

2014 -- S 2673

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

Introduced By: Senators Lombardi, DiPalma, Jabour, Conley, and Lombardo

Date Introduced: March 04, 2014

Referred To: Senate Labor

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-14-17 of the General Laws in Chapter 28-14 entitled "Payment
2 of Wages" is hereby amended to read as follows:

3 **28-14-17. Penalty for violations.** -- Any employer who violates or fails to comply with
4 any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction of the
5 misdemeanor the employer shall be punished by a fine of not less than four hundred dollars
6 (\$400) for each separate offense, or by imprisonment ~~for not less than ten (10) nor more than~~
7 ~~ninety (90) days~~ of up to one year, or by both fine and imprisonment. Each day of failure to pay
8 wages due an employee at the time specified in this chapter shall constitute a separate and distinct
9 violation.

10 SECTION 2. Sections 37-13-12.4 and 37-13-14.1 of the General Laws in Chapter 37-13
11 entitled "Labor and Payment of Debts by Contractors" are hereby amended to read as follows:

12 **37-13-12.4. Penalty for violations.** -- Except as otherwise provided in this chapter, any
13 employer who shall violate or fail to comply with any of the provisions of this chapter shall be
14 guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars
15 (\$500) nor more than one thousand dollars (\$1,000) for each separate offense, or by
16 imprisonment ~~for not less than ten (10) nor more than ninety (90) days~~ of up to one year, or by
17 both fine and imprisonment. Each day of failure to pay wages due an employee at the time
18 specified in this chapter shall constitute a separate and distinct violation.

19 **37-13-14.1. Enforcement -- Hearings.** -- (a) Before issuing an order or determination,

1 the director of labor and training shall order a hearing thereon at a time and place to be specified,
2 and shall give notice thereof, together with a copy of the complaint or the purpose thereof, or a
3 statement of the facts disclosed upon investigation, which notice shall be served personally or by
4 mail on any person, firm, or corporation affected thereby. The person, firm, or corporation shall
5 have an opportunity to be heard in respect to the matters complained of at the time and place
6 specified in the notice, which time shall be not less than five (5) days from the service of the
7 notice personally or by mail. The hearing shall be held within ten (10) days from the order of
8 hearing. The hearing shall be conducted by the director of labor and training or his or her
9 designee. The hearing officer in the hearing shall be deemed to be acting in a judicial capacity,
10 and shall have the right to issue subpoenas, administer oaths, and examine witnesses. The
11 enforcement of a subpoena issued under this section shall be regulated by Rhode Island civil
12 practice law and rules. The hearing shall be expeditiously conducted, and upon such hearing, the
13 hearing officer shall determine the issues raised thereon and shall make a determination and enter
14 an order within ten (10) days of the close of the hearing, and forthwith serve a copy of the order,
15 with a notice of the filing thereof, upon the parties to the proceeding, personally or by mail. The
16 order shall dismiss the charges or direct payment of wages or supplements found to be due,
17 including interest at the rate of twelve percentum (12%) per annum from the date of the
18 underpayment to the date of payment, and may direct payment of reasonable attorney's fees and
19 costs to the complaining party.

20 (b) In addition to directing payment of wages or supplements including interest found to
21 be due, the order shall also require payment of a further sum as a civil penalty in an amount up to
22 three times the total amount found to be due. Further, if the amount of salary owed to an
23 employee pursuant to this chapter but not paid to the employee in violation of thereof exceeds
24 five thousand dollars (\$5,000), it shall constitute a misdemeanor and shall be referred to the office
25 of the attorney general. The misdemeanor shall be punishable for a period of not more than one
26 year in prison and/or fined not more than one thousand dollars (\$1,000). In assessing the amount
27 of the penalty, due consideration shall be given to the size of the employer's business, the good
28 faith of the employer, the gravity of the violation, the history of previous violations, and the
29 failure to comply with recordkeeping or other nonwage requirements. The surety of the person,
30 firm, or corporation found to be in violation of the provisions of this chapter shall be bound to
31 pay any penalties assessed on such person, firm, or corporation. The penalty shall be paid to the
32 department of labor and training for deposit in the state treasury; provided, however, it is hereby
33 provided that the general treasurer shall establish a dedicated "prevailing wages enforcement
34 fund" for the purpose of depositing the penalties paid as provided herein. There is hereby

1 appropriated to the annual budget of the department of labor and training the amount of the fund
2 collected annually under this section, to be used at the direction of the director of labor and
3 training for the sole purpose of enforcing prevailing wage rates as provided in this chapter.

4 (c) For the purposes of this chapter, each day or part thereof of violation of any provision
5 of this chapter by a person, firm, or corporation, whether the violation is continuous or
6 intermittent, shall constitute a separate and succeeding violation.

7 (d) In addition to the above, any person, firm, or corporation found in violation of any of
8 the provisions of this chapter by the director of labor and training, an awarding authority, or the
9 hearing officer, shall be ineligible to bid on, or be awarded work by, an awarding authority or
10 perform any such work for a period of no less than eighteen (18) months and no more than thirty-
11 six (36) months from the date of the order entered by the hearing officer. Once a person, firm, or
12 corporation is found to be in violation of this chapter, all pending bids with any awarding
13 authority shall be revoked, and any bid awarded by an awarding authority prior to the
14 commencement of the work shall also be revoked.

15 (e) In addition to the above, any person, firm, or corporation found to have committed
16 two (2) or more willful violations in any period of eighteen (18) months of any of the provisions
17 of this chapter by the hearing officer, which violations are not arising from the same incident,
18 shall be ineligible to bid on, or be awarded work by, an awarding authority or perform any work
19 for a period of sixty (60) months from the date of the second violation.

20 (f) The order of the hearing officer shall remain in full force and effect unless stayed by
21 order of the superior court.

22 (g) The director of labor and training, awarding authority, or hearing officer shall notify
23 the bonding company of any person, firm, or corporation suspected of violating any section of
24 this chapter. The notice shall be mailed certified mail, and shall enumerate the alleged violations
25 being investigated.

26 (h) In addition to the above, any person, firm, or corporation found to have willfully
27 made a false or fraudulent representation on certified payroll records shall be referred to the
28 office of the attorney general. ~~The false or fraudulent representation~~ A first violation of this
29 section shall be considered a misdemeanor and shall be punishable for a period of not more than
30 one year in prison and/or fined one thousand dollars (\$1,000). A second or subsequent violation
31 of this section shall be considered a felony and shall be punishable for a period of not more than
32 three (3) years imprisonment, a fine of three thousand dollars (\$3,000), or both. Further, any
33 person, firm, or corporation found to have willfully made a false or fraudulent representation on
34 certified payroll records shall be required to pay a civil penalty to the department of labor and

1 training in an amount of no less than two thousand dollars (\$2,000) and not greater than fifteen
2 thousand dollars (\$15,000) per representation.

3 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

1 This act would increase the penalties for failing to pay employees wages as the law
2 requires.

3 This act would take effect upon passage.

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