

By Mr. Cellucci, a petition (accompanied by bill, Senate, No. 1357) of Argeo Paul Cellucci, Thomas J. Valley, Stephen W. Doran, John F. MacGovern, Mary Jane McKenna, Saundra Graham, Jonathan L. Healy and Henri S. Rauschenbach for legislation relative to the payment of wages in public construction contracts. State Administration.

**The Commonwealth of Massachusetts**

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

AN ACT AUTHORIZING THE COMMONWEALTH, CITIES AND TOWNS TO CONTROL CONSTRUCTION COSTS AND CREATE JOB OPPORTUNITIES.

*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. Section 26 of Chapter 149 of the General Laws as  
2 most recently amended by Chapter 296 of the Acts of 1967 is  
3 hereby amended by striking out the third, fourth and fifth sen-  
4 tences and inserting in place thereof the following: —

5 The rate per hour of the wages paid to said mechanics and  
6 apprentices, teamsters, chauffeurs and laborers in the construction  
7 of public works and public buildings shall not be less than the  
8 prevailing wage as determined by the Commissioner after said  
9 Commissioner conducts a wage survey. For purposes of this sec-  
10 tion the prevailing wage shall be the wage paid to the majority of  
11 the mechanics, apprentices, teamsters, chauffeurs and laborers as  
12 classified by the Commissioner on projects of similar construction  
13 in the area. The term "majority" shall be defined to mean more  
14 than fifty percent. If the same wage is not paid to a majority of  
15 those employed in the aforementioned classifications, the prevail-  
16 ing wage shall be the weighted average of the total employed in the  
17 classification. The term "area" as used in this section shall mean the  
18 city, town, county or district of the commonwealth in which the  
19 work is to be performed. If there has not been sufficient projects of  
20 similar construction within the area in the past year to make a wage  
21 determination, wages paid on projects of similar construction in  
22 surrounding cities, towns, counties or districts, may be considered

23 provided that projects in metropolitan areas may not be used as a  
24 source of data for a wage determination in a rural area, and  
25 projects in rural areas may not be used as a source of data for a  
26 wage determination in a metropolitan area. Wages paid to laborers  
27 employed on said works shall not be less than those paid to  
28 laborers in the municipal service of the town or towns where said  
29 works are being constructed; provided, that where the same public  
30 work is being constructed in two or more towns, the wages paid to  
31 laborers shall not be less than those paid to laborers in the municip-  
32 al service of the town paying the highest rate. The Commissioner  
33 is hereby authorized to establish regulations to conduct the afore-  
34 mentioned wage surveys. Such regulations shall be established  
35 only after public notice and public hearing on the proposed regula-  
36 tions pursuant to chapter 30A of the General Laws. Payments by  
37 employers to health and welfare plans, pension plans and supple-  
38 mentary unemployment plans as agreed to by employers and  
39 employees shall be included for the purpose of establishing prevail-  
40 ing wage rates as herein provided. The provisions of this section  
41 shall not apply where the total cost of all work to be performed by  
42 contractors and subcontractors on said public works project and  
43 said public buildings is less than one million dollars as estimated by  
44 the awarding authority prior to the bid. Notwithstanding any  
45 general or special law to the contrary, the Commissioner shall not  
46 prohibit employers of apprentices from employing said appren-  
47 tices to participate in the construction of said public works projects  
48 and said public buildings at a ratio of one apprentice to one  
49 journeyman. Provided, however, in any event no employer shall  
50 employ apprentices in the construction of said public works proj-  
51 ects and public buildings at a ratio of more than one apprentice to  
52 one journeyman.

1 SECTION 2. Section 27 of Chapter 149 of the General Laws as  
2 amended by Chapter 394 of the Acts of 1983 is further amended by  
3 striking out the fifth sentence and inserting in place thereof the  
4 following sentence: The Commissioner shall proceed to determine  
5 such prevailing wage pursuant to the provisions of section twenty-  
6 six and shall furnish said official or public body with a schedule of  
7 such prevailing wages as soon as said determination shall have  
8 been made, provided however that the Commissioner shall not

9 establish nor furnish such schedule if said cost of said public works  
10 and public buildings is less than one million dollars as estimated by  
11 the awarding authority prior to the bid.

1 SECTION 3. Chapter 149 of the General Laws is hereby  
2 amended by striking out Section 27A and inserting in place thereof  
3 the following: —

4 Section 27A. Within three days from the date of the first adver-  
5 tisement or call for bids, two or more employers of labor, or two or  
6 more members of a labor organization, or the awarding officer of  
7 officials, or five or more residents of the town or towns where the  
8 public works or public buildings are to be constructed, may  
9 directly appeal from a wage determination of the Commissioner to  
10 the Superior Court in the county in which such project or building  
11 is to be constructed. Such appeal shall be a de novo review by such  
12 court of any such wage determination.

1 SECTION 4. Section 27F of Chapter 149 of the General Laws  
2 is hereby amended by adding after the first paragraph the following  
3 sentence: The provisions of this section shall not apply to any  
4 aforesaid agreements where the total cost of the work to be per-  
5 formed is less than one million dollars as estimated by the awarding  
6 authority prior to the bid.

1 SECTION 5. The provisions of this Act are severable, and if  
2 any of its provisions or an application thereof shall be held uncon-  
3 stitutional by any court of competent jurisdiction, the decision of  
4 such court shall not affect or impair any of the remaining provi-  
5 sions or other application thereof.

