimum wage. The average hourly federal prevailing wage rate for New Jersey is \$13.16 (it should be noted that the prevailing wage fluctuates by county and that this average is based on all county wage rates). Assuming the average full-time worker subject to the bill is paid \$12,800 a year on the minimum wage rate, the worker will be paid approximately \$33,300 a year on the federal prevailing wage rate plus benefits, an increase of \$20,500. When applied to approximately 500 workers, the increase is a total of \$10.3 million in State cost for wages annually. It should be noted that security workers are not covered in this fiscal estimate of \$10.3 million because the data concerning security personnel contracts is not readily available. In addition, not all public college and New Jersey Transit building service contract data are available. However, most public college and building service workers are already receiving a rate comparable to the prevailing wage because many are unionized. In addition, many of the security employees in State entities effected by the bill are in-house rather than contracted out. Those minimal number of security and remaining building service workers are specifically unaccounted for but are assumed and represented in the final estimate. Given projected scenarios concerning wage increases and benefits provided by the bill, the bill is estimated to cost \$10 million to \$15 million annually.

Section: *Commerce, Labor and Industry*  
Analyst: *Sonya S. Davis*  
*Associate Fiscal Analyst*  
Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**LEGISLATIVE FISCAL ESTIMATE**  
 [Second Reprint]  
**ASSEMBLY, No. 4161**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: FEBRUARY 14, 2006

**SUMMARY**

**Synopsis:** Establishes prevailing wage standards for State building service contracts.

**Type of Impact:** General Fund expenditure

**Agencies Affected:** State departments, bureaus, boards, commissions, agencies and higher education institutions

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
<b>State Cost</b>	\$2.3 million to \$3 million	\$5.3 million to \$7.5 million	\$7 million to \$10 million

- ! The Office of Legislative Services estimates the cost of this bill at approximately \$2.3 million to \$3 million in the first year, \$5.3 million to \$7.5 million in the second year and \$7 million to \$10 million in the third year.
- ! The bill establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State.
- ! The bill sets the prevailing wage at the rates set by the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), which provides prevailing wage rates for service workers employed by businesses contracting with the federal government.
- ! The bill also sets hourly pro-rated benefit rates for employees of State building services contractors and subcontractors as set by the federal Service Contract Act of 1965. All counties are subject to an hourly rate of \$2.87 in employer contributions for health benefits. Cash amounts are not provided for other fringe benefits, but two to five weeks of paid vacation are required, depending on the length of service, as well as a minimum of 11 paid holidays.
- ! The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing or maintenance of an existing building.

- ! Information concerning building service contracts, collected from the State Division of Purchase and Property website contract listings, indicates that approximately 500 workers may be affected by the bill. It may be assumed that approximately 75 percent of these workers are part-time and 25 percent are full-time and the majority are currently paid the \$6.15 hourly minimum wage. The average hourly federal prevailing wage rate for New Jersey is \$13.16 (it should be noted that the prevailing wage fluctuates by county and that this average is based on all county wage rates).
- ! Assuming the average part-time worker subject to the bill is paid \$6,400 a year based on the minimum wage rate, the worker will be paid approximately \$16,700 a year on the federal prevailing wage plus benefits, an increase of \$10,300. Assuming the average full-time worker subject to the bill is paid \$12,800 a year based on the minimum wage rate, the worker will be paid approximately \$33,300 a year on the federal prevailing wage rate plus benefits, an increase of \$20,500. When applied to approximately 375 part-time workers and 125 full-time workers, the increase is a total of \$6.5 million in State costs for wages annually. It should be noted that security workers are not covered in this fiscal estimate of \$6.5 million because the data concerning security personnel contracts is not readily available. In addition, not all public college and New Jersey Transit building service contract data is available. However, most public college and building service workers are already receiving a rate comparable to the prevailing wage because many are unionized. In addition, many of the security employees in State premises affected by the bill are in-house rather than contracted out. That minimal number of security and remaining building service workers is specifically unaccounted for but is assumed and represented in the final estimate.
- ! Given that the bill applies only to those contracts entered into or renewed after the effective date of the bill, the State costs are estimated to be phased in over the next three years. Given projected scenarios concerning wage increases and benefits provided by the bill, the bill is estimated to cost \$2.3 million to \$3 million in the first year, \$5.3 million to \$7.5 million in the second year and \$7 million to \$10 million in the third year.
- ! The State costs may be less because of the bill's exemption from the prevailing wage for employees whose earning capacity is impaired by age, disability or injury. It is not possible to estimate these savings because information is not available regarding the number of employees whose age, disability or injury will qualify them for the exemption.

## **BILL DESCRIPTION**

Assembly Bill No. 4161 (2R) of 2005 establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The contract is required to provide annual adjustments of the prevailing wage during the term of the contract, and provide that if the contractor or a subcontractor pays less than the prevailing wage, the State will terminate the contractor or subcontractor's right to finish the work, and hold the contractor and his sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration, pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or

building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

The bill authorizes the Commissioner of Labor and Workforce Development to grant a special exemption from the prevailing wage requirement to employees whose earning capacity is impaired by age, disability or injury.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services estimates the cost of this bill at approximately \$2.3 million to \$3 million in the first year, \$5.3 million to \$7.5 million in the second year and \$7 million to \$10 million in the third year. Information concerning building service contracts, collected from the State Division of Purchase and Property website contract listings, indicates that approximately 500 workers may be affected by the bill. It may be assumed that approximately 75 percent of these workers are part-time and 25 percent are full-time and the majority are currently paid the \$6.15 hourly minimum wage. The average hourly federal prevailing wage rate for New Jersey is \$13.16 (it should be noted that the prevailing wage fluctuates by county and that this average is based on all county wage rates).

Assuming the average part-time worker subject to the bill is paid \$6,400 a year based on the minimum wage rate, the worker will be paid approximately \$16,700 a year on the federal prevailing wage plus benefits, an increase of \$10,300. Assuming the average full-time worker subject to the bill is paid \$12,800 a year based on the minimum wage rate, the worker will be paid approximately \$33,300 a year on the federal prevailing wage rate plus benefits, an increase of \$20,500. When applied to approximately 375 part-time workers and 125 full-time workers, the increase is a total of \$6.5 million in State costs for wages annually. It should be noted that security workers are not covered in this fiscal estimate of \$6.5 million because the data concerning security personnel contracts is not readily available. In addition, not all public college and New Jersey Transit building service contract data is available. However, most public college and building service workers are already receiving a rate comparable to the prevailing wage because many are unionized. In addition, many of the security employees in State premises affected by the bill are in-house rather than contracted out. That minimal number of security and remaining building service workers is specifically unaccounted for but is assumed and represented in the final estimate.

Given that the bill applies only to those contracts entered into or renewed after the effective date of the bill, the State costs are estimated to be phased in over the next three years. Given projected scenarios concerning wage increases and benefits provided by the bill, the bill is estimated to cost \$2.3 million to \$3 million in the first year, \$5.3 million to \$7.5 million in the second year and \$7 million to \$10 million in the third year. The State costs may be less because of the bill's exemption from the prevailing wage for employees whose earning capacity is impaired by age, disability or injury. It is not possible to estimate these savings because information is not available regarding the number of employees whose age, disability or injury will qualify them for the exemption.

Section: *Commerce, Labor and Industry*

Analyst: *Sonya S. Davis*  
*Associate Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



**SENATE, No. 2702**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED JUNE 23, 2005

**Sponsored by:**

**Senator JOSEPH CONIGLIO**

**District 38 (Bergen)**

**Senator JOSEPH V. DORIA, JR.**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senators Sweeney, Karcher, Weinberg and Vitale**

**SYNOPSIS**

Establishes prevailing wage standards for State building service contracts.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/6/2006)**

1 AN ACT establishing prevailing wage standards for State building  
2 service contracts and supplementing chapter 11 of Title 34 of the  
3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. It is declared to be the public policy of this State to establish  
9 prevailing wage levels for the employees of contractors and  
10 subcontractors furnishing building services for any property or  
11 premises owned or leased by the State in order to safeguard the  
12 efficiency and general well-being of those employees and to protect  
13 them and their employers from the effects of serious and unfair  
14 competition based on low wage levels which are detrimental to  
15 efficiency and well-being.

16

17 2. As used in this act:

18 "Commissioner" means the Commissioner of Labor and Workforce  
19 Development or his duty authorized representatives.

20 "Building services" means any cleaning or building maintenance  
21 work, including but not limited to sweeping, vacuuming, floor  
22 cleaning, cleaning of rest rooms, collecting refuse or trash, window  
23 cleaning, engineering, securing, patrolling, or other work in connection  
24 with the care, securing, or maintenance of an existing building.

25 "Leased by the State" means that not less than 55% of the property  
26 or premises is leased by the State, provided that the portion of the  
27 property or premises that is leased by the State measures more than  
28 20,000 square feet.

29 "Prevailing wage" for building services means the wage and benefit  
30 rates designated by the commissioner based on the determinations  
31 made by the General Services Administration pursuant to the federal  
32 "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the  
33 appropriate localities and classifications of building service employees.

34 "The State" means the State of New Jersey and all of its  
35 departments, bureaus, boards, commissions, agencies and  
36 instrumentalities, including any State institutions of higher education,  
37 but does not include political subdivisions.

38 "State institutions of higher education," means Rutgers, The State  
39 University of New Jersey, the University of Medicine and Dentistry of  
40 New Jersey and the New Jersey Institute of Technology, and any of  
41 the State colleges or universities established pursuant to chapter 64 of  
42 Title 18A of the New Jersey Statutes, but does not include any county  
43 college established pursuant to chapter 64A of Title 18A of the New  
44 Jersey Statutes.

45

46 3. Every contract to furnish building services for any property or  
47 premises owned or leased by the State shall contain a provision stating

1 the prevailing wage rates that are applicable to the workers employed  
2 in the performance of the contract and shall contain a stipulation that  
3 those workers shall be paid not less than the indicated prevailing wage  
4 rates. The contract shall provide for annual adjustments of the  
5 prevailing wage during the term of the contract, and shall provide that  
6 if it is found that any worker employed by the contractor or any  
7 subcontractor covered by the contract, has been paid less than the  
8 required prevailing wage, the State shall terminate the contractor or  
9 subcontractor's right to proceed with the work, and the contractor and  
10 his sureties shall be liable to the Sate for any excess costs occasioned  
11 by the termination.

12

13 4. Each contractor and subcontractor shall keep an accurate record  
14 showing the name, classification, and actual hourly rate of wages and  
15 any benefits paid to each worker employed by him to perform building  
16 services pursuant to a State contract or subcontract, and shall preserve  
17 those records for two years after the date of payment. The record  
18 shall be open at all reasonable hours to inspection by the Director of  
19 the Division of Purchase and Property and the commissioner.

20

21 5. Any worker paid less than the prevailing wage to which the  
22 worker is entitled by the provisions of this act may recover in a civil  
23 action the full amount of the prevailing wage less any amount actually  
24 paid to the worker by the employer together with any costs and  
25 reasonable attorney's fees allowed by the court, and an agreement  
26 between the worker and the employer to work for less than the  
27 prevailing wage shall not be a defense to the action. The worker shall  
28 be entitled to maintain an action for and on behalf of the worker or  
29 other workers similarly situated and the worker or workers may  
30 designate an agent or representative to maintain such actions for and  
31 on behalf of all workers similarly situated. At the request of any  
32 worker paid less than the prevailing wage required under the  
33 provisions of this act, the commissioner may take an assignment of the  
34 wage claim in trust for the assigning worker or workers and may bring  
35 any legal action necessary to collect the claim, and the employer shall  
36 be required to pay any costs and such reasonable attorney's fee as are  
37 allowed by the court.

38

39 6. This act shall take effect immediately.

40

41

42

#### STATEMENT

43

44 This bill establishes prevailing wage rates for workers employed by  
45 contractors performing building services for properties or premises  
46 owned or leased by the State. The purpose of the bill is to safeguard

**S2702 CONIGLIO, DORIA**

1 the efficiency and general well-being of the employees of contractors  
2 and subcontractors furnishing building services to State agencies and  
3 to protect those employees and their employers from the effects of  
4 unfair competition based on low wage levels which are detrimental to  
5 efficiency and well-being.

6 The bill requires each State contract for building services to state  
7 the required prevailing wage and stipulate that the workers not be paid  
8 less than the prevailing wage. The contract is required to provide  
9 annual adjustments of the prevailing wage during the term of the  
10 contract, and provide that if the contractor or a subcontractor pays  
11 less than the prevailing wage, the State will terminate the contractor  
12 or subcontractor's right to finish the work, and hold the contractor and  
13 his sureties liable to the State for any resulting excess costs.

14 The prevailing wage and benefit rates established by the bill are the  
15 wage and benefit rates determined by the federal General Services  
16 Administration pursuant to the federal "Service Contract Act of 1965"  
17 (41 U.S.C. s.351 et seq.), for the applicable localities and  
18 classifications of building service employees. The building services  
19 covered by the bill include cleaning or building maintenance work,  
20 sweeping, vacuuming, floor cleaning, cleaning of rest rooms,  
21 collecting refuse or trash, window cleaning, engineering, securing,  
22 patrolling, or other work in connection with the care, securing, or  
23 maintenance of an existing building.

24 A worker paid less than the prevailing required wage is permitted  
25 by the bill to maintain an action to recover the unpaid prevailing wage  
26 together with costs and reasonable attorney's fees. The action may  
27 also be taken on behalf of other similarly situated workers and be  
28 maintained through a designated agent. The Commissioner of Labor  
29 and Workforce Development may, upon request, take an assignment  
30 of the wage claim in trust for the assigning workers and collect the  
31 claim together with costs and reasonable attorney's fees.

SENATE LABOR COMMITTEE

STATEMENT TO

**SENATE, No. 2702**

**STATE OF NEW JERSEY**

DATED: DECEMBER 1, 2005

The Senate Labor Committee reports favorably Senate Bill No. 2702.

This bill establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The purpose of the bill is to safeguard the efficiency and general well-being of the employees of contractors and subcontractors furnishing building services to State agencies and to protect those employees and their employers from the effects of unfair competition based on low wage levels which are detrimental to efficiency and well-being.

The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The contract is required to provide annual adjustments of the prevailing wage during the term of the contract, and provide that if the contractor or a subcontractor pays less than the prevailing wage, the State will terminate the contractor or subcontractor's right to finish the work, and hold the contractor and his sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

A worker paid less than the prevailing required wage is permitted by the bill to maintain an action to recover the unpaid prevailing wage together with costs and reasonable attorney's fees. The action may also be taken on behalf of other similarly situated workers and be maintained through a designated agent. The Commissioner of Labor and Workforce Development may, upon request, take an assignment of the wage claim in trust for the assigning workers and collect the claim together with costs and reasonable attorney's fees.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2702**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 5, 2006

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2702, with committee amendments.

As amended, this bill establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The purpose of the bill is to safeguard the efficiency and general well-being of the employees of contractors and subcontractors furnishing building services to State agencies and to protect those employees and their employers from the effects of unfair competition based on low wage levels which are detrimental to efficiency and well-being.

The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The bill requires that the contract provide annual adjustments of the prevailing wage during the term of the contract, and provides that if the contractor or a subcontractor pays less than the prevailing wage, the State may terminate the contractor or subcontractor's right to finish the work, and hold the contractor and the contractor's sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

The bill permits a worker paid less than the prevailing wage to maintain an action to recover the unpaid prevailing wage together with costs and reasonable attorney's fees. The action may also be taken on behalf of other similarly situated workers and be maintained through a designated agent. The Commissioner of Labor and Workforce

Development may, upon request, take an assignment of the wage claim in trust for the assigning workers and collect the claim together with costs and reasonable attorney's fees.

The bill gives the Commissioner of Labor and Workforce Development authority to investigate the wages of covered workers, inspect premises, examine employers' books, question workers, and require employers to provide statements and other information in furtherance of the purposes of the bill. The commissioner may require the filing of records, and the bill allows the State Treasurer to withhold 25% of the amount, not to exceed \$100,000, from contract payments due the employer until the request for records is satisfied.

The bill provides criminal and administrative penalties for an employer's interference with the commissioner's investigative powers, for failure to comply with the commissioner's requests for records and other information, for failure to comply with wage payment requirements or violation of any other provisions of the bill.

As an alternative remedy, the bill authorizes the commissioner to supervise the payment of amounts due workers and collect from contractors an administrative fee of not less than 10% or more than 25% of the payments made through the commissioner's supervision.

The bill provides a criminal penalty for employer discrimination against a worker who asserts rights under the bill by making a complaint to the employer, to the State Treasurer or to the commissioner, by instituting or preparing to institute a proceeding under the bill, or by testifying or preparing to testify in such a proceeding. Upon conviction, a contractor or subcontractor who has so discriminated against a worker shall be guilty of a disorderly persons offense and subject to fine.

As amended, this bill is identical to Assembly Bill No. 4161 (2R) with technical corrections.

**FISCAL IMPACT:**

The Office of Legislative Services has made a preliminary estimate that this bill will increase State costs by approximately \$10 million to \$15 million annually.

**COMMITTEE AMENDMENTS:**

In addition to making technical corrections, the amendments exclude from coverage maintenance work or other public work for which a contractor is required pay to the prevailing wage pursuant to a current prevailing wage law, P.L.1963, c.150 (C.34:11-56.25 et seq.).

The amendments eliminate the requirement that the State terminate a contract for building services if the contractor or subcontractor is found to have paid building services employees under the contract less than the prevailing wage. The amendments instead permit, rather than require, the State to terminate the contract under those circumstances. The amendments also specify that the State Treasurer is the State

official given the authority to terminate the contracts.

The amendments clarify that the prevailing wage levels required for building services by the bill are distinct from the prevailing wage levels required for public works by existing law.

The amendments authorize the commissioner to grant special exceptions to the prevailing wage requirements to employees whose earning capacity is impaired by age, disability or injury.

Lastly, the amendments provide disorderly persons and administrative penalties, antidiscrimination provisions, and alternative supervision of wages as remedies and sanctions for violations of the act.



**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2702**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: DECEMBER 21, 2005

**SUMMARY**

**Synopsis:** Establishes prevailing wage standards for State building service contracts.

**Type of Impact:** General Fund expenditure

**Agencies Affected:** State departments, bureaus, boards, commissions, agencies and higher education institutions

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	\$10 million to \$15 million	\$10 million to \$15 million	\$10 million to \$15 million

- ! The Office of Legislative Services estimates the cost of this bill at approximately \$10 million to \$15 million annually.
- ! The bill establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State.
- ! The bill sets the prevailing wage at the rates set by the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), which provides prevailing wage rates for service workers employed by businesses contracting with the federal government.
- ! The bill also sets hourly pro-rated benefit rates for employees of State building services contractors and subcontractors as set by the federal Service Contract Act of 1965. All counties are subject to an hourly rate of \$2.87 in employer contributions for health benefits. Cash amounts are not provided for other fringe benefits, but two to five weeks of paid vacation are required, depending on the length of service, as well as a minimum of 11 paid holidays.
- ! The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing or maintenance of an existing building.
- ! Information concerning building service contracts, collected from the State Division of Purchasing website contract listings, indicates that approximately 500 workers may be

effected by the bill. It may be assumed that a majority of these workers are currently paid the \$6.15 hourly minimum wage. The average hourly federal prevailing wage rate for New Jersey is \$13.16 (it should be noted that the prevailing wage fluctuates by county and that this average is based on all county wage rates).

- ! Assuming the average full-time worker subject to the bill is paid \$12,800 a year on the minimum wage rate, the worker will be paid approximately \$33,300 a year on the federal prevailing wage rate plus benefits, an increase of \$20,500. When applied to approximately 500 workers, the increase is a total of \$10.3 million in State cost for wages annually. It should be noted that security workers are not covered in this fiscal estimate of \$10.3 million because the data concerning security personnel contracts is not readily available. In addition, not all public college and New Jersey Transit building service contract data are available. However, most public college and building service workers are already receiving a rate comparable to the prevailing wage because many are unionized. In addition, many of the security employees in State entities effected by the bill are in-house rather than contracted out. Those minimal number of security and remaining building service workers are specifically unaccounted for but are assumed and represented in the final estimate. Given projected scenarios concerning wage increases and benefits provided by the bill, the bill is estimated to cost \$10 million to \$15 million annually.

## **BILL DESCRIPTION**

Senate Bill No. 2702 of 2005 establishes prevailing wage rates for workers employed by contractors performing building services for properties or premises owned or leased by the State. The bill requires each State contract for building services to state the required prevailing wage and stipulate that the workers not be paid less than the prevailing wage. The contract is required to provide annual adjustments of the prevailing wage during the term of the contract, and provide that if the contractor or a subcontractor pays less than the prevailing wage, the State will terminate the contractor or subcontractor's right to finish the work, and hold the contractor and his sureties liable to the State for any resulting excess costs.

The prevailing wage and benefit rates established by the bill are the wage and benefit rates determined by the federal General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the applicable localities and classifications of building service employees. The building services covered by the bill include cleaning or building maintenance work, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building.

A worker paid less than the prevailing required wage is permitted by the bill to maintain an action to recover the unpaid prevailing wage together with costs and reasonable attorney's fees. The action may also be taken on behalf of other similarly situated workers and be maintained through a designated agent. The Commissioner of Labor and Workforce Development may, upon request, take an assignment of the wage claim in trust for the assigning workers and collect the claim together with costs and reasonable attorney's fees.

## FISCAL ANALYSIS

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services estimates the cost of this bill at approximately \$10 million to \$15 million annually. Information concerning building service contracts, collected from the State Division of Purchasing website contract listings, indicates that approximately 500 workers may be effected by the bill. It may be assumed that a majority of these workers are currently paid the \$6.15 hourly minimum wage. The average hourly federal prevailing wage rate for New Jersey is \$13.16 (it should be noted that the prevailing wage fluctuates by county and that this average is based on all county wage rates). Assuming the average full-time worker subject to the bill is paid \$12,800 a year on the minimum wage rate, the worker will be paid approximately \$33,300 a year on the federal prevailing wage rate plus benefits, an increase of \$20,500. When applied to approximately 500 workers, the increase is a total of \$10.3 million in State cost for wages annually. It should be noted that security workers are not covered in this fiscal estimate of \$10.3 million because the data concerning security personnel contracts is not readily available. In addition, not all public college and New Jersey Transit building service contract data are available. However, most public college and building service workers are already receiving a rate comparable to the prevailing wage because many are unionized. In addition, many of the security employees in State entities effected by the bill are in-house rather than contracted out. Those minimal number of security and remaining building service workers are specifically unaccounted for but are assumed and represented in the final estimate. Given projected scenarios concerning wage increases and benefits provided by the bill, the bill is estimated to cost \$10 million to \$15 million annually.

Section: *Commerce, Labor and Industry*  
Analyst: *Sonya S. Davis*  
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Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.