

By Mr. Moore of Uxbridge, petition of the Mass. State Building Trades Council, AFL-CIO, and Richard T. Moore that provision be made for fair competition by requiring payment of certain wage rates on public works construction projects. State Administration.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

### AN ACT PROVIDING FOR FAIR COMPETITION BY REQUIRING PAYMENT OF CERTAIN WAGE RATES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 149 of the General Laws is hereby  
2 amended by striking out section 27, as appearing in section 1 of  
3 chapter 625 of the acts of 1973, and inserting in place thereof the  
4 following section:—

5 *Section 27.* The commissioner shall prepare, for the use of such  
6 public officials or public bodies whose duty it shall be to cause  
7 public works to be constructed, a list of the several jobs usually  
8 performed on various types of public works upon which mechanics  
9 and apprentices, teamsters, chauffeurs and laborers are employed,  
10 including the transportation of gravel or fill to the site of said  
11 public works or the removal of surplus gravel or fill from such site.  
12 The commissioner shall classify said jobs, and he may revise such  
13 classification from time to time, as he may deem advisable. Prior to  
14 awarding a contract for the construction of public works, said  
15 public official or public body shall submit to the commissioner a  
16 list of the jobs upon which mechanics and apprentices, teamsters,  
17 chauffeurs and laborers are to be employed, and shall request the  
18 commissioner to determine the rate of wages to be paid on each  
19 job. Said rates shall apply to all persons engaged in transporting  
20 gravel or fill to the site of said public works or removing gravel or  
21 fill from such site, regardless of whether such persons are employed  
22 by a contractor or subcontractor or are independent contractors or  
23 owner-operators. The commissioner, subject to the provisions of

24 the preceding section, shall proceed forthwith to determine the  
25 same, and shall furnish said official or public body with a schedule  
26 of such rate or rates of wages as soon as said determination shall  
27 have been made. In advertising or calling for bids for said works,  
28 the awarding official or public body shall incorporate said schedule  
29 in the advertisement or call for bids by an appropriate reference  
30 thereto, and shall furnish a copy of said schedule, without cost, to  
31 any person requesting the same. Said schedules with all changes in  
32 wage rates thereafter established in the manner provided in section  
33 twenty-six shall be the minimum rate or rates of wages for em-  
34 ployees on that contract.

35 Any person engaged in the construction of said works shall cause  
36 a legible copy of said schedule to be kept posted in a conspicuous  
37 place at the site of said works during the life of the contract. The  
38 aforesaid rates of wages in the schedule of wage rates shall include  
39 payments by employers to employee benefit plans as provided in  
40 the previous section, and such payments shall be considered as  
41 payments to persons under this section performing work as herein  
42 provided. Any employer engaged in the construction of such works  
43 who does not make payments to an employee benefit plan, where  
44 such payments are included in said rates of wages, shall pay the  
45 amount of said payments directly to each employee engaged in said  
46 construction. Public officials and public bodies contracting for  
47 public work for which the commissioner has determined rates of  
48 wages for mechanics, apprentices, teamsters, chauffeurs and labor-  
49 ers shall take steps including withholding of payments necessary to  
50 compel contractors and subcontractors to pay the rates of wages  
51 determined by the commissioner for the contract, and shall,  
52 upon request of commissioner, require any contractor or subcon-  
53 tractor performing work under the contract to present at the office  
54 of the public body for examination by the public body, the com-  
55 missioner and any interested party designated by the commission-  
56 er, all payroll records (including daily and weekly reports of em-  
57 ployees performing work under the contract, payroll registers and  
58 payroll books) showing the hours worked and rates of wages paid  
59 to mechanics, apprentices, teamsters, chauffeurs and laborers per-  
60 forming work under the contract. Whoever shall pay less than said  
61 rate of wages, including payments to employee benefit plans, and

62 supplementary unemployment benefit plans, or the equivalent in  
63 wages on said works to any person performing work within classifi-  
64 cation as determined by the commissioner, and whoever, for him-  
65 self, or as representative, agent or officer of another, shall take or  
66 receive for his own use or the use of any other person, as a rebate,  
67 refund or gratuity, or in any other guise, any part or portion of the  
68 wages, including payments to employee benefit plans, or the equiv-  
69 alent payments in wages, paid to any such person for work done  
70 or service rendered for said public works, shall be punished by a  
71 fine of not less than three hundred dollars nor more than five  
72 hundred dollars for each offense and each such payment shall be a  
73 separate offense. Each such offense shall also be an unfair method  
74 of competition within the meaning of section two of chapter ninety-  
75 three A and the court shall also enter judgment for damages,  
76 attorneys' fees and costs computed in accordance with section  
77 eleven of chapter ninety-three A in favor of each person not  
78 receiving the rate of wage established by the commissioner. For the  
79 purposes of this section, the phrase "employee benefit plans" shall  
80 mean all payments by employers to health and welfare, pension,  
81 and any other benefit plans and programs provided in collective  
82 bargaining agreements or understandings between organized labor  
83 and employers.

1 SECTION 2. Said chapter 149 is hereby further amended by  
2 striking out section 27B and inserting in place thereof the following  
3 section:—

4 *Section 27B.* Every contractor, subcontractor or public body  
5 engaged in public work to which section twenty-seven, twenty-sev-  
6 en A and twenty-seven F apply shall keep a true and accurate  
7 record of all mechanics and apprentices, teamsters, chauffeurs and  
8 laborers employed thereon, showing the name, address and occu-  
9 pational classification of each such employee on said work, and the  
10 hours worked by, and the wages paid to, each such employee, and  
11 shall furnish to the commissioner, upon his request, a copy of said  
12 record, signed by the employer or his authorized agent under the  
13 penalties of perjury.

14 Such records shall be open to inspection by any authorized  
15 representative of the department at any reasonable time, and as

16 often as may be necessary.

17 Each such contractor, subcontractor or public body shall pre-  
18 serve its payroll records for a period of three years from the date of  
19 completion of the contract.

20 Each contractor, subcontractor or public body shall furnish to  
21 the commissioner of labor and industries within thirty days after  
22 completion of its portion of the work a statement executed by the  
23 contractor, subcontractor or public body or by any authorized  
24 officer or employee of the contractor, subcontractor or public  
25 body who supervises the payment of wages, in the following  
26 form:—

27 STATEMENT OF COMPLIANCE

28 . . . . ., 19 . . . . .

29 I, . . . . . do hereby state:  
30 (Name of signatory party) (Title)

31 That I pay or supervise the payment of the persons employed by  
32 . . . . .  
33 (Contractor, subcontractor or public body)

34 on the . . . . . (Building or project)  
35 and that all mechanics and apprentices, teamsters, chauffeurs and  
36 laborers employed on said project have been paid in accordance  
37 with wages determined under the provisions of sections twenty-six  
38 and twenty-seven of chapter one hundred and forty-nine of these  
39 General Laws.

40 Signature . . . . .  
41 Title . . . . .

42 The above-mentioned copies of payroll records and statements  
43 of compliance shall be available for inspection by any interested  
44 party filing a written request to the commissioner for such inspec-  
45 tion.

46 The commissioner or his authorized representative, shall have  
47 full power and authority to enter the place of business or employ-  
48 ment of any contractor or subcontractor performing work under a  
49 contract for which the commissioner has determined a schedule of  
50 rates of wages, examine all payroll records, including daily and  
51 weekly reports of employees performing work under the contract,  
52 payroll registers and payroll books, showing the hours worked and

53 rates of wages paid to mechanics, apprentices, teamsters, chauffeurs and laborers performing work under the contract and the district court shall issue an appropriate order to enforce that right if the contractor or subcontractor refuses to permit such entry and examination. If the records are kept outside the commonwealth, upon request of inspection by the commissioner or authorized representative, they shall be made available within the commonwealth within fourteen days after demand. The commissioner or authorized representative shall have the right to make a transcript of any of these records.

63 The district court shall also issue an appropriate order to require any contractor or subcontractor performing work under the contract to present for examination at the office of the public body the payroll records identified in section twenty-seven of this chapter.

1 SECTION 3. Amend chapter 149, section 27C by striking the first sentence and inserting in place thereof the following first sentence: —

4 Whoever either by himself or an agent, superintendent or foreman for another, violates any provision of sections twenty-six through twenty-seven F shall be punished by a fine of not less than three hundred dollars nor more than five hundred dollars for each offense and each such payment shall be a separate offense.

1 SECTION 4. Amend chapter 149, section 27F by striking the words at the end of the last sentence reading “punished by a fine of not less than one hundred dollars nor more than five hundred dollars” and inserting in place thereof “punished as provided in section 27C”.

1 SECTION 5. The changes in sections twenty-seven, twenty-seven B and twenty-seven C of this act shall apply to all contracts executed on and after the effective date of this act.

The first of these is the fact that the British government had been engaged in a long and costly war with the United States, which had resulted in a decisive military defeat in 1781. This had led to the signing of the Treaty of Paris in 1783, which recognized the independence of the United States. The second is the fact that the British government had been engaged in a long and costly war with France, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America. The third is the fact that the British government had been engaged in a long and costly war with Spain, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America.

The fourth is the fact that the British government had been engaged in a long and costly war with the Netherlands, which had resulted in a decisive military defeat in 1713. This had led to the signing of the Treaty of Utrecht in 1713, which recognized the British Empire's dominance in North America. The fifth is the fact that the British government had been engaged in a long and costly war with Prussia, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America. The sixth is the fact that the British government had been engaged in a long and costly war with Austria, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America.

The seventh is the fact that the British government had been engaged in a long and costly war with Russia, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America. The eighth is the fact that the British government had been engaged in a long and costly war with Sweden, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America. The ninth is the fact that the British government had been engaged in a long and costly war with Denmark, which had resulted in a decisive military defeat in 1763. This had led to the signing of the Treaty of Paris in 1763, which recognized the British Empire's dominance in North America.

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