



# Senate

General Assembly

**File No. 303**

February Session, 2024

Substitute Senate Bill No. 137

*Senate, April 8, 2024*

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 GAS, ELECTRIC, SEWER AND WATER DELIVERY WORK.**

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

1 Section 1. (NEW) (*Effective October 1, 2024*) (a) As used in this section,  
2 section 2 of this act and section 31-53 of the general statutes, as amended  
3 by this act:

4 (1) "Public utility project" means the construction, remodeling,  
5 refinishing, refurbishing, rehabilitation, alteration or repair of any  
6 property that is owned and operated by a public utility;

7 (2) "Contractor" means any individual or business entity that is  
8 awarded, or is a subcontractor under, a public utility project contract;

9 (3) "Electric distribution company" has the same meaning as  
10 provided in section 16-1 of the general statutes;

11 (4) "Gas company" has the same meaning as provided in section 16-1

12 of the general statutes;

13 (5) "Pipeline company" has the same meaning as provided in section  
14 16-1 of the general statutes;

15 (6) "Public utility" means an electric distribution company, gas  
16 company, pipeline company, sewage company or water company;

17 (7) "Sewage company" has the same meaning as provided in section  
18 16-1 of the general statutes;

19 (8) "Water company" has the same meaning as provided in section 16-  
20 1 of the general statutes; and

21 (9) "Preapprenticeship program" means a program approved  
22 pursuant to sections 31-22m to 31-22v, inclusive, of the general statutes.

23 (b) Any contractor who has entered into a contract for a public utility  
24 project shall provide (1) apprenticeship training through an  
25 apprenticeship program registered with the Labor Department, or (2) a  
26 preapprenticeship training program.

27 (c) A contractor shall certify, in a form and manner prescribed by the  
28 Labor Commissioner, that such contractor currently provides (1)  
29 apprenticeship training through an apprenticeship program registered  
30 with the Labor Department, or (2) a preapprenticeship program.

31 Sec. 2. (NEW) (*Effective October 1, 2024*) (a) Each contract for a public  
32 utility project entered into on or after October 1, 2024, shall contain the  
33 following provision: "The wages paid on an hourly basis to any person  
34 performing the work of any mechanic, laborer or worker on the work  
35 herein, contracted to be done and the amount of payment or  
36 contribution paid or payable on behalf of each such person to any  
37 employee welfare fund, as defined in subsection (i) of section 31-53 of  
38 the general statutes, shall be at a rate equal to the rate customary or  
39 prevailing for the same work in the same trade or occupation in the town  
40 in which such construction, remodeling, refinishing, refurbishing,  
41 rehabilitation, alteration or repair project is being undertaken. Any

42 contractor who is not obligated by agreement to make payment or  
43 contribution on behalf of such person to any such employee welfare  
44 fund shall pay to each mechanic, laborer or worker as part of such  
45 person's wages the amount of payment or contribution for such person's  
46 classification on each pay day."

47 (b) If the Labor Commissioner, upon inspection or investigation of a  
48 complaint, believes that a contractor or subcontractor has knowingly or  
49 wilfully employed any mechanic, laborer or worker in the construction,  
50 remodeling, refinishing, refurbishing, rehabilitation, alteration or repair  
51 of any public utility project at a rate of wage on an hourly basis that is  
52 less than the rate customary or prevailing for the same work in the same  
53 trade or occupation in the town in which such public utility project is  
54 being constructed, remodeled, refinished, refurbished, rehabilitated,  
55 altered or repaired, or who has failed to pay the amount of payment or  
56 contributions paid or payable on behalf of each such person to any  
57 employee welfare fund, or in lieu thereof to the person, as provided in  
58 subsection (a) of this section, such contractor or subcontractor shall be  
59 issued a citation and may be fined five thousand dollars for each offense.  
60 The commissioner shall maintain a list of any contractor or  
61 subcontractor that, during the three preceding calendar years, violates  
62 this section or enters into a settlement with the commissioner to resolve  
63 any claim brought by the commissioner pursuant to this section. For  
64 each contractor or subcontractor placed on such list, the commissioner  
65 shall record the following information: (1) The nature of the violation;  
66 (2) the total amount of wages and fringe benefits making up the  
67 violation or agreed upon in any settlement with the commissioner; and  
68 (3) the total amount of civil penalties and fines agreed upon by the  
69 commissioner. The commissioner shall review the list on May first of  
70 each year for the preceding rolling three-year period and may refer for  
71 debarment any contractor or subcontractor that committed a violation  
72 of this section during the rolling three-year period. The commissioner  
73 shall refer for debarment any contractor or subcontractor that entered  
74 into one or more settlement agreements with the commissioner where  
75 the sum total of all settlements within such period exceeds fifty  
76 thousand dollars in back wages or fringe benefits, or entered into one or

77 more settlement agreements with the commissioner where the sum total  
78 of all settlements within such period exceeds fifty thousand dollars in  
79 civil penalties or fines agreed upon by the commissioner. Any contractor  
80 or subcontractor the commissioner refers for debarment may request a  
81 hearing before the commissioner. Such hearing shall be conducted in  
82 accordance with the provisions of chapter 54 of the general statutes. In  
83 addition, if it is found by the contracting officer representing the public  
84 utility that any mechanic, laborer or worker employed by the contractor  
85 or any subcontractor directly on the site for the work covered by the  
86 contract has been or is being paid a rate of wages less than the rate of  
87 wages required by the contract to be paid as required by this section, the  
88 public utility may (A) by written or electronic notice to the contractor,  
89 terminate such contractor's right to proceed with the work or such part  
90 of the work as to which there has been a failure to pay said required  
91 wages and to prosecute the work to completion by contract or  
92 otherwise, and the contractor and the contractor's sureties shall be liable  
93 to the public utility for any excess costs occasioned to public utility  
94 thereby, or (B) withhold payment of money to the contractor or  
95 subcontractor. The contracting officer of the public utility shall, not later  
96 than two days after taking such action, notify the commissioner, in  
97 writing or electronically, of the name of the contractor or subcontractor,  
98 the project involved, the location of the work, the violations involved,  
99 the date the contract was terminated and steps taken to collect the  
100 required wages.

101 (c) The Labor Commissioner may make complaint to the proper  
102 prosecuting authorities for the violation of any provision of subsection  
103 (b) of this section.

104 (d) The Labor Commissioner shall predetermine the prevailing rate  
105 and the amount of payment or contributions paid or payable on behalf  
106 of each person to any employee welfare fund, as defined in subsection  
107 (i) of section 31-53 of the general statutes, in each town where such  
108 contract is to be performed, in the same manner as provided in  
109 subsection (d) of section 31-53 of the general statutes.

110 (e) Any public utility that awards a contract for a public utility project  
111 that requires the contractor to pay prevailing wages under this section  
112 and where such costs associated with such public utility project are  
113 determined by the Public Utility Regulatory Authority to be recoverable  
114 under the provisions of sections 16-19 and 16-19e of the general statutes  
115 shall recover, in either base rates or an approved rate recovery  
116 mechanism determined by the Public Utility Regulatory Authority, any  
117 and all prudent and reasonably incurred costs for such prevailing  
118 wages.

119 (f) The provisions of this section shall not apply where (1) the  
120 combined total cost or total bond authorization for all work to be  
121 performed by all contractors and subcontractors in connection with new  
122 construction of any public utility project is less than one million dollars,  
123 or (2) the combined total cost of all work to be performed by all  
124 contractors and subcontractors in connection with any remodeling,  
125 refinishing, refurbishing, rehabilitation, alteration or repair of any  
126 public utility project is less than one hundred thousand dollars.

127 Sec. 3. Subsection (f) of section 31-53 of the 2024 supplement to the  
128 general statutes is repealed and the following is substituted in lieu  
129 thereof (*Effective October 1, 2024*):

130 (f) Each employer subject to the provisions of this section, section 31-  
131 53c, subsection (f) of section 31-53d, [or] section 31-54 or section 2 of this  
132 act shall (1) keep, maintain and preserve such records relating to the  
133 wages and hours worked by each person performing the work of any  
134 mechanic, laborer and worker and a schedule of the occupation or work  
135 classification at which each person performing the work of any  
136 mechanic, laborer or worker on the project is employed during each  
137 work day and week in such manner and form as the Labor  
138 Commissioner establishes to assure the proper payments due to such  
139 persons or employee welfare funds under this section, section 31-53c,  
140 subsection (f) of section 31-53d, [or] section 31-54 or section 2 of this act,  
141 regardless of any contractual relationship alleged to exist between the  
142 contractor and such person, provided such employer shall have the

143 option of keeping, maintaining and preserving such records in an  
144 electronic format, and (2) submit monthly to the contracting agency or  
145 the Department of Economic and Community Development pursuant  
146 to section 31-53c or to the developer of a covered project, as defined in  
147 section 31-53d, or to the public utility, as defined in section 1 of this act,  
148 as applicable, by mail, electronic mail or other method accepted by such  
149 agency, the Department of Economic and Community Development or  
150 such developer or to such public utility, a certified payroll that shall  
151 consist of a complete copy of such records accompanied by a statement  
152 signed by the employer that indicates (A) such records are correct; (B)  
153 the rate of wages paid to each person performing the work of any  
154 mechanic, laborer or worker and the amount of payment or  
155 contributions paid or payable on behalf of each such person to any  
156 employee welfare fund, as defined in subsection (i) of this section, are  
157 not less than the prevailing rate of wages and the amount of payment or  
158 contributions paid or payable on behalf of each such person to any  
159 employee welfare fund, as determined by the Labor Commissioner  
160 pursuant to subsection (d) of this section, and not less than those  
161 required by the contract to be paid; (C) the employer has complied with  
162 the applicable provisions of this section, section 31-53c, subsection (f) of  
163 section 31-53d, [and] section 31-54 and section 2 of this act; (D) each such  
164 person is covered by a workers' compensation insurance policy for the  
165 duration of such person's employment, which shall be demonstrated by  
166 submitting to the contracting agency the name of the workers'  
167 compensation insurance carrier covering each such person, the effective  
168 and expiration dates of each policy and each policy number; (E) the  
169 employer does not receive kickbacks, as defined in 41 USC 52, from any  
170 employee or employee welfare fund; and (F) pursuant to the provisions  
171 of section 53a-157a, the employer is aware that filing a certified payroll  
172 which the employer knows to be false is a class D felony for which the  
173 employer may be fined up to five thousand dollars, imprisoned for up  
174 to five years, or both. This subsection shall not be construed to prohibit  
175 a general contractor from relying on the certification of a lower tier  
176 subcontractor, provided the general contractor shall not be exempted  
177 from the provisions of section 53a-157a if the general contractor

178 knowingly relies upon a subcontractor's false certification.  
 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 records in accordance with the provisions of  
 182 section 1-212. The provisions of subsections (a) and (b) of section 31-59  
 183 and sections 31-66 and 31-69 that are not inconsistent with the  
 184 provisions of this section, section 31-53c, [or] 31-54 or section 2 of this  
 185 act apply to this section. Failing to file a certified payroll pursuant to  
 186 subdivision (2) of this subsection is a class D felony for which the  
 187 employer may be fined up to five thousand dollars, imprisoned for up  
 188 to five years, or both.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2024	New section
Sec. 2	October 1, 2024	New section
Sec. 3	October 1, 2024	31-53(f)

**Statement of Legislative Commissioners:**

Section 1 was rewritten for clarity and consistency; in Section 2(b), "contracting department" was changed to "contracting officer" for consistency with other provisions of the Subsec., and in Section 2(f), Subparas. (A) and (B) were changed to Subdivs. (1) and (2) for consistency with standard drafting conventions.

**LAB**      *Joint Favorable Subst.*

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 25 \$	FY 26 \$
Labor Dept.	GF - Cost	126,426	159,235
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	44,313	59,084
Labor Dept.	GF - Potential Revenue Gain	See Below	See Below
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	Minimal	Minimal
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 25 \$	FY 26 \$
All Municipalities	STATE MANDATE <sup>2</sup> - Cost	Potential	Potential

**Explanation**

**Section 1** requires any contractor who enters into a contract for a public utility project to provide (1) apprenticeship training through an apprenticeship program registered with the Department of Labor (DOL), or (2) a preapprenticeship training program. This does not result in any fiscal impact to DOL as its Office of Apprenticeship Training

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.25% of payroll in FY 25.

<sup>2</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.



(OAT) currently has capacity to accommodate the higher employer participation that may result.<sup>3</sup>

**Section 2** requires DOL to predetermine the prevailing wage and enforce that contractors pay said wage to any person performing work for public utility projects by issuing citations and fines in the amount of \$5,000 per offense. This results in a potential revenue gain for the agency to the extent penalties are issued and paid. Since the bill generally applies to these public utility projects the same enforcement and record keeping requirements as the public works prevailing wage law, this would result in a workload increase to DOL's Wage and Workplace Standards Division (WWSD). Such workload increase would require the division to hire (a) one wage enforcement agent (\$91,634 salary, \$37,799 fringe benefits, \$9,500 overhead) and (b) one clerical staff (\$51,600 salary, \$21,285 fringe benefits, \$9,500 overhead).

**Section 3** expands an existing class D felony related to filing certified payroll, which results in a potential cost to the Department of Correction and the Judicial Department for incarceration or probation and a potential revenue gain to the General Fund from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$3,300<sup>4</sup> while the average marginal cost for supervision in the community is less than \$800 each year for adults and \$1,000 each year for juveniles. Since FY 14, 90 offenses have been recorded for similar violations and no revenue has been collected for fines. Few, if any, violations are anticipated in the future.

Additionally, there is a potential cost to municipalities beginning in FY 25 associated with an increased cost of projects. The prevailing wage

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<sup>3</sup> There are currently over 1,700 employer sponsors registered with the OAT.

<sup>4</sup> Inmate marginal cost is based on increased consumables (e.g., food, clothing, water, sewage, living supplies, etc.). This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

provision may result in a potential cost to municipalities (for the municipal share of the project cost) as there will be increased contractual costs for these projects beginning in 25.

***Ratepayer Impact Statement<sup>5</sup>:***

The bill requires the payment of prevailing wage for public utility projects resulting in a potential rate increase. This provision will increase some costs for public utilities that will be passed on to ratepayers through the normal rate recovery process.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, number of violations and applicable projects.

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<sup>5</sup> The above ratepayer impact will apply to the state and municipalities individually increasing or decreasing cost in line with rates as a whole.

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**OLR Bill Analysis****sSB 137*****AN ACT CONCERNING GAS, ELECTRIC, SEWER AND WATER DELIVERY WORK.*****SUMMARY**

This bill requires contractors on certain public utility projects to pay their employees on the project the same prevailing wages and benefits that would be required on public works projects. The requirement applies to new construction projects with a total cost of at least \$1 million and renovation projects with a total cost of at least \$100,000. The bill generally applies to these public utility projects the same enforcement and record keeping requirements as the public works prevailing wage law (see "BACKGROUND").

Under the bill, a "public utility project" is a project for which one party is a gas company, pipeline company, water company, sewage company, or electric distribution company (generally, any of those types of companies that are regulated by the Public Utilities Regulatory Authority (PURA), see BACKGROUND).

The bill requires a public utility that must pay the prevailing wage to recover its costs for doing so through either its base rates or a PURA-approved rate recovery mechanism, as long as PURA finds that the costs were prudent and reasonably incurred and recoverable under state utility ratemaking laws.

The bill also requires any contractor who enters into a contract for a public utility project, regardless of cost, to offer (1) apprenticeship training through an apprenticeship program registered with the Department of Labor or (2) a pre-apprenticeship training program approved under the apprenticeship laws. It requires the contractor to

certify, in a way set by the labor commissioner, that it currently meets this requirement.

EFFECTIVE DATE: October 1, 2024

### **PREVAILING WAGES**

Under the state's prevailing wage law for public works projects, contracts for covered projects must require contractors and subcontractors to pay their construction workers the prevailing wage and benefits. Contractors who do not provide benefits at the rate required must make up the difference in hourly wages.

The bill requires a contract for certain public utility projects entered into on or after October 1, 2024, to include the same prevailing wage provision. As under the public works law, the requirement applies to new construction projects with a combined total cost or total bond authorization of at least \$1 million and renovation projects with a combined total cost of at least \$100,000. The labor commissioner must determine the prevailing wage and benefit for each trade or occupation and location in the same way that she does under the public works law.

### ***Enforcement***

The bill imposes the same enforcement provisions as provided under the public works prevailing wage law. If the labor commissioner, upon inspection or investigation of a complaint, believes that a contractor or subcontractor on a covered public utility project knowingly or willfully failed to pay their employees the prevailing wage and benefits, she must issue a citation to the contractor or subcontractor and may impose a fine of \$5,000 per offense.

The commissioner must maintain a list of any contractor or subcontractor that, over the previous three years, violated the public utility prevailing wage requirement or entered into a settlement with the commissioner to resolve a public utility prevailing wage claim. For those on the list, the commissioner must record the (1) violation's nature, (2) total amount of wages and benefits in violation or agreed upon in the settlement, and (3) total amount of civil penalties and fines

agreed upon by the commissioner.

The commissioner must review the list each May 1, for the preceding rolling three-year period. She may refer for debarment (i.e., prohibit from working on state or municipal projects) any contractor or subcontractor that violated the public utility prevailing wage law during that period. And she must do so for any contractor or subcontractor with whom she entered into one or more settlements totaling over the period more than \$50,000 in (1) back wages or fringe benefits or (2) civil penalties or fines. Any contractor or subcontractor referred for debarment may request a hearing with the commissioner under the Uniform Administrative Procedure Act.

In addition, if a public utility's contracting officer finds that a contractor or subcontractor on its covered project is not paying the required prevailing wages and benefits, the utility may (1) terminate the contractor's right to proceed with the work for which there was a failure to pay, with written or electronic notice; (2) prosecute the work to completion by contract or otherwise; and (3) hold the contractor and subcontractor's sureties liable for any excess costs to complete the work. In the alternative, the utility may withhold payments to the contractor or subcontractor.

If the utility takes either of these steps, within two days its contracting officer must notify the labor commissioner with the contractor's or subcontractor's name; the project and its location; the violations involved; the date the contract was terminated, if applicable; and steps taken to collect the required wages. The labor commissioner may file a complaint with the proper prosecuting authorities for violations.

### ***Record Keeping Requirement***

The bill expands the public works prevailing wage law's record keeping requirements to include covered public utility prevailing wage projects. Among other things, this requires contractors and subcontractors on a project to submit monthly certified payroll records to the utility. The records must contain the same information required

under the public works prevailing wage law, including:

1. detailed payroll records for each employee and
2. a signed statement that, among other things, (a) the records are correct, (b) the employer met the law's requirements, and (c) the employer understands the penalties for knowingly filing false payroll records.

The penalties for failing to comply with the certified payroll records requirement or knowingly filing false payroll records are the same as under the public works prevailing wage law (class D felonies with a fine of up to \$5,000, up to five years imprisonment, or both).

## **BACKGROUND**

### ***Public Works Prevailing Wage Law***

The state's prevailing wage law requires contracts on certain public works projects to require that contractors and subcontractors pay their construction workers wages and benefits equal to those that are customary or prevailing for the same work, in the same occupation, in the same town. The requirement applies to new construction projects of \$1 million or more and renovation projects of \$100,000 or more (CGS § 31-53).

### ***PURA-Regulated Utility Companies***

Under the public utility law (CGS § 16-1) and the bill, an "electric distribution company" is generally any person providing electric transmission or distribution services in the state. It does not include, among other things, a private power producer, a municipal electric utility, or a municipal electric energy cooperative.

A "gas company" is generally any person owning, maintaining, operating, or controlling mains, pipes, or other fixtures in public highways or streets to transmit or distribute gas for sale for heat or power in the state. It does not include, among other things, (1) a person manufacturing gas through a biomass gasification plant under certain conditions or (2) municipal gas utilities.

A “pipeline company” is generally any person owning, maintaining, operating, or controlling mains, pipes, or other fixtures through, over, or under any public land, water, parkways, highways, parks or public grounds to transport, transmit, or distribute petroleum products for hire in the state.

A “sewage company” is generally any person owning, maintaining, operating, or controlling, for general use in any town, city, or borough, or portion of them, in this state, sewage disposal facilities that discharge treated effluent into any waterway in the state.

A “water company” is generally any person owning, maintaining, operating, or controlling any pond, lake, reservoir, stream, well, or distributing plant or system to supply water to at least 50 consumers. It does not include, among other things, homeowners, condominium associations providing water only to their members; municipal waterworks systems; or a district, metropolitan district, municipal district or special services district authorized to supply water.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8      Nay 4      (03/19/2024)