

# SENATE BILL REPORT

## SB 5903

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As of February 18, 2009

**Title:** An act relating to public works contracts for residential construction.

**Brief Description:** Regarding public works contracts for residential construction.

**Sponsors:** Senators Keiser, McAuliffe and Hatfield; by request of Lieutenant Governor.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/17/09.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Ingrid Mungia (786-7423)

**Background:** Public works contracts for construction, reconstruction, maintenance, or repair for the state or any county, municipality, or political subdivision must state the hourly minimum rate of wage to be paid to laborers, workers, or mechanics. The hourly minimum rate of wage may not be less than the prevailing rate of wage paid to laborers, workers, or mechanics in each trade or occupation contracted to do any part of the public works contract. The public works contract must also contain a stipulation that the laborers, workers, or mechanics will not be paid less than the specified hourly minimum rate of wage.

The "prevailing rate of wage" is defined as the rate of hourly wage, usual benefits, and overtime paid in the locality to the majority of workers, laborers, or mechanics in the same trade or occupation. In the event there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation must be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage must be mathematically determined by the number of hours worked in such period of time.

**Summary of Bill:** If the awarding agency determines the work contracted for meets the definition of residential construction, the public works contract must include that information. The definition of "residential construction" is construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, when used solely as permanent residences. The term "residential construction"

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does not include the utilities construction (water and sewer lines), or work on streets, or work on other structures.

If the hourly minimum rate of wage stated in the public works contract specifies residential construction rates and it is later determined that the work performed is commercial and subject to commercial construction rates, the state, county, municipality, or political subdivision that entered into the contract must pay the difference between the residential rate stated and the actual commercial rate. The difference between the two rates must be paid to the contractors, subcontractor, or other person doing or contracting to do the whole or any part of the work under the contract.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This came to my attention from a small contractor. This is not an assault on prevailing wage. This is trying to bring some equity and eliminate a problem that we found. This bill will require that when there is a project and a bid goes out, they say what prevailing wage the contractor is going to pay. The law is punitive right now. We can solve the problem and make it business and labor friendly. It should be this way in all public works, but this is a small step in that direction.

**Persons Testifying:** PRO: Lt. Governor Owen; Rick Avery, Avcon, LLC.