

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 34

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GUERNSEY.

0372H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 290.210, RSMo, and to enact in lieu thereof two new sections relating to maintenance, and wages for work done on behalf of a school.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 290.210, RSMo, is repealed and two new sections enacted in lieu
2 thereof, to be known as sections 290.210, and 290.344, to read as follows:

290.210. As used in sections 290.210 to 290.340, unless the context indicates otherwise:

2 (1) "Construction" includes construction, reconstruction, [improvement,] enlargement,
3 [alteration,] painting and decorating **done as part of any of the foregoing** [, or major repair].

4 **Construction does not include maintenance work.**

5 (2) "Department" means the department of labor and industrial relations.

6 (3) "Locality" means the county where the physical work upon public works is
7 performed, except that if there is not available in the county a sufficient number of competent
8 skilled workmen to construct the public works efficiently and properly, "locality" may include
9 two or more counties adjacent to the one in which the work or construction is to be performed
10 and from which such workers may be obtained in sufficient numbers to perform the work, and
11 that, with respect to contracts with the state highways and transportation commission, "locality"
12 may be construed to include two or more adjacent counties from which workmen may be
13 accessible for work on such construction.

14 (4) "Maintenance work" means the repair, but not the replacement, of existing facilities
15 **and shall include repairs that restore existing facilities to a previous state or condition or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **improve the utility or enhance the appearance of existing facilities provided** that [when] the
17 size, type or extent of the existing facilities is not thereby changed or increased. **Maintenance**
18 **work shall not include major repairs which shall be defined as any work that exceeds the**
19 **replacement cost of existing facilities.**

20 (5) "Prevailing hourly rate of wages" means the wages paid generally, in the locality in
21 which the public works is being performed, to workmen engaged in work of a similar character
22 including the basic hourly rate of pay and the amount of the rate of contributions irrevocably
23 made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan
24 or program, and the amount of the rate of costs to the contractor or subcontractor which may be
25 reasonably anticipated in providing benefits to workmen and mechanics pursuant to an
26 enforceable commitment to carry out a financially responsible plan or program which was
27 communicated in writing to the workmen affected, for medical or hospital care, pensions on
28 retirement or death, compensation for injuries or illness resulting from occupational activity, or
29 insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability
30 and sickness insurance, accident insurance, for vacation and holiday pay, for defraying costs of
31 apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where
32 the contractor or subcontractor is not required by other federal or state law to provide any of the
33 benefits; provided, that the obligation of a contractor or subcontractor to make payment in
34 accordance with the prevailing wage determinations of the department, insofar as sections
35 290.210 to 290.340 are concerned, may be discharged by the making of payments in cash, by the
36 making of irrevocable contributions to trustees or third persons as provided herein, by the
37 assumption of an enforceable commitment to bear the costs of a plan or program as provided
38 herein, or any combination thereof, where the aggregate of such payments, contributions and
39 costs is not less than the rate of pay plus the other amounts as provided herein.

40 (6) "Public body" means the state of Missouri or any officer, official, authority, board
41 or commission of the state, or other political subdivision thereof, or any institution supported in
42 whole or in part by public funds.

43 (7) "Public works" means all fixed works constructed for public use or benefit or paid
44 for wholly or in part out of public funds. It also includes any work done directly by any public
45 utility company when performed by it pursuant to the order of the public service commission or
46 other public authority whether or not it be done under public supervision or direction or paid for
47 wholly or in part out of public funds when let to contract by said utility. It does not include any
48 work done for or by any drainage or levee district.

49 (8) "Workmen" means laborers, workmen and mechanics.

**290.344. 1. This section shall be known and may be cited as the "School
2 Construction Act". The provisions of this section are intended solely to assist school**

3 **districts in obtaining the maximum value from their tax dollars expended for the**
4 **construction and maintenance of their educational facilities.**

5 **2. Notwithstanding any provision of law to the contrary, for work done on behalf**
6 **of a school, a school district in any county except a county with a charter form of**
7 **government may exempt itself from the provisions of sections 290.210 to 290.340 upon**
8 **majority vote of the school board of such district. If the school district exempts itself from**
9 **sections 290.210 to 290.340, the school district shall notify the division of labor standards**
10 **within the department of such exemption.**

11 **3. An independent contractor conducting work under this section shall, upon the**
12 **request of the school district, show proof of workers' compensation coverage.**

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