

# HOUSE BILL NO. 4007

January 12, 2023, Introduced by Reps. Brenda Carter, Mentzer, Breen, Snyder, Morgan, Rheingans, Miller, Haadsma, Farhat, Tyrone Carter, Rogers, MacDonell, Andrews, Paiz, Koleszar, Wegela, Tsernoglou, Brabec, Liberati Jr., O'Neal, Byrnes, Glanville, Wilson, Hoskins, McKinney, Shannon, Scott, Martus, Conlin, Skaggs, Price, Morse, Grant, Dievendorf, Weiss, Hood, Churches, Tate, Pohutsky, Hope, Young, McFall, Whitsett, Hill, Edwards, Fitzgerald, Steckloff, Puri, Stone, Aiyash, Neeley and Coffia and referred to the Committee on Labor.

A bill to require prevailing wages and fringe benefits on state projects; to establish the requirements and responsibilities of contracting agents and bidders; and to prescribe penalties.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

2           (a) "Commissioner" means the department of labor and economic  
3 opportunity.

4           (b) "Construction mechanic" means a skilled or unskilled  
5 mechanic, laborer, worker, helper, assistant, or apprentice working  
6 on a state project but shall not include executive, administrative,

1 professional, office, or custodial employees.

2 (c) "Contracting agent" means any officer, school board, board  
3 or commission of the state, or a state institution supported in  
4 whole or in part by state funds, authorized to enter into a  
5 contract for a state project or to perform a state project by the  
6 direct employment of labor.

7 (d) "Locality" means the county, city, village, township, or  
8 school district in which the physical work on a state project is to  
9 be performed.

10 (e) "State project" means new construction, alteration,  
11 repair, installation, painting, decorating, completion, demolition,  
12 conditioning, reconditioning, or improvement of public buildings,  
13 schools, works, bridges, highways, or roads authorized by a  
14 contracting agent.

15 Sec. 2. Every contract executed between a contracting agent  
16 and a successful bidder as contractor and entered into pursuant to  
17 advertisement and invitation to bid for a state project which  
18 requires or involves the employment of construction mechanics,  
19 other than those subject to the jurisdiction of the state civil  
20 service commission, and which is sponsored or financed in whole or  
21 in part by the state shall contain an express term that the rates  
22 of wages and fringe benefits to be paid to each class of mechanics  
23 by the bidder and all of its subcontractors, shall be not less than  
24 the wage and fringe benefit rates prevailing in the locality in  
25 which the work is to be performed. Contracts on state projects  
26 which contain provisions requiring the payment of prevailing wages  
27 as determined by the United States Secretary of Labor pursuant to  
28 40 USC 3141 to 3148 or which contain minimum wage schedules which  
29 are the same as prevailing wages in the locality as determined by

1 collective bargaining agreements or understandings between bona  
2 fide organizations of construction mechanics and their employers  
3 are exempt from the provisions of this act.

4       Sec. 3. A contracting agent, before advertising for bids on a  
5 state project, shall have the commissioner determine the prevailing  
6 rates of wages and fringe benefits for all classes of construction  
7 mechanics called for in the contract. A schedule of these rates  
8 shall be made a part of the specifications for the work to be  
9 performed and shall be printed on the bidding forms where the work  
10 is to be done by contract. If a contract is not awarded or  
11 construction undertaken within 90 days of the date of the  
12 commissioner's determination of prevailing rates of wages and  
13 fringe benefits, the commissioner shall make a redetermination  
14 before the contract is awarded.

15       Sec. 4. The commissioner shall establish prevailing wages and  
16 fringe benefits at the same rate that prevails on projects of a  
17 similar character in the locality under collective agreements or  
18 understandings between bona fide organizations of construction  
19 mechanics and their employers. Such agreements and understandings,  
20 to meet the requirements of this section, shall not be controlled  
21 in any way by either an employee or employer organization. If the  
22 prevailing rates of wages and fringe benefits cannot reasonably and  
23 fairly be applied in any locality because no such agreements or  
24 understandings exist, the commissioner shall determine the rates  
25 and fringe benefits for the same or most similar employment in the  
26 nearest and most similar neighboring locality in which such  
27 agreements or understandings do exist. The commissioner may hold  
28 public hearings in the locality in which the work is to be  
29 performed to determine the prevailing wage and fringe benefit

1 rates. All prevailing wage and fringe benefit rates determined  
2 under this section shall be filed with the commissioner and made  
3 available to the public.

4 Sec. 5. Every contractor and subcontractor shall keep posted  
5 on the construction site, in a conspicuous place, a copy of all  
6 prevailing wage and fringe benefit rates prescribed in a contract  
7 and shall keep an accurate record showing the name and occupation  
8 of and the actual wages and benefits paid to each construction  
9 mechanic employed by it in connection with said contract. This  
10 record shall be available for reasonable inspection by the  
11 contracting agent or the commissioner.

12 Sec. 6. The contracting agent, by written notice to the  
13 contractor and the sureties of the contractor known to the  
14 contracting agent, may terminate the contractor's right to proceed  
15 with that part of the contract, for which less than the prevailing  
16 rates of wages and fringe benefits have been or will be paid, and  
17 may proceed to complete the contract by separate agreement with  
18 another contractor or otherwise, and the original contractor and  
19 his sureties shall be liable to the contracting agent for any  
20 excess costs occasioned thereby.

21 Sec. 7. Any person, firm, or corporation or combination  
22 thereof, including the officers of any contracting agent, violating  
23 the provisions of this act is guilty of a misdemeanor.

24 Sec. 8. The provisions of this act shall not apply to  
25 contracts entered into or the bids made before the effective date  
26 of this act.