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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 2377

March 29, 2007

Authored by Garofalo, Eastlund, Holberg and Gunther The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to employment; modifying prevailing wage provisions; amending
1.3 Minnesota Statutes 2006, sections 177.42, subdivisions 4, 6; 177.43, subdivisions
1.4 1, 4, 5, 6, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 177.42, subdivision 4, is amended to read:

1.7 Subd. 4. Prevailing hours of labor. "Prevailing hours of labor" means the median
1.8 number of hours of labor per day and per week worked within the area by a larger number
1.9 of workers of the same class than are employed within the area for any other number of
1.10 hours per day and per week. The prevailing hours of labor may not be more than eight
1.11 hours per day or more than 40 hours per week.

1.12 Sec. 2. Minnesota Statutes 2006, section 177.42, subdivision 6, is amended to read:

1.13 Subd. 6. Prevailing wage rate. "Prevailing wage rate" means the hourly basic rate
1.14 of pay plus the contribution for health and welfare benefits, vacation benefits, pension
1.15 benefits, and any other economic benefit paid to the largest number of median hourly
1.16 compensation paid to workers engaged in the same class of labor within the area and
1.17 includes, for the purposes of section 177.44, rental rates for truck hire paid to those who
1.18 own and operate the truck. The median hourly compensation includes the hourly basic
1.19 rate plus the contribution for health and welfare benefits, vacation benefits, pension
1.20 benefits, and other economic benefits. The prevailing wage rate may not be less than a
1.21 reasonable and living wage.

1.22 Sec. 3. Minnesota Statutes 2006, section 177.43, subdivision 1, is amended to read:

2.1 Subdivision 1. **Hours of labor.** Any contract which provides for a project must  
2.2 state that:

2.3 (1) no laborer or mechanic employed directly on the project work site by the  
2.4 contractor or any subcontractor, agent, or other person doing or contracting to do all or a  
2.5 part of the work of the project, is permitted or required to work more hours than the  
2.6 prevailing hours of labor unless paid for all hours in excess of the prevailing hours at a  
2.7 rate of at least 1-1/2 times the hourly basic rate of pay; provided that the rate is only paid  
2.8 on hours actually worked in excess of 40 hours per week; and

2.9 (2) a laborer or mechanic may not be paid a lesser rate of wages than the prevailing  
2.10 wage rate in the same or most similar trade or occupation in the area.

2.11 Sec. 4. Minnesota Statutes 2006, section 177.43, subdivision 4, is amended to read:

2.12 Subd. 4. **Determination by commissioner.** The prevailing wage rates, prevailing  
2.13 hours of labor, and hourly basic rates of pay for all trades and occupations required in any  
2.14 project must be ascertained before the state asks for bids. The commissioner of labor and  
2.15 industry shall investigate as necessary to ascertain the information. The commissioner  
2.16 may require the contractor and subcontractor to furnish to the department certified payroll  
2.17 records. The commissioner shall keep the information posted on the project in at least one  
2.18 conspicuous place for the information of the employees working on the project. A person  
2.19 aggrieved by a final determination of the commissioner may petition the commissioner for  
2.20 reconsideration of findings. A person aggrieved by a decision of the commissioner after  
2.21 reconsideration may, within 20 days after the decision, petition the commissioner for a  
2.22 public hearing in the manner of a contested case under sections 14.57 to 14.61.

2.23 Sec. 5. Minnesota Statutes 2006, section 177.43, is amended by adding a subdivision  
2.24 to read:

2.25 Subd. 4a. **Onsite interviews and compliance.** The department shall develop  
2.26 guidelines on the frequency and nature of onsite interviews of construction workers and  
2.27 must establish written procedures for the filing and handling of complaints and inquiries  
2.28 regarding possible noncompliance with sections 177.41 to 177.44.

2.29 Sec. 6. Minnesota Statutes 2006, section 177.43, subdivision 5, is amended to read:

2.30 Subd. 5. **Penalty.** It is a misdemeanor for an officer or employee of the state to  
2.31 execute a contract for a project without complying with this section, or for a contractor,  
2.32 subcontractor, or agent to pay any laborer, worker, or mechanic employed directly on the  
2.33 project site a lesser wage for work done under the contract than the prevailing wage rate as

3.1 stated in the contract. This misdemeanor is punishable by a fine of not more than \$700,  
3.2 or imprisonment for not more than 90 days, or both. Each agent or subcontractor shall  
3.3 furnish to the contractor evidence of compliance with this section. Each day a violation  
3.4 of this section continues is a separate offense. Upon request, the county attorney of the  
3.5 county in which the work is located shall investigate and prosecute violations in a court  
3.6 of competent jurisdiction.

3.7 Sec. 7. Minnesota Statutes 2006, section 177.43, subdivision 6, is amended to read:

3.8 Subd. 6. **Examination of records.** The Department of Labor and Industry shall  
3.9 enforce this section. The department may demand, and the contractor and subcontractor  
3.10 shall furnish to the department, certified copies of any or all payrolls. The department  
3.11 may examine all records relating to wages paid laborers or mechanics on work to which  
3.12 sections 177.41 to 177.44 apply.