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HOUSE BILL NO. 139

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on February 6, 2024)

(Patron Prior to Substitute—Delegate Simonds)

A BILL to require payment of prevailing wage rate for underground infrastructure works by public service companies.

Be it enacted by the General Assembly of Virginia:

1. § 1. Each public service company, when procuring services or letting contracts for underground infrastructure works, or when overseeing or administering such contracts for underground infrastructure works, shall ensure that its bid specifications or other contracts applicable to underground infrastructure works require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the contract for underground infrastructure works at the prevailing wage rate. Each contract for underground infrastructure works by a public service company shall contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done under the contract shall be at a rate equal to the prevailing wage rate. The Department of Labor and Industry (the Department) shall determine and make available the prevailing wage rate for underground infrastructure work.

A public service company subject to the requirements of this act shall, prior to entering into or modifying a contract for underground infrastructure work, request and obtain the prevailing minimum wage and benefit rates for highway and road construction determined by the Commissioner of Labor and Industry (the Commissioner) and make them available to the public service company's contractors. A contractor or subcontractor who performs underground infrastructure work shall pay not less than the prevailing minimum wage and fringe benefit rates for highway and road construction determined by the Commissioner to every worker in every trade or craft employed on an underground infrastructure works project.

Contractors and subcontractors performing underground infrastructure work shall post the general prevailing wage rate for each craft and classification involved, as determined by the Commissioner, including the effective date of any changes thereof, in a prominent and easily accessible place at the work site or any such place used by the contractor or subcontractor to pay workers their wages. A public service company, or a contractor or subcontractor of a public service company, shall, for each craft or trade employed on the project, (i) specify the total hourly amount to be paid to employees, including wages and applicable fringe benefits; (ii) provide an itemization of the amount paid in wages and each applicable benefit; and (iii) list the names and addresses of any third-party fund, plan, or program to which benefit payments will be made on behalf of employees.

Each public service company, contractor, or subcontractor subject to the provisions of this act shall keep, maintain, and preserve (a) records relating to the wages paid to and hours worked by each individual performing the work of any mechanic, laborer, or worker and (b) a schedule of the occupation or work classification at which each individual performing the work of any mechanic, laborer, or worker on the public works project is employed during each work day and week. The public service company, contractor, or subcontractor shall preserve these records for a minimum of six years and make such records available to the Department within 10 days of a request and shall certify that records reflect the actual hours worked and the amount paid to its workers for whatever time period the Department requests. The provisions of this act shall not apply to any contract for underground infrastructure works of \$250,000 or less.

As used in this act:

"Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding class of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality where the facility or immovable property that is the subject of underground infrastructure works is located, as determined by the Commissioner on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.

"Public service company" means the same as that term is defined in § 56-1, except that "public service company" does not include any communications service provider, as defined in § 58.1-647.

The provisions of this act shall apply to underground infrastructure work by a public service company that is performed under a contract that is entered into, amended, or modified on or after July 1, 2024.

HOUSE SUBSTITUTE

HB139H1