

Senate Study Bill 3123

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR RELATIONS
BILL BY CO=CHAIRPERSON DEARDEN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to area wage standards for construction
2 contractors and making remedies and penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6138SK 81
5 kk/je/5

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1 1 Section 1. Section 91C.1, subsection 1, Code 2005, is
1 2 amended by adding the following new unnumbered paragraph:
1 3 NEW UNNUMBERED PARAGRAPH. As used in this chapter, unless
1 4 the context otherwise requires, "employee" means a natural
1 5 person employed in this state for wages by a contractor and
1 6 includes a person who is neither a lawful permanent resident
1 7 under the federal Immigration and Nationality Act nor a United
1 8 States citizen.
1 9 Sec. 2. Section 91C.8, subsection 2, Code 2005, is amended
1 10 by adding the following new paragraph:
1 11 NEW PARAGRAPH. d. The requirement that a contractor pay
1 12 its employees in an amount at least equal to the area wage
1 13 standard under section 91C.9.
1 14 Sec. 3. NEW SECTION. 91C.9 AREA WAGE STANDARDS ==
1 15 VIOLATIONS.
1 16 1. The labor commissioner shall establish by rule an area
1 17 wage standard in each county for employees employed in this
1 18 state by a contractor. A contractor in this state shall pay
1 19 the contractor's employees a wage at least equal to the area
1 20 wage standard for the county in which the employee is
1 21 employed.
1 22 2. An employee of a contractor who is paid in an amount
1 23 less than the area wage standard established by the labor
1 24 commissioner may bring a civil action against the contractor
1 25 for any or all of the following:
1 26 a. Actual damages equaling the difference between the
1 27 wages actually paid and the area wage standards that should
1 28 have been paid.
1 29 b. Liquidated damages in an amount equal to the actual
1 30 damages.
1 31 c. An administrative penalty payable to the labor
1 32 commissioner in an amount equal to twenty percent of the
1 33 actual damages, or if the action is the second or subsequent
1 34 action brought pursuant to this section against the
1 35 contractor, the administrative penalty shall be an amount
2 1 equal to fifty percent of the actual damages. However, an
2 2 administrative penalty may not be included in a civil action
2 3 under this subsection if an administrative penalty has been
2 4 issued under a citation pursuant to section 91C.8.
2 5 d. Reasonable attorney fees and court costs.
2 6 3. The labor commissioner may bring an action pursuant to
2 7 subsection 2 on behalf of an employee of a contractor. A bond
2 8 of an out-of-state contractor filed with the labor
2 9 commissioner may be forfeited to pay a judgment obtained by
2 10 the labor commissioner under this subsection.
2 11 4. After notice and an opportunity for a hearing, the
2 12 labor commissioner shall revoke a registration under this
2 13 chapter for any contractor who has committed a second or
2 14 subsequent violation of failing to pay a wage at least equal
2 15 to the area wage standard. A contractor may appeal the
2 16 revocation of the contractor's registration pursuant to

2 17 chapter 17A. A contractor whose registration is revoked
2 18 pursuant to this subsection shall not reapply or be approved
2 19 for a registration for at least two years from the effective
2 20 date of the revocation.

2 21 EXPLANATION

2 22 This bill provides for the establishment and payment of
2 23 area wage standards for construction contractors by the labor
2 24 commissioner.

2 25 The bill allows the labor commissioner to issue a citation
2 26 to a construction contractor for failing to pay the
2 27 contractor's employees at least the area wage standard
2 28 established by the labor commissioner pursuant to the bill. A
2 29 citation for a first violation may be issued for an amount up
2 30 to \$500. A second or subsequent violation may be issued for
2 31 an amount up to \$5,000.

2 32 The bill requires construction contractors employing
2 33 employees in this state to pay the employees wages at least
2 34 equal to certain area wage standards established by the labor
2 35 commissioner by rule. An employee of a contractor, who is not
3 1 paid wages in an amount at least equal to the area wage
3 2 standard for the county in which the employee is employed, may
3 3 bring a civil action against the contractor for actual
3 4 damages, liquidated damages in an amount equal to the actual
3 5 damages, attorney fees, court costs, and an administrative
3 6 penalty payable to the labor commissioner in an amount equal
3 7 to 20 percent of the actual damages for a first violation and
3 8 50 percent of the actual damages for a second or subsequent
3 9 violation, unless an administrative penalty has already been
3 10 issued under a citation issued by the labor commissioner.

3 11 The bill permits the labor commissioner to bring a civil
3 12 action on behalf of an employee of a contractor as provided in
3 13 the bill. The bill provides that a bond of an out-of-state
3 14 contractor may be forfeited by the labor commissioner to pay a
3 15 judgment obtained by the labor commissioner for the employee
3 16 of a contractor.

3 17 The bill requires the labor commissioner to revoke the
3 18 registration of a contractor who has committed a second or
3 19 subsequent violation of failing to pay an employee in an
3 20 amount at least equal to the area wage standard. A contractor
3 21 may appeal a revocation pursuant to Code chapter 17A. A
3 22 contractor whose registration has been revoked by the labor
3 23 commissioner cannot reapply or be approved for a registration
3 24 for at least two years.

3 25 The bill defines "employee" as a natural person employed in
3 26 this state for wages by a contractor and includes a person who
3 27 is neither a lawful permanent resident nor a United States
3 28 citizen.

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3 30 kk:rj/je/5