

FIRST REGULAR SESSION

SENATE BILL NO. 128

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Pre-filed December 3, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0651S.011

AN ACT

To repeal sections 290.210, 290.220, 290.230, 290.240, 290.250, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, and 290.340, RSMo, relating to public contracts, with a referendum clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 290.210, 290.220, 290.230, 290.240, 290.250, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, and 290.340, RSMo, are repealed as follows:

[290.210. As used in sections 290.210 to 290.340, unless the context indicates otherwise:

(1) "Adjacent county", any Missouri county of the third or fourth classification having a boundary that, at any point, touches any boundary of the locality for which the wage rate is being determined;

(2) "Collective bargaining agreement" means any written agreement or understanding between an employer or employer association and a labor organization or union which is the exclusive bargaining representative of the employer's or employer association's employees pursuant to the terms of the National Labor Relations Act and which agreement or understanding or predecessor agreement or understanding has been used to determine an occupational title wage rate;

(3) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or

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

17 major repair;

18 (4) "Department" means the department of labor and
19 industrial relations;

20 (5) "Labor organization" or "union" means any entity which
21 has been designated pursuant to the terms of the National Labor
22 Relations Act as the exclusive bargaining representative of
23 employees of employers engaged in the construction industry,
24 which entity or affiliated entity has ever had a collective
25 bargaining agreement which determined an occupational title wage
26 rate;

27 (6) "Locality" means the county where the physical work
28 upon public works is performed;

29 (7) "Maintenance work" means the repair, but not the
30 replacement, of existing facilities when the size, type or extent of
31 the existing facilities is not thereby changed or increased;

32 (8) "Prevailing hourly rate of wages" means the wages paid
33 generally, in the locality in which the public works is being
34 performed, to workmen engaged in work of a similar character
35 including the basic hourly rate of pay and the amount of the rate
36 of contributions irrevocably made to a fund, plan or program, and
37 the amount of the rate of costs to the contractor or subcontractor
38 which may be reasonably anticipated in providing benefits to
39 workmen and mechanics pursuant to an enforceable commitment
40 to carry out a financially responsible plan or program which was
41 communicated in writing to the workmen affected, for medical or
42 hospital care, pensions on retirement or death, compensation for
43 injuries or illness resulting from occupational activity, or insurance
44 to provide any of the foregoing, for unemployment benefits, life
45 insurance, disability and sickness insurance, accident insurance,
46 for vacation and holiday pay, for defraying costs of apprenticeship
47 or other similar programs, or for other bona fide fringe benefits,
48 but only where the contractor or subcontractor is not required by
49 other federal or state law to provide any of the benefits; provided,
50 that the obligation of a contractor or subcontractor to make
51 payment in accordance with the prevailing wage determinations of
52 the department, insofar as sections 290.210 to 290.340 are

53 concerned, may be discharged by the making of payments in cash,
54 by the making of irrevocable contributions by the assumption of an
55 enforceable commitment to bear the costs of a plan or program as
56 provided herein, or any combination thereof, where the aggregate
57 of such payments, contributions and costs is not less than the rate
58 of pay plus the other amounts as provided herein;

59 (9) "Previous six annual wage order reporting periods"
60 means the current annual wage order reporting period under
61 consideration for wage rate determinations and the five
62 immediately preceding annual wage order reporting periods;

63 (10) "Public body" means the state of Missouri or any
64 officer, official, authority, board or commission of the state, or other
65 political subdivision thereof, or any institution supported in whole
66 or in part by public funds;

67 (11) "Public works" means all fixed works constructed for
68 public use or benefit or paid for wholly or in part out of public
69 funds. It also includes any work done directly by any public utility
70 company when performed by it pursuant to the order of the public
71 service commission or other public authority whether or not it be
72 done under public supervision or direction or paid for wholly or in
73 part out of public funds when let to contract by said utility. It does
74 not include any work done for or by any drainage or levee district;

75 (12) "Workmen" means laborers, workmen and mechanics.]

2 [290.220. It is hereby declared to be the policy of the state
3 of Missouri that a wage of no less than the prevailing hourly rate
4 of wages for work of a similar character in the locality in which the
5 work is performed shall be paid to all workmen employed by or on
6 behalf of any public body engaged in public works exclusive of
7 maintenance work.]

2 [290.230. 1. Not less than the prevailing hourly rate of
3 wages for work of a similar character in the locality in which the
4 work is performed, and not less than the prevailing hourly rate of
5 wages for legal holiday and overtime work, shall be paid to all
6 workmen employed by or on behalf of any public body engaged in
7 the construction of public works, exclusive of maintenance
work. Only such workmen as are directly employed by contractors

8 or subcontractors in actual construction work on the site of the
9 building or construction job shall be deemed to be employed upon
10 public works. Any such workman who agrees in writing to
11 volunteer his or her labor without pay shall not be deemed to be
12 employed upon public works, and shall not be entitled to the
13 prevailing hourly rate of wages. For the purposes of this section,
14 the term "workman who agrees in writing to volunteer his or her
15 labor without pay" shall mean a workman who volunteers his or
16 her labor without any promise of benefit or remuneration for such
17 voluntary activity, and who is not a prisoner in any jail or prison
18 facility and who is not performing community service pursuant to
19 disposition of a criminal case against him, and is not otherwise
20 employed for compensation at any time in the construction or
21 maintenance work on the same public works for which the
22 workman is a volunteer. Under no circumstances may an employer
23 force, compel or otherwise intimidate an employee into performing
24 work otherwise paid by a prevailing wage as a volunteer.

25 2. When the hauling of materials or equipment includes
26 some phase of construction other than the mere transportation to
27 the site of the construction, workmen engaged in this dual capacity
28 shall be deemed employed directly on public works.]

[290.240. 1. The department shall inquire diligently as to
2 any violation of sections 290.210 to 290.340, shall institute actions
3 for penalties herein prescribed, and shall enforce generally the
4 provisions of sections 290.210 to 290.340.

5 2. The department may establish rules and regulations for
6 the purpose of carrying out the provisions of sections 290.210 to
7 290.340.]

[290.250. 1. Every public body authorized to contract for or
2 construct public works before advertising for bids or undertaking
3 such construction shall request the department to determine the
4 prevailing rates of wages for workmen for the class or type of work
5 called for by the public works, in the locality where the work is to
6 be performed. The department shall determine the prevailing
7 hourly rate of wages in the locality in which the work is to be
8 performed for each type of workman required to execute the

9 contemplated contract and such determination or schedule of the
10 prevailing hourly rate of wages shall be attached to and made a
11 part of the specifications for the work. The public body shall then
12 specify in the resolution or ordinance and in the call for bids for
13 the contract what is the prevailing hourly rate of wages in the
14 locality for each type of workman needed to execute the contract
15 and also the general prevailing rate for legal holiday and overtime
16 work. It shall be mandatory upon the contractor to whom the
17 contract is awarded and upon any subcontractor under him to pay
18 not less than the specified rates to all workmen employed by them
19 in the execution of the contract. The public body awarding the
20 contract shall cause to be inserted in the contract a stipulation to
21 the effect that not less than the prevailing hourly rate of wages
22 shall be paid to all workmen performing work under the
23 contract. The employer shall forfeit as a penalty to the state,
24 county, city and county, city, town, district or other political
25 subdivision on whose behalf the contract is made or awarded one
26 hundred dollars for each workman employed, for each calendar day,
27 or portion thereof, such workman is paid less than the said
28 stipulated rates for any work done under said contract, by him or
29 by any subcontractor under him, and the said public body awarding
30 the contract shall cause to be inserted in the contract a stipulation
31 to this effect. It shall be the duty of such public body awarding the
32 contract, and its agents and officers, to take cognizance of all
33 complaints of all violations of the provisions of sections 290.210 to
34 290.340 committed in the course of the execution of the contract,
35 and, when making payments to the contractor becoming due under
36 said contract, to withhold and retain therefrom all sums and
37 amounts due and owing as a result of any violation of sections
38 290.210 to 290.340. It shall be lawful for any contractor to
39 withhold from any subcontractor under him sufficient sums to
40 cover any penalties withheld from him by the awarding body on
41 account of said subcontractor's failure to comply with the terms of
42 sections 290.210 to 290.340, and if payment has already been made
43 to him, the contractor may recover from him the amount of the
44 penalty in a suit at law.

45 2. In determining whether a violation of sections 290.210 to
46 290.340 has occurred, and whether the penalty under subsection 1
47 of this section shall be imposed, it shall be the duty of the
48 department to investigate any claim of violation. Upon completing
49 such investigation, the department shall notify the employer of its
50 findings. If the department concludes that a violation of sections
51 290.210 to 290.340 has occurred and a penalty may be due, the
52 department shall notify the employer of such finding by providing
53 a notice of penalty to the employer. Such penalty shall not be due
54 until forty-five days after the date of the notice of the penalty.

55 3. The employer shall have the right to dispute such notice
56 of penalty in writing to the department within forty-five days of the
57 date of the notice. Upon receipt of this written notice of dispute,
58 the department shall notify the employer of the right to resolve
59 such dispute through arbitration. The state and the employer shall
60 submit to an arbitration process to be established by the
61 department by rule, and in conformance with the guidelines and
62 rules of the American Arbitration Association or other arbitration
63 process mutually agreed upon by the employer and the state. If at
64 any time prior to the department pursuing an enforcement action
65 to enforce the monetary penalty provisions of subsection 1 of this
66 section against the employer, the employer pays the back wages as
67 determined by either the department or the arbitrator, the
68 department shall be precluded from initiating any enforcement
69 action to impose the monetary penalty provisions of subsection 1 of
70 this section.

71 4. If the employer fails to pay all wages due as determined
72 by the arbitrator within forty-five days following the conclusion of
73 the arbitration process, or if the employer fails to exercise the right
74 to seek arbitration, the department may then pursue an
75 enforcement action to enforce the monetary penalty provisions of
76 subsection 1 of this section against the employer. If the court
77 orders payment of the penalties as prescribed in subsection 1 of
78 this section, the department shall be entitled to recover its actual
79 cost of enforcement from such penalty amount.

80 5. Nothing in this section shall be interpreted as precluding

81 an action for enforcement filed by an aggrieved employee as
82 otherwise provided in law.]

[290.260. 1. The department, as it deems necessary, shall
2 from time to time investigate and determine the prevailing hourly
3 rate of wages for heavy and highway construction work in the
4 localities. In doing so, the department shall accept and consider
5 information regarding local wage rates that is submitted in either
6 paper or electronic formats. A determination applicable to every
7 locality to be contained in a general wage order shall be made
8 annually on or before July first of each year for the Missouri state
9 highways and transportation commission and shall remain in effect
10 until superseded by a new general wage order. In determining
11 prevailing rates, the department shall ascertain and consider the
12 applicable wage rates established by collective bargaining
13 agreements, if any, and the rates that are paid generally within the
14 locality.

15 2. A certified copy of the determination so made shall be
16 filed immediately with the secretary of state and with the
17 department in Jefferson City. Copies shall be supplied by the
18 department to all persons requesting them within ten days after
19 the filing.

20 3. At any time within thirty days after the certified copies
21 of the determinations have been filed with the secretary of state
22 and the department, any person who is affected thereby may object
23 in writing to the determination or the part thereof that he deems
24 objectionable by filing a written notice with the department, stating
25 the specific grounds of the objection.

26 4. Within thirty days of the receipt of the objection, the
27 department shall set a date for a hearing on the objection. The
28 date for the hearing shall be within sixty days of the receipt of the
29 objection. Written notice of the time and place of the hearing shall
30 be given to the objectors at least ten days prior to the date set for
31 the hearing.

32 5. The department at its discretion may hear each written
33 objection separately or consolidate for hearing any two or more
34 written objections. At the hearing the department shall first

35 introduce in evidence the investigation it instituted and the other
36 facts which were considered at the time of the original
37 determination which formed the basis for its determination. The
38 department, or the objector, or any interested party, thereafter may
39 introduce any evidence that is material to the issues.

40 6. Within twenty days of the conclusion of the hearing, the
41 department must rule on the written objection and make the final
42 determination that it believes the evidence warrants. Immediately,
43 the department shall file a certified copy of its final determination
44 with the secretary of state and with the department and shall serve
45 a copy of the final determination on all parties to the proceedings
46 by personal service or by registered mail.

47 7. This final decision of the department of the prevailing
48 wages in the locality is subject to review in accordance with the
49 provisions of chapter 536. Any person affected, whether or not the
50 person participated in the proceedings resulting in the final
51 determination, may have the decision of the department
52 reviewed. The filing of the final determination with the secretary
53 of state shall be considered a service of the final determination on
54 persons not participating in the administrative proceedings
55 resulting in the final determination.

56 8. At any time before trial any person affected by the final
57 determination of the department may intervene in the proceedings
58 to review under chapter 536 and be made a party to the
59 proceedings.

60 9. All proceedings in any court affecting a determination of
61 the department under the provisions of sections 290.210 to 290.340
62 shall have priority in hearing and determination over all other civil
63 proceedings pending in the court, except election contests.]

2 [290.262. 1. Except as otherwise provided in section
3 290.260, the department shall annually determine the prevailing
4 hourly rate of wages in each locality for each separate occupational
5 title. In doing so, the department shall accept and consider
6 information regarding local wage rates that is submitted in either
7 paper or electronic formats. A final determination applicable to
every locality to be contained in an annual wage order shall be

8 made annually on or before July first of each year and shall remain
9 in effect until superseded by a new annual wage order or as
10 otherwise provided in this section. The department shall, by
11 March tenth of each year, make an initial determination for each
12 occupational title within the locality.

13 2. The prevailing wage rate for an occupational title in a
14 locality shall, with the exception of localities that are counties of
15 the third and fourth classification and any county of the second
16 classification with more than fifty-eight thousand but fewer than
17 sixty-five thousand inhabitants, be the wage rate most commonly
18 paid, as measured by the number of hours worked at each wage
19 rate, for that occupational title within that locality. In determining
20 such prevailing wage rates, the department shall ascertain and
21 consider the applicable wage rates established by collective
22 bargaining agreements, if any, when no wages were reported.

23 3. With respect only to localities that are counties of the
24 third and fourth classification and any county of the second
25 classification with more than fifty-eight thousand but fewer than
26 sixty-five thousand inhabitants, the prevailing wage rate for an
27 occupational title within such locality shall be determined in the
28 following manner:

29 (1) The total number of hours worked that are not paid
30 pursuant to a collective bargaining agreement for the time period
31 in that occupational title in the locality and the total number of
32 hours worked that are paid pursuant to a collective bargaining
33 agreement for the time period in that occupational title in the
34 locality shall be considered;

35 (2) If the total number of hours that are not paid pursuant
36 to a collective bargaining agreement, in the aggregate, exceeds the
37 total number of hours that are paid pursuant to such an
38 agreement, in the aggregate, then the prevailing wage rate shall be
39 the rate most commonly paid that is not paid pursuant to a
40 collective bargaining agreement as measured by the number of
41 hours worked at such rate for that occupational title within the
42 locality;

43 (3) If the total number of hours that are paid pursuant to

44 a collective bargaining agreement, in the aggregate, exceeds the
45 total number of hours that are not paid pursuant to such an
46 agreement, in the aggregate, then the prevailing wage rate shall be
47 the rate most commonly paid that is paid pursuant to a collective
48 bargaining agreement as measured by the number of hours worked
49 at such rate for that occupational title within the locality;

50 (4) If no work within a particular occupational title has
51 been performed in a locality at any wage rate, the prevailing wage
52 rate for that occupational title in that locality shall be determined
53 in the following manner:

54 (a) If wages were reported for an occupational title within
55 a locality within the previous six annual wage order reporting
56 periods and the prevailing wage rate was determined by a
57 collective bargaining agreement by hours worked pursuant to such
58 agreement in the most recent annual wage order reporting period
59 where such wages were reported, then the wage rate paid pursuant
60 to the current collective bargaining agreement shall be the
61 prevailing rate for that occupational title within the locality;

62 (b) If wages were reported for an occupational title within
63 a locality within the previous six annual wage order reporting
64 periods and the prevailing wage rate was not determined by hours
65 worked pursuant to a collective bargaining agreement in the most
66 recent annual wage order reporting period where such wages were
67 reported, then the wage rate paid in the most recent annual wage
68 order reporting period when such wages were reported shall be the
69 prevailing wage rate for that occupational title within the locality;

70 (c) If no wages were reported for an occupational title
71 within a locality within the previous six annual wage order
72 reporting periods, the department shall examine hours and wages
73 reported in all adjacent Missouri counties during the same
74 periods. The most recent reported wage rate in a given wage order
75 period in the adjacent Missouri county with the most reported
76 hours actually worked for that occupational title in the wage period
77 during the previous six annual wage order reporting periods shall
78 be used to determine the prevailing wage rate;

79 (d) If no wages were reported for an occupational title

80 within any adjacent Missouri county within the previous six annual
81 wage order reporting periods, then the rate paid pursuant to the
82 current collective bargaining agreement shall be the prevailing
83 wage rate for that occupational title within the locality.

84 4. A certified copy of the initial determinations so made
85 shall be filed immediately with the secretary of state and with the
86 department in Jefferson City. Copies shall be supplied by the
87 department to all persons requesting them within ten days after
88 the filing.

89 5. At any time within thirty days after the certified copies
90 of the determinations have been filed with the secretary of state
91 and the department, any person who is affected thereby may object
92 in writing to a determination or a part thereof that he deems
93 objectionable by filing a written notice with the department, stating
94 the specific grounds of the objection. If no objection is filed, the
95 determination is final after thirty days.

96 6. After the receipt of the objection, the department shall
97 set a date for a hearing on the objection. The date for the hearing
98 shall be within sixty days of the receipt of the objection. Written
99 notice of the time and place of the hearing shall be given to the
100 objectors at least ten days prior to the date set for the hearing.

101 7. The department at its discretion may hear each written
102 objection separately or consolidate for hearing any two or more
103 written objections. At the hearing the department shall first
104 introduce in evidence the investigation it instituted and the other
105 facts which were considered at the time of the original
106 determination which formed the basis for its determination. The
107 department, or the objector, or any interested party, thereafter may
108 introduce any evidence that is material to the issues.

109 8. Within twenty days of the conclusion of the hearing, the
110 department shall rule on the written objection and make the final
111 determination that it believes the evidence warrants. Immediately,
112 the department shall file a certified copy of its final determination
113 with the secretary of state and with the department and shall serve
114 a copy of the final determination on all parties to the proceedings
115 by personal service or by registered mail.

116 9. This final decision of the department of the prevailing
117 wages in the locality for each occupational title is subject to review
118 in accordance with the provisions of chapter 536. Any person
119 affected, whether or not the person participated in the proceedings
120 resulting in the final determination, may have the decision of the
121 department reviewed. The filing of the final determination with
122 the secretary of state shall be considered a service of the final
123 determination on persons not participating in the administrative
124 proceedings resulting in the final determination.

125 10. At any time before trial any person affected by the final
126 determination of the department may intervene in the proceedings
127 to review under chapter 536 and be made a party to the
128 proceedings.

129 11. Any annual wage order made for a particular
130 occupational title in a locality, that is based on the number of
131 hours worked under a collective bargaining agreement, may be
132 altered once each year, as provided in this subsection. The
133 prevailing wage for each such occupational title may be adjusted on
134 the anniversary date of any collective bargaining agreement which
135 covers all persons in that particular occupational title in the
136 locality in accordance with any annual incremental wage increases
137 set in the collective bargaining agreement. If the prevailing wage
138 for an occupational title is adjusted pursuant to this subsection, the
139 employee's representative or employer in regard to such collective
140 bargaining agreement shall notify the department of this
141 adjustment, including the effective date of the adjustment. The
142 adjusted prevailing wage shall be in effect until the next final
143 annual wage order is issued pursuant to this section. The wage
144 rates for any particular job, contracted and commenced within sixty
145 days of the contract date, which were set as a result of the annual
146 or revised wage order, shall remain in effect for the duration of
147 that particular job.

148 12. In addition to all other reporting requirements of
149 sections 290.210 to 290.340, each public body which is awarding a
150 contract for a public works project shall, prior to beginning of any
151 work on such public works project, notify the department, on a

152 form prescribed by the department, of the scope of the work to be
153 done, the various types of craftsmen who will be needed on the
154 project, and the date work will commence on the project.]

2 [290.263. The hourly wages to be paid as prescribed in
3 section 290.250 to workmen upon public works shall not be less
4 than the minimum wage specified under Section 6(a)(1) of the Fair
Labor Standards Act of 1938, as amended.]

2 [290.265. A clearly legible statement of all prevailing
3 hourly wage rates to be paid to all workmen employed in order to
4 execute the contract and employed on the construction of the public
5 works shall be kept posted in a prominent and easily accessible
6 place at the site thereof by each contractor and subcontractor
7 engaged in the public works projects under the provisions of this
8 law and such notice shall remain posted during the full time that
any such workman shall be employed on the public works.]

2 [290.270. The finding of the department ascertaining and
3 declaring the prevailing hourly rate of wages shall be final for the
4 locality, unless reviewed under the provisions of sections 290.210
5 to 290.340. Nothing in sections 290.210 to 290.340, however, shall
6 be construed to prohibit the payment to any workman employed on
7 any public work of more than the prevailing rate of
8 wages. Nothing in sections 290.210 to 290.340 shall be construed
9 to limit the hours of work which may be performed by any
workman in any particular period of time.]

2 [290.280. The authorized representative of the department
3 may administer oaths, take or cause to be taken the depositions of
4 witnesses, and require by subpoena the attendance and testimony
5 of witnesses and the production of all books, records, and other
6 evidence relative to any matter under investigation or
7 hearing. The subpoena shall be signed and issued by the
8 department's authorized representative. In case of failure of any
9 person to comply with any subpoena lawfully issued under this
10 section, or on the refusal of any witness to produce evidence or to
11 testify to any matter regarding which he may be lawfully
12 interrogated, the authorized representative of the department may
proceed to enforce obedience to the subpoenas in the manner

13 provided by section 536.077 for administrative agencies. The
14 authorized representative of the department shall have the power
15 to certify to official acts.]

[290.290. 1. The contractor and each subcontractor engaged
2 in any construction of public works shall keep full and accurate
3 records clearly indicating the names, occupations and crafts of
4 every workman employed by them in connection with the public
5 work together with an accurate record of the number of hours
6 worked by each workman and the actual wages paid therefor. The
7 payroll records required to be so kept shall be open to inspection by
8 any authorized representative of the contracting public body or of
9 the department at any reasonable time and as often as may be
10 necessary and such records shall not be destroyed or removed from
11 the state for the period of one year following the completion of the
12 public work in connection with which the records are made.

13 2. Each contractor and subcontractor shall file with the
14 contracting public body upon completion of the public work and
15 prior to final payment therefor an affidavit stating that he had
16 fully complied with the provisions and requirements of this
17 chapter, and no public body shall be authorized to make final
18 payment until such affidavit is filed therewith in proper form and
19 order.

20 3. Each contractor and subcontractor engaged in any
21 construction of public works shall have its name, acceptable
22 abbreviation or recognizable logo and the name of the city and
23 state of the mailing address of the principal office of the company,
24 on each motor vehicle and motorized self-propelled piece of
25 equipment which is used in connection with such public works
26 project during the time the contractor or subcontractor is engaged
27 on such project. The sign shall be legible from a distance of twenty
28 feet but the size of the lettering need not be larger than two inches.
29 In cases where equipment is leased or where affixing a legible sign
30 to the equipment is impractical, the contractor may place a
31 temporary stationary sign, with the information required pursuant
32 to this subsection, at the main entrance of the construction project
33 in place of affixing the required information on the equipment so

34 long as such sign is not in violation of any state or federal statute,
35 rule or regulation. Motor vehicles which are required to have
36 similar information affixed thereto pursuant to requirements of a
37 regulatory agency of the state or federal government are exempt
38 from the provisions of this subsection.

39 4. The provisions of subsection 3 of this section shall not
40 apply to construction of public works for which the contract
41 awarded is in the amount of two hundred fifty thousand dollars or
42 less.]

[290.300. Any workman employed by the contractor or by
2 any subcontractor under the contractor who shall be paid for his
3 services in a sum less than the stipulated rates for work done
4 under the contract, shall have a right of action for double whatever
5 difference there may be between the amount so paid and the rates
6 provided by the contract together with a reasonable attorney's fee
7 to be determined by the court, and an action brought to recover
8 same shall be deemed to be a suit for wages, and any and all
9 judgments entered therein shall have the same force and effect as
10 other judgments for wages.]

[290.305. No person, firm or corporation shall violate the
2 wage provisions of any contract contemplated in sections 290.210
3 to 290.340 or suffer or require any employee to work for less than
4 the rate of wages so fixed, or violate any of the provisions contained
5 in sections 290.210 to 290.340. Where workmen are employed and
6 their rate of wages has been determined as provided in sections
7 290.210 to 290.340, no person, either for himself or any other
8 person, shall request, demand or receive, either before or after such
9 workman is engaged, that such workman pay back, return, donate,
10 contribute, or give any part or all of said workman's wages, salary,
11 or thing of value, to any person, upon the statement,
12 representation, or understanding that failure to comply with such
13 request or demand will prevent such workman from procuring or
14 retaining employment, and no person shall, directly or indirectly,
15 pay, request or authorize any other person to violate this
16 section. This section does not apply to any agent or representative
17 of a duly constituted labor organization acting in the collection of

18 dues or assessments of such organization.]

19 [290.315. All contractors and subcontractors required in
20 sections 290.210 to 290.340 to pay not less than the prevailing rate
21 of wages shall make full payment of such wages in legal tender,
22 without any deduction for food, sleeping accommodations,
23 transportation, use of small tools, or any other thing of any kind or
24 description. This section does not apply where the employer and
25 employee enter into an agreement in writing at the beginning of
26 said term of employment covering deductions for food, sleeping
27 accommodations, or other similar items, provided such agreement
28 is submitted by the employer to the public body awarding the
29 contract and the same is approved by such public body as fair and
30 reasonable.]

31 [290.320. No public body, officer, official, member, agent or
32 representative authorized to contract for public works shall fail,
33 before advertising for bids or contracting for such construction, to
34 have the department determine the prevailing rates of wages of
35 workmen for each class of work called for by the public works in
36 the locality where the work is to be performed as provided in
37 sections 290.210 to 290.340.]

38 [290.325. No public body, officer, official, member, agent or
39 representative thereof authorized to contract for public works shall
40 award a contract for the construction of such improvement or
41 disburse any funds on account of the construction of such public
42 improvement, unless such public body has first had the department
43 determine the prevailing rates of wages of workmen for the class
44 of work called for by such public works in the locality where the
45 work is to be performed and such determination has been made a
46 part of the specifications and contract for such public works.]

47 [290.330. The department after investigation, upon
48 complaint or upon its own initiative, shall file with the secretary
49 of state a list of the contractors and subcontractors who it finds
50 have been prosecuted and convicted for violations of sections
51 290.210 to 290.340 and such contractor or subcontractor, or
52 simulations thereof, shall be prohibited from contracting directly
53 or indirectly with any public body for the construction of any public

8 works or from performing any work on the same as a contractor or
9 subcontractor for a period of one year from the date of the first
10 conviction for such violation and for a period of three years from
11 the date of each subsequent violation and conviction thereof. No
12 public body shall award a contract for a public works to any
13 contractor or subcontractor, or simulation thereof, during the time
14 that its name appears on said list. The filing of the notice of
15 conviction with the secretary of state shall be notice to all public
16 bodies and their officers, officials, members, agents and
17 representatives.]

[290.335. If it is found that a public body, contractor or
2 subcontractor has not complied with any of the terms of sections
3 290.210 to 290.340, the department shall give notice of the precise
4 violation in writing to such public body, contractor or
5 subcontractor. Sufficient time may be allowed for compliance
6 therewith as the department deems necessary. After the expiration
7 of the time prescribed in said notice, the department may in
8 writing inform the attorney general of the fact that such notice has
9 been given and that the public body, contractor or subcontractor or
10 the authorized representative or agent thereof to whom it was
11 directed has not complied with such notice. Upon receipt thereof,
12 the attorney general shall at the earliest possible time bring suit
13 in the name of the state in the circuit court of the county in which
14 such public body is located or where any such contractor or
15 subcontractor is engaged in any public works to enjoin the award
16 of such contract for a public works, or any further work or
17 payments thereunder if the contract has been awarded, until the
18 requirements of such notice are fully complied with. The court may
19 issue a temporary restraining order with due notice to the
20 defendant in such action. The plaintiff shall in any such injunctive
21 action post an adequate bond to be set by the circuit judge. Upon
22 final hearing thereof, if the court is satisfied that the requirements
23 of the notice by the department to the defendant were not
24 unreasonable or arbitrary, it shall issue an order enjoining the
25 awarding of such contract for a public works, or any further work
26 or payments thereunder if the contract has been awarded, until the

27 notice is fully complied with. Such injunction shall continue
28 operative until the court is satisfied that the requirements of such
29 notice have been complied with and the court shall have and
30 exercise with respect to the enforcement of such injunctions all the
31 power in it in other similar cases. Both the plaintiff and defendant
32 in such action have the same rights of appeal as are provided by
33 law in other injunction proceedings.]

[290.340. Any officer, official, member, agent or
2 representative of any public body, contractor or subcontractor who
3 willfully violates and omits to comply with any of the provisions
4 and requirements of sections 290.210 to 290.340 shall be punished
5 for each violation thereof by a fine not exceeding five hundred
6 dollars, or by imprisonment not exceeding six months, or by both
7 such fine and imprisonment. Each day such violation or omission
8 continues shall constitute a separate offense as contemplated by
9 this section.]

Section B. This act is hereby submitted to the qualified voters of this state
2 for approval or rejection at an election which is hereby ordered and which shall
3 be held and conducted on Tuesday next following the first Monday in November,
4 2016, pursuant to the laws and constitutional provisions of this state for the
5 submission of referendum measures by the general assembly, and this act shall
6 become effective when approved by a majority of the votes cast thereon at such
7 election and not otherwise.

✓
Copy