



# Senate

General Assembly

**File No. 369**

February Session, 2022

Substitute Senate Bill No. 421

*Senate, April 7, 2022*

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING STANDARD WAGES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-57f of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2022*):

3 (a) As used in this section: (1) "Required employer" means any  
4 provider of food, building, property or equipment services or  
5 maintenance listed in this subdivision whose rate of reimbursement or  
6 compensation is determined by contract or agreement with the state or  
7 any state agent: (A) Building, property or equipment service companies;  
8 (B) management companies providing property management services;  
9 and (C) companies providing food preparation or service, or both; (2)  
10 "state agent" means any state official, state employee or other person  
11 authorized to enter into a contract or agreement on behalf of the state;  
12 (3) "person" means one or more individuals, partnerships, associations,  
13 corporations, business trusts, legal representatives or organized groups  
14 of persons; (4) "building, property or equipment service" means any

15 janitorial, cleaning, maintenance, security or related service; (5)  
16 "prevailing rate of wages" means the hourly wages paid for work  
17 performed within the city of Hartford under the collective bargaining  
18 agreement covering the largest number of hourly nonsupervisory  
19 employees employed within Hartford County in each classification  
20 established by the Labor Commissioner under subsection (e) of this  
21 section, provided the collective bargaining agreement covers no less  
22 than five hundred employees in the classification; (6) "prevailing rate of  
23 benefits" means the total cost to the employer on an hourly basis for  
24 work performed within the city of Hartford, under a collective  
25 bargaining agreement that establishes the prevailing rate of wages, of  
26 providing health, welfare and retirement benefits, including, but not  
27 limited to, (A) medical, surgical or hospital care benefits; (B) disability  
28 or death benefits; (C) benefits in the event of unemployment; (D)  
29 pension benefits; (E) [vacation, holiday and personal leave; (F)] training  
30 benefits; and [(G)] (F) legal service benefits, and may include payment  
31 made directly to employees, payments to purchase insurance and the  
32 amount of payment or contributions paid or payable by the employer  
33 on behalf of each employee to any employee benefit fund; (7) "employee  
34 benefit fund" means any trust fund established by one or more  
35 employers and one or more labor organizations or one or more other  
36 third parties not affiliated with such employers to provide, whether  
37 through the purchase of insurance or annuity contracts or otherwise,  
38 benefits under an employee health, welfare or retirement plan, but does  
39 not include any such fund where the trustee or trustees are subject to  
40 supervision by the Banking Commissioner of this state or of any other  
41 state, or the Comptroller of the Currency of the United States or the  
42 Board of Governors of the Federal Reserve System; [and] (8) "benefits  
43 under an employee health, welfare or retirement plan" means one or  
44 more benefits or services under any plan established or maintained for  
45 employees or their families or dependents, or for both, including, but  
46 not limited to, medical, surgical or hospital care benefits, benefits in the  
47 event of sickness, accident, disability or death, benefits in the event of  
48 unemployment, retirement benefits, [vacation and paid holiday  
49 benefits,] legal service benefits or training benefits; and (9) "paid leave"

50 means vacation, holiday and personal leave, other than leave provided  
51 by federal, state or local law.

52 (b) On and after July 1, [2000] 2022, the wages paid on an hourly basis  
53 and paid leave provided to any employee of a required employer in the  
54 provision of food, building, property or equipment services provided to  
55 the state pursuant to a contract or agreement with the state or any state  
56 agent, shall be at a rate not less than the standard rate determined by the  
57 Labor Commissioner pursuant to subsection (g) of this section. A  
58 required employer shall offer the standard rate of paid leave and is not  
59 required to ensure their employees use the entirety of the paid leave.

60 (c) Any required employer or agent of such employer that violates  
61 subsection (b) of this section shall pay a civil penalty in an amount not  
62 less than two thousand five hundred dollars but not more than five  
63 thousand dollars for each offense. An offense with regard to standard  
64 rate of wages is any pay period in which an employee is paid at a rate  
65 less than that required by this section. The contracting department of  
66 the state that has imposed such civil penalty on the required employer  
67 or agent of such employer shall, within two days after taking such  
68 action, notify the Labor Commissioner, in writing, of the name of the  
69 employer or agent involved, the violations involved and steps taken to  
70 collect the fine.

71 (d) The Labor Commissioner may make complaint to the proper  
72 prosecuting authorities for the violation of any provision of subsection  
73 (b) of this section.

74 (e) For the purpose of predetermining the standard rate of covered  
75 wages on an hourly basis and the standard rate for paid leave, the Labor  
76 Commissioner shall establish classifications for all hourly  
77 nonsupervisory employees based on the applicable occupation codes  
78 and titles set forth in the federal Register of Wage Determinations under  
79 the Service Contract Act of 1965, 41 USC [351] 6701, et seq., provided the  
80 Labor Commissioner shall classify any individual employed on or  
81 before July 1, 2009, as a grounds maintenance laborer or laborer as a  
82 janitor, and shall classify any individual hired after July 1, 2009,

83 performing the duty of grounds maintenance laborer, laborer or janitor  
84 as a light cleaner, heavy cleaner, furniture handler or window cleaner,  
85 as appropriate. The Labor Commissioner shall then determine the  
86 standard rate of wages for each classification of hourly nonsupervisory  
87 employees which shall be (1) the prevailing rate of wages paid to  
88 employees in each classification, or if there is no such prevailing rate of  
89 wages, the minimum hourly wages set forth in the federal Register of  
90 Wage Determinations under the Service Contract Act, plus (2) the  
91 prevailing rate of benefits paid to employees in each classification, or if  
92 there is no such prevailing rate of benefits, a thirty per cent surcharge  
93 on the amount determined in subdivision (1) of this subsection to cover  
94 the cost of any health, welfare and retirement benefits, other than those  
95 otherwise required by federal, state or local law, or, if no such benefits  
96 are provided to the employees, an amount equal to thirty per cent of the  
97 amount determined in subdivision (1) of this section, which shall be  
98 paid directly to the employees. The standard rate of wages for any  
99 employee entitled to receive such rate on or before July 1, 2009, shall not  
100 be less than the minimum hourly wage for the classification set forth in  
101 the federal Register of Wage Determinations under the Service Contract  
102 Act plus the prevailing rate of benefits for such classification for as long  
103 as that employee continues to work for a required employer. The Labor  
104 Commissioner shall determine the standard rate of paid leave which  
105 shall be the greater of the paid leave provided under (A) the McNamara-  
106 O'Hara Service Contract Act of 1965, 41 USC 6701 et seq., or (B) the  
107 collective bargaining agreement covering the largest number of hourly  
108 nonsupervisory employees employed within Hartford County in each  
109 classification established by the Labor Commissioner under this  
110 subsection, provided the collective bargaining agreement covers not less  
111 than five hundred employees in the classification.

112 (f) Required employers with employees covered by collective  
113 bargaining agreements which call for wages, [and] benefits and paid  
114 leave that are reasonably related to the standard rate of wages and paid  
115 leave shall not be economically disadvantaged in the bidding process,  
116 provided the collective bargaining agreement was arrived at through  
117 arms-length negotiations.

118 (g) The Labor Commissioner shall, in accordance with subsection (e)  
119 of this section, determine the standard rate of wages for each  
120 classification on an hourly basis and paid leave where any covered  
121 services are to be provided, and the state agent empowered to let such  
122 contract shall contact the Labor Commissioner at least ten days prior to  
123 the date such contract will be advertised for bid, to ascertain the  
124 standard rate of wages and paid leave and shall include the standard  
125 rate of wages on an hourly basis and paid leave for all classifications of  
126 employment in the proposal for the contract. The standard rate of wages  
127 on an hourly basis and paid leave shall, at all times, be considered the  
128 minimum rate for the classification for which it was established. Each  
129 required employer shall contact the Labor Commissioner on or before  
130 September first of each year for the duration of such contract to ascertain  
131 the standard wages and paid leave to be provided each year and shall  
132 make any necessary adjustments on September first, annually.

133 (h) Where a required employer is awarded a contract to perform  
134 services that are substantially the same as services that have been  
135 rendered under a predecessor contract, such required employer shall  
136 retain, for a period of ninety days, all employees who had been  
137 employed by the predecessor to perform services under such  
138 predecessor contract, except that the successor contract need not retain  
139 employees who worked less than fifteen hours per week or who had  
140 been employed at the site for less than sixty days. During such ninety-  
141 day period, the successor contract shall not discharge without just cause  
142 an employee retained pursuant to this subsection. If the performance of  
143 an employee retained pursuant to this subsection or section 4a-82 is  
144 satisfactory during the ninety-day period, the successor contractor shall  
145 offer the employee continued employment for the duration of the  
146 successor contract under the terms and conditions established by the  
147 successor contractor, or as required by law. The provisions of this  
148 subsection shall not apply to any contract covered by section 31-57g or  
149 subsections (n) and (o) of section 4a-82.

150 (i) Each required employer subject to the provisions of this section  
151 shall (1) keep, maintain and preserve such records relating to the wages

152 and hours worked and paid leave taken by each employee and a  
153 schedule of the occupation or work classification at which each person  
154 is employed during each work day and week in such manner and form  
155 as the Labor Commissioner establishes to assure the proper payments  
156 and leave due to such employees, [and] (2) annually or upon written  
157 request, submit to the contracting state agent a certified payroll which  
158 shall consist of a complete copy of such records accompanied by a  
159 statement signed by the employer which indicates that (A) such records  
160 are correct, (B) the rate of wages paid to each employee is not less than  
161 the standard rate of wages required by this section, (C) such employer  
162 has complied with the provisions of this section, [and] (D) such  
163 employer is aware that filing a certified payroll which it knows to be  
164 false is a class D felony for which such employer may be fined not more  
165 than five thousand dollars or imprisoned not more than five years, or  
166 both, and (E) the rate of paid leave offered to each employee is not less  
167 than the standard rate of paid leave required by this section, and (3) not  
168 later than the first day upon which work is required to be performed  
169 under the contract, and for the duration of the contract, post in a  
170 prominent and accessible place a poster stating (A) the standard rate of  
171 wages and paid leave owed to employees under this section, (B)  
172 employee rights and remedies for a violation of this section, and (C) the  
173 contact information of the Labor Commissioner. The Labor  
174 Commissioner shall develop a suitable poster containing the  
175 information described in subdivision (3) of this subsection for  
176 employers and provide it to required employers. The Labor  
177 Commissioner shall post its determinations of the corresponding  
178 standard rates for each classification on its Internet web site.  
179 Notwithstanding the provisions of section 1-210, the certified payroll  
180 shall be considered a public record and every person shall have the right  
181 to inspect and copy such record in accordance with the provisions of  
182 section 1-212. The provisions of subsections (a) and (b) of section 31-59,  
183 section 31-66 and section 31-69 which are not inconsistent with the  
184 provisions of this section shall apply. Any person who files a false  
185 certified payroll in violation of subdivision (2) of this subsection shall be  
186 guilty of a class D felony for which such person may be fined not more

187 than five thousand dollars or imprisoned not more than five years, or  
188 both.

189 (j) This section shall not apply to contracts, agreements or grants  
190 which do not exceed forty-nine thousand nine hundred ninety-nine  
191 dollars per annum.

192 (k) [On receipt of a complaint for nonpayment of the standard rate of  
193 wages,] Any employee or group of employees and their designated  
194 representatives alleging nonpayment of the standard rate of wages or  
195 failure to provide paid leave may bring a complaint to the Labor  
196 Commissioner. The Labor Commissioner, the Director of Wage and  
197 Workplace Standards and wage enforcement agents of the Labor  
198 Department shall have power to enter, during usual business hours, the  
199 place of business or employment of any employer to determine  
200 compliance with this section, and for such purpose may examine payroll  
201 and other records and interview employees, call hearings, administer  
202 oaths, take testimony under oath and take depositions in the manner  
203 provided by sections 52-148a to 52-148e, inclusive. The commissioner or  
204 the director, for such purpose, may issue subpoenas for the attendance  
205 of witnesses and the production of books and records. Any required  
206 employer, an officer or agent of such employer, or the officer or agent of  
207 any corporation, firm or partnership who wilfully fails to furnish time  
208 and wage records as required by law to the commissioner, the director  
209 or any wage enforcement agent upon request or who refuses to admit  
210 the commissioner, the director or such agent to a place of employment  
211 or who hinders or delays the commissioner, the director or such agent  
212 in the performance of any duties in the enforcement of this section shall  
213 be fined not less than twenty-five dollars nor more than one hundred  
214 dollars, and each day of such failure to furnish time and wage records  
215 to the commissioner, the director or such agent shall constitute a  
216 separate offense, and each day of refusal of admittance, of hindering or  
217 of delaying the commissioner, the director or such agent shall constitute  
218 a separate offense.

219 (l) Notwithstanding subsection (j) of this section, any employer that

220 pays the state for a franchise to provide food preparation or service, or  
 221 both, for the state shall be required to certify that the wages and benefits  
 222 paid and paid leave provided to its employees are not less than the  
 223 standard rate established pursuant to this section, provided, if no  
 224 prevailing rate of wages or benefits was in effect at the time the state  
 225 entered into a franchise agreement, then the employer shall not be  
 226 required to pay the prevailing rate of wages or benefits or provide paid  
 227 leave during the life of the agreement, unless the agreement is amended,  
 228 extended or renewed.

229 (m) The Labor Commissioner may adopt regulations, in accordance  
 230 with chapter 54, to carry out the provisions of this section.

231 (n) The provisions of this section and any regulation adopted  
 232 pursuant to subsection (m) of this section shall not apply to any contract  
 233 or agreement entered into before July 1, 2000.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2022	31-57f

**Statement of Legislative Commissioners:**

In Section 1(b), "July 1, 2000" was changed to "July 1, 2022" for consistency with effective date of act.

**LAB** Joint Favorable Subst. -LCO



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill, which requires contractors covered by the standard wage law to offer a standard rate of paid leave and expands associated civil penalties for violations, results in a potential cost to the state and a potential minimal revenue gain from civil penalties to the extent there are violations found.<sup>1</sup>

To the extent the bill results in additional costs for contractors on covered state contracts there is a potential cost to the state, the magnitude of which is dependent on the size and scope of those contracts. There is no fiscal impact to municipalities as the bill's provisions pertain only to businesses that contract with state agencies.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future.

<sup>1</sup> The bill specifies that each pay period in which an employee is not paid the required standard wage rate is a separate offense, subject to a \$2,000 to \$5,000 fine.

**OLR Bill Analysis****SB 421*****AN ACT CONCERNING STANDARD WAGES.*****SUMMARY**

The state's standard wage law generally requires private contractors who perform building and property maintenance, property management, or food service work in state buildings to pay their employees a certain level of wages and benefits determined according to a statutorily defined process. This bill requires contractors covered by the law to offer a standard rate of paid leave (i.e., vacation, holiday, and personal leave) to their covered employees in addition to the prevailing rates of wages and benefits required by current law.

Under the current standard wage law, the prevailing rate of benefits that must be provided to employees includes paid leave, among other benefits. However, under certain circumstances, contractors may meet this benefit requirement by either paying a 30% surcharge to fund various benefits or paying the employee an additional 30%. By requiring these contractors to offer an additional standard rate of leave, the bill requires them to offer the leave regardless of how they otherwise meet the requirement to provide the prevailing rate of benefits (e.g., employee may receive an extra 30% plus the paid leave, instead of only the extra 30%).

The bill also does the following:

1. expands the standard wage law to cover contractors who provide security services in state buildings;
2. specifies that each pay period in which an employee is not paid the required standard wage rate is a separate offense, subject to a \$2,000 to \$5,000 fine;

3. requires covered contractors, for the duration of a covered contract, to annually (a) contact the labor commissioner by September 1 to get the applicable standard wage and standard paid leave requirements and (b) make any necessary adjustments on September 1;
4. expands certified records requirements to include paid leave records; and
5. adds related notice posting requirements for covered contractors.

Current law allows the labor commissioner and certain other Department of Labor employees to enter a covered contractor's business and conduct certain investigative activities (e.g., examine records) upon receiving a complaint about nonpayment of the standard rate of wages. The bill allows these officials to conduct these activities without first receiving a complaint. It also specifies that groups of employees and their designated representatives can file a complaint about nonpayment of the standard wage or paid leave with the labor commissioner.

Lastly, the bill makes various conforming changes and a technical change to more accurately refer to the federal law under which the federal Register of Wage Determinations is implemented.

EFFECTIVE DATE: July 1, 2022

## **PAID LEAVE**

The state's standard wage law requires the contractors covered by it to pay their covered employees the "prevailing rate of wages" and the "prevailing rate of benefits" received by most employees doing the same type of work under a union contract, so long as the contract covers at least 500 employees in Hartford County. If there is no prevailing rate of benefits, then the contractor must either (1) pay a 30% surcharge to cover the benefit costs or (2) if the contractor does not provide benefits to the employees, pay the employees an additional 30%. The bill specifies that the benefits covered by the surcharge do not include those required by federal, state, or local law.

Under current law, the prevailing rate of benefits includes, among other things, the value of any vacation, holiday, and personal leave provided under the applicable union contract. The bill, however, separates paid leave (i.e., vacation, holiday, or personal leave, other than leave provided under federal, state, or local law) from the prevailing rate of benefits and requires the contractors to offer their covered employees the standard rate of paid leave in addition to the prevailing rates of wages and benefits. In doing so, the bill requires contractors who pay the 30% surcharge or the additional 30% to their employees to also provide paid leave to their employees.

The bill also specifies that it does not require the contractors to ensure that their employees use all of the paid leave.

### ***Determining the Standard Rate of Paid Leave***

The bill requires the labor commissioner to determine the standard rate of paid leave as the greater of the paid leave provided under (1) the federal McNamara-O'Hara Service Contract Act (see BACKGROUND) or (2) the collective bargaining agreement (CBA) covering the most hourly non-supervisory employees in Hartford County in each job classification the labor commissioner establishes under the standard wage law. An applicable CBA must cover at least 500 employees in the classification.

### ***Certified Records***

Existing law requires contractors covered by the standard wage law to submit certified payroll records to the state contracting agent annually or upon request. These records must include a statement signed by the contractor that indicates, among other things, that the records are correct and the rate of wages paid to each employee complies with the standard wage law. The bill requires the records to include those that relate to the paid leave taken by each employee. It also requires the statement to indicate that the rate of paid leave offered to each employee is at least the standard rate of paid leave required by the bill.

### ***Posting Requirements***

The bill requires the covered contractors to post in a prominent and accessible place a poster stating (1) the standard rates of wages and paid leave owed to employees under the bill, (2) employee rights and remedies for violations of the standard wage law, and (3) the labor commissioner's contact information. The contractors must do so by the first day that work must be performed under a covered contract and for the contract's duration.

The bill requires the labor commissioner to develop a suitable poster with the information required above and provide it to the covered contractors. It also requires her to post the department's determinations of the corresponding standard rates for each job classification on its internet website.

### **BACKGROUND**

#### ***McNamara-O'Hara Service Contract Act***

The McNamara-O'Hara Service Contract Act requires contractors and subcontractors performing services on prime contracts that exceed \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement. The U.S. Department of Labor issues wage determinations on a contract-by-contract basis in response to specific requests from contracting agencies.

### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 9      Nay 4      (03/22/2022)