

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 960 Session of 2024

INTRODUCED BY SANTARSIERO, TARTAGLIONE, KANE, DILLON, HUGHES, HAYWOOD, FONTANA, KEARNEY, COSTA, COLLETT, CAPPELLETTI, STREET, COMITTA, MUTH, SAVAL, L. WILLIAMS, BREWSTER, BOSCOLA, FLYNN AND SCHWANK, JANUARY 11, 2024

REFERRED TO FINANCE, JANUARY 11, 2024

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," providing for prevailing wage and apprenticeship  
11 requirements.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, is amended by adding an article to  
16 read:

17 ARTICLE XVII-A.2

18 PREVAILING WAGE AND APPRENTICESHIP REQUIREMENTS

19 Section 1701-A.2. Definitions.

20 The following words and phrases when used in this article  
21 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Apprenticeship program." An apprenticeship training program  
3 that is approved by and registered with the Department of Labor  
4 and Industry under the act of July 14, 1961 (P.L.604, No.304),  
5 known as The Apprenticeship and Training Act, and that provides  
6 for on-the-job training, classroom training and the graduation  
7 of apprentice trainees to journey person status. The term  
8 includes an apprenticeship program subject to ERISA or a non-  
9 ERISA program.

10 "Business entity." An association, partnership, corporation,  
11 sole proprietorship, limited liability company or employer.

12 "Capital investment." Work conducted under a contract  
13 involving the construction, reconstruction, demolition,  
14 alteration or repair of a facility on the parcel through which a  
15 business seeks a tax exemption, deduction, abatement or credit  
16 through a tax incentive.

17 "Department." The Department of Revenue of the Commonwealth.

18 "ERISA Program." A program under 29 U.S.C. Ch. 18 (relating  
19 to Employee Retirement Income Security Program).

20 "Skilled craft laborer." A member of a trade who meets any  
21 of the following criteria:

22 (1) The individual is a worker who has work experience  
23 equivalent to the total number of on-the-job training hours  
24 required by the applicable apprenticeship program.

25 (2) The individual graduated from, or is currently  
26 enrolled in, an apprenticeship program.

27 "Tax incentive." A tax exemption, deduction, abatement or  
28 credit under any of the following:

29 (1) Article XIX-C.

30 (2) Article XIX-D.

1           (3) Article XIX-H.

2           (4) The act of October 6, 1998 (P.L.705, No.92), known  
3           as the Keystone Opportunity Zone, Keystone Opportunity  
4           Expansion Zone and Keystone Opportunity Improvement Zone Act.  
5           Section 1702-A.2. Prevailing wage requirements for business  
6           entities making capital investments.

7           A business entity that makes a capital investment of more  
8           than \$25,000 for the construction, reconstruction, demolition,  
9           alteration or repair of a facility on the parcel through which  
10          the business entity seeks a tax exemption, deduction, abatement  
11          or credit through a tax incentive shall verify with the  
12          department, in the following calendar or fiscal year, all of the  
13          following:

14           (1) Seventy percent of the individuals employed by the  
15           business entity in construction, reconstruction, demolition,  
16           alteration or repair of the facility are skilled craft  
17           laborers.

18           (2) Individuals employed by the business entity or a  
19           contractor or subcontractor of the business entity for the  
20           construction, reconstruction, demolition, alteration or  
21           repair of the facility have been paid the prevailing minimum  
22           wage rate for each craft or classification as determined by  
23           the Department of Labor and Industry under the act of August  
24           15, 1961 (P.L.987, No.442), known as the Pennsylvania  
25           Prevailing Wage Act.

26          Section 1703-A.2. Enforcement.

27          The Department of Labor and Industry shall enforce this  
28          article. The act of August 15, 1961 (P.L.987, No.442), known as  
29          the Pennsylvania Prevailing Wage Act, 34 Pa. Code Ch. 9 Subch. E  
30          (relating to prevailing regulations) and 34 Pa. Code §§ 211.1

1 (relating to applicability of general rules) and 213.1 (relating  
2 to applicability of general rules) shall apply to any  
3 construction, reconstruction, demolition, alteration or repair  
4 of a facility, other than maintenance work, that occurs due to a  
5 business entity making a capital investment of more than \$25,000  
6 for the construction, reconstruction, demolition, alteration or  
7 repair of that facility on the parcel through which the business  
8 entity seeks a tax exemption, deduction, abatement or credit  
9 through a tax incentive.

10 Section 1704-A.2. Violations.

11 (a) Refund requirement.--In addition to enforcement  
12 authorized under the act of August 15, 1961 (P.L.987, No.442),  
13 known as the Pennsylvania Prevailing Wage Act, and section 1703-  
14 A.2, if, after notice and hearing, the Department of Labor and  
15 Industry determines that a business entity intentionally failed  
16 to pay or intentionally caused another person to fail to pay the  
17 prevailing wage or benefit rates as specified under section  
18 11(h) of the Pennsylvania Prevailing Wage Act for the  
19 construction, reconstruction, demolition, alteration or repair  
20 of a facility in violation of this article, or ratified the  
21 intentional failure by a contractor or subcontractor of the  
22 business entity, the business entity shall refund 100% of the  
23 amount of the tax exemption, deduction, abatement or credit  
24 awarded through a tax incentive for the fiscal year in which the  
25 intentional noncompliance occurred as determined by the  
26 Department of Labor and Industry.

27 (b) Appeals.--A finding of a violation under subsection (a)  
28 may be appealed under section 2.2(e)(1) of the Pennsylvania  
29 Prevailing Wage Act and 34 Pa. Code § 213.3 (relating to appeals  
30 from determinations of the Secretary). Any final determination

1 by the Appeals Board under the Pennsylvania Prevailing Wage Act  
2 may be appealed in accordance with 2 Pa.C.S. (relating to  
3 administrative law and procedure).

4 Section 2. This act shall take effect in 60 days.