

H-8079

1 Amend House File 2390 as follows:

2 1. Page 2, after line 7 by inserting:

3 <Sec. \_\_\_\_ . NEW SECTION. 262.34C Payment of  
4 prevailing wages required.

5 1. a. Contractors and subcontractors engaged in  
6 a public improvement for the board shall pay not less  
7 than the current specified prevailing wage rates to all  
8 of their workers engaged in the public improvement.  
9 However, this section does not prohibit the payment  
10 of more than the prevailing wage rate to any workers  
11 engaged in a public improvement for the board.

12 b. All contractors and subcontractors required to  
13 pay the prevailing wage rate under this section shall  
14 pay the wages in legal tender, without any deduction  
15 for food, sleeping accommodations, transportation, use  
16 of tools or safety equipment, vehicle or equipment  
17 rental, or any other thing of any kind or description.

18 2. As used in this section, unless the context  
19 otherwise requires:

20 a. "Commissioner" means the labor commissioner  
21 appointed pursuant to section 91.2.

22 b. "Prevailing wage rate" means the hourly wage  
23 plus fringe benefits, which the commissioner determines  
24 prevails in accordance with this section, including all  
25 of the following:

26 (1) Apprentice ratios and the prevailing apprentice  
27 pay levels for each craft, classification, or type of  
28 worker which the commissioner determines prevails in  
29 accordance with this section.

30 (2) A prevailing rate for overtime pay for work in  
31 excess of the normal prevailing workday and for weekend  
32 overtime pay for each craft, classification, or type of  
33 worker, including apprentices.

34 (3) Holiday pay for holidays that prevail in the  
35 locality in which the work is being performed.

1 3. a. The commissioner shall determine annually  
2 and publish, on the first business day of July, the  
3 prevailing wage rates by locality for each craft,  
4 classification, or type of worker needed to perform  
5 work on public improvements. The rates shall be  
6 conclusive for one year from the date of publication  
7 unless superseded within the one year by a later  
8 publication of the commissioner, or for a longer period  
9 as provided in this subsection.

10 b. The commissioner shall announce all prevailing  
11 wage rate determinations by locality and give notice  
12 by posting them on the portion of the department of  
13 workforce development's internet site. A printed  
14 version of the prevailing wage rates for the state  
15 shall be available to the public upon request.

16 c. The public body awarding any contract for a  
17 public improvement, or otherwise undertaking any  
18 public improvement, shall obtain from the internet  
19 site the prevailing wage rate in the locality in which  
20 work on the public improvement is to be performed for  
21 each craft, classification, or type of worker needed  
22 to perform work on the public improvement. After a  
23 public improvement contract is awarded, or a public  
24 improvement is otherwise undertaken, the prevailing  
25 wage rate published by the commissioner and stated  
26 in the public body's public improvement procurement  
27 documents shall remain in effect throughout the  
28 duration of the public improvement unless superseded  
29 by a later determination and publication by the  
30 commissioner, or unless multiyear prevailing wage rates  
31 have been published by the commissioner at the time the  
32 public improvement procurement documents were released.

33 d. (1) In determining the annual prevailing wage  
34 rate for any craft, classification, or type of worker,  
35 the commissioner shall ascertain and consider the

1 applicable wage rates and fringe benefits established  
2 by collective bargaining agreements, the prevailing  
3 wage rate determinations that may exist for federal  
4 public improvements within the locality and other  
5 data obtained by the department during any prevailing  
6 wage rate survey of contractors who participate in  
7 an apprenticeship program approved by and registered  
8 with the United States department of labor's office  
9 of apprenticeship, who provide health insurance  
10 and retirement benefits for their workers, and who  
11 are registered with the department of workforce  
12 development. Based upon these considerations, the  
13 commissioner shall calculate the prevailing wage rates  
14 based on the wage rate plus fringe benefits most often  
15 occurring for each craft, classification, or other type  
16 of worker within each locality.

17 (2) The minimum annual prevailing wage rate  
18 determination established by the department of  
19 workforce development shall not be lower than the  
20 prevailing wage rate determination that may exist for  
21 federal public improvements within the locality and in  
22 the nearest labor market area.

23 (3) None of the fringe benefits enumerated in  
24 this section may be considered in the determination  
25 of prevailing wage rates if the contractor or  
26 subcontractor is required by other federal, state, or  
27 local law to provide such fringe benefits.

28 e. If the commissioner determines that the  
29 prevailing wage rate for any craft, classification, or  
30 type of worker is the rate established by a collective  
31 bargaining agreement applicable in the locality, the  
32 commissioner may adopt that rate by reference and that  
33 determination shall be effective for the life of the  
34 agreement or until the commissioner adopts another  
35 rate.

1     *f.* (1) At any time within fifteen days after the  
2 department of workforce development has published on  
3 the department's internet site the annual prevailing  
4 wage rates for each classification, craft, or other  
5 type of worker in the locality, any interested person  
6 affected may object to the determination or the part  
7 of the determination as the interested person may deem  
8 objectionable by filing a written notice with the  
9 commissioner by restricted certified mail as defined  
10 in section 618.15. When objecting to a prevailing  
11 wage rate determination, the interested person shall  
12 submit, as a part of the written notice, the prevailing  
13 wage rate the interested person believes to be the  
14 correct prevailing wage rate determination, stating  
15 the specific grounds to support that position. Upon  
16 receipt of the notice of objection, the commissioner  
17 shall reconsider the determination and shall affirm  
18 or modify the determination and reply in writing by  
19 restricted certified mail to the interested person  
20 within fifteen days from the date of the receipt of  
21 the notice of objection. Any modification to the  
22 prevailing wage rate determination shall be effective  
23 on the date the modification is published by the  
24 commissioner.

25     (2) If the commissioner declines to modify the  
26 determination, within ten days upon receiving receipt  
27 of the commissioner's decision, the interested person  
28 affected may submit in writing the objection to the  
29 department of workforce development by restricted  
30 certified mail, stating the specified grounds of the  
31 objection. The department of inspections and appeals  
32 shall be notified of the objection and set a date for  
33 a hearing before an administrative law judge on the  
34 objection, after giving notice by restricted certified  
35 mail to the interested person and the department of

1 workforce development at least ten days before the date  
2 of the hearing of the time and place of the hearing.  
3 The hearing shall be held within forty-five days after  
4 the objection is filed, and shall not be postponed or  
5 reset for a later date except upon the consent, in  
6 writing, of the interested person and the department  
7 of workforce development.

8 *g.* The party requesting a hearing shall have the  
9 burden of establishing that the annual prevailing  
10 wage rate determination for that locality was not  
11 determined in accordance with this section. If the  
12 party requesting a hearing under this subsection  
13 objects to the commissioner's failure to include  
14 a craft, classification, or type of worker within  
15 the annual prevailing wage rate determination in  
16 the locality, the objector shall have the burden of  
17 establishing that there is no existing prevailing  
18 wage rate classification for the particular craft,  
19 classification, or type of worker in any of the  
20 localities under consideration.

21 *h.* The administrative law judge may in the  
22 administrative law judge's discretion hear each  
23 written objection filed separately or consolidate  
24 for hearing any one or more written objections filed  
25 with the department of workforce development. At the  
26 hearing, the department of workforce development shall  
27 introduce into evidence the investigation it instituted  
28 which formed the basis of its determination, and the  
29 department of workforce development or any interested  
30 objectors may introduce evidence that is material to  
31 the determination. The administrative law judge shall  
32 rule upon each written objection and make a final  
33 determination, as the administrative law judge believes  
34 the evidence warrants, and promptly serve a copy of the  
35 final determination by personal service or restricted

1 certified mail on all parties to the proceedings.  
2 The administrative law judge shall render a final  
3 determination within thirty days after the conclusion  
4 of the hearing.

5 *i.* If proceedings to review judicially the  
6 final determination of the administrative law judge  
7 are not instituted as provided in this section,  
8 the determination shall be final and binding. The  
9 provisions of section 17A.19 shall apply to and govern  
10 all proceedings. Appeals from all final orders and  
11 judgments entered by the court in review of the final  
12 determination of the administrative law judge may be  
13 taken by any party to the action. In all reviews or  
14 appeals under this chapter, the attorney general shall  
15 represent the department of workforce development and  
16 defend its determination.

17 *j.* This section does not give reason or provide  
18 cause for an injunction to halt or delay any public  
19 improvement.>

20 2. By renumbering as necessary.

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HUNTER of Polk