

SECOND REGULAR SESSION

HOUSE BILL NO. 1931

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVE.

5431H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 8.675, 8.683, 34.217, 89.410, 285.500, 290.095, 290.210, 290.220, 290.230, 290.240, 290.250, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, 290.340, 290.550, 292.630, 393.715, 516.130, and 630.546, RSMo, and to enact in lieu thereof eleven new sections relating to the prevailing wage on public works.

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

Section A. Sections 8.675, 8.683, 34.217, 89.410, 285.500, 290.095, 290.210, 290.220, 290.230, 290.240, 290.250, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, 290.340, 290.550, 292.630, 393.715, 516.130, and 630.546, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 8.675, 8.683, 34.217, 89.410, 285.500, 290.095, 290.550, 292.630, 393.715, 516.130, and 630.546, to read as follows:

8.675. As used in sections 8.675 to 8.687, the following terms mean:

(1) "Construction management services" includes:

(a) Services provided in the planning and design phases of the project including, but not limited to, consulting with, advising, assisting and making recommendations to the public owner and architect, engineer or registered landscape architect on all aspects of planning for project construction; reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time requirements for procurement and construction, and projected costs; making, reviewing and refining budget estimates based on the public owner's program and other available information; making recommendations to the public owner and the architect or engineer regarding the division

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.

11 of work in the plans and specifications to facilitate the bidding and awarding of contracts;
12 soliciting the interest of capable contractors and assisting the owner in taking bids on the project;
13 analyzing the bids received and awarding contracts; and preparing and monitoring a progress
14 schedule during the design phase of the project and preparation of a proposed construction
15 schedule; and

16 (b) Services provided in the construction phase of the project including, but not limited
17 to, maintaining competent supervisory staff to coordinate and provide general direction of the
18 work and progress of the contractors on the project; observing the work as it is being performed
19 for general conformance with working drawings and specifications; establishing procedures for
20 coordinating among the public owner, architect or engineer, contractors and construction
21 manager with respect to all aspects of the project and implementing such procedures;
22 maintaining job site records and making appropriate progress reports; implementing labor policy
23 in conformance with the requirements of the public owner; reviewing the safety and equal
24 opportunity programs of each contractor for conformance with the public owner's policy and
25 making recommendations; reviewing and processing all applications for payment by involved
26 contractors and material suppliers in accordance with the terms of the contract; making
27 recommendations for and processing requests for changes in the work and maintaining records
28 of change orders; scheduling and conducting job meetings to ensure orderly progress of the work;
29 developing and monitoring a project progress schedule, coordinating and expediting the work
30 of all contractors and providing periodic status reports to the owner and the architect or engineer;
31 and, establishing and maintaining a cost control system and conducting meetings to review costs;

32 (2) "Construction manager", any person providing construction management services for
33 a public owner;

34 (3) "Public owner", [any public body, as described in section 290.210] **the state of**
35 **Missouri or any other officer, official, authority, board, or commission of the state, or other**
36 **political subdivision thereof, or any institution supported in whole or in part by public**
37 **funds.**

8.683. Upon award of a construction management services contract, the successful
2 construction manager shall contract with the public owner to furnish his skill and judgment in
3 cooperation with, and reliance upon, the services of the project architect or engineer. The
4 construction manager shall furnish business administration, management of the construction
5 process and other specified services to the public owner and shall perform in an expeditious and
6 economical manner consistent with the interest of the public owner. Should the public owner
7 determine it to be in the public's best interest, the construction manager may provide or perform
8 basic services for which reimbursement is provided in the general conditions to the construction
9 management services contract. The construction manager shall not, however, be permitted to

10 bid on or perform any of the actual construction on a public works project in which he is acting
11 as construction manager, nor shall any construction firm which controls, is controlled by, or
12 shares common ownership or control with, the construction manager be allowed to bid on or
13 perform work on such project. The actual construction work on the project shall be awarded by
14 competitive bidding as provided by law. All successful bidders shall contract directly with the
15 public owner, but shall perform at the direction of the construction manager unless otherwise
16 provided in the construction manager's contract with the public owner. All successful bidders
17 shall provide payment and performance bonds to the public owner. [All successful bidders shall
18 meet all the obligations of a prime contractor to whom a contract is awarded, pertaining to the
19 payment of prevailing wages pursuant to sections 290.210 to 290.340.] In addition, all
20 nonresident employers shall meet the bonding and registration requirements of sections 285.230
21 to 285.234.

34.217. Notwithstanding the provisions of section 1.140, the provisions of [sections]
2 **section** 290.095 [and 290.250] and sections 34.203 to 34.216 shall not be severable. In the event
3 a court of competent jurisdiction rules that any part of this act is unenforceable, the entire act
4 shall be rendered null and void.

89.410. 1. The planning commission shall recommend and the council may by ordinance
2 adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in
3 addition to the requirements provided by law for the approval of plats, may provide requirements
4 for the coordinated development of the city, town or village; for the coordination of streets within
5 subdivisions with other existing or planned streets or with other features of the city plan or
6 official map of the city, town or village; for adequate open spaces for traffic, recreation, light and
7 air; and for a distribution of population and traffic; provided that, the city, town or village may
8 only impose requirements for the posting of bonds, letters of credit or escrows for
9 subdivision-related improvements as provided for in subsections 2 to 5 of this section.

10 2. The regulation may include requirements as to the extent and the manner in which the
11 streets of the subdivision or any designated portions thereto shall be graded and improved as well
12 as including requirements as to the extent and manner of the installation of all utility facilities.
13 Compliance with all of these requirements is a condition precedent to the approval of the plat.
14 The regulations or practice of the council may provide for the tentative approval of the plat
15 previous to the improvements and utility installations; but any tentative approval shall not be
16 entered on the plat. The regulations may provide that, in lieu of the completion of the work and
17 installations previous to the final approval of a plat, the council shall accept, at the option of the
18 developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city,
19 town, or village. The city, town, or village may accept a surety bond, and such bond shall be in
20 an amount and with surety and other reasonable conditions, providing for and securing the actual

21 construction and installation of the improvements and utilities within a period specified by the
22 council and expressed in the bond. The release of any such escrow, letter of credit, or bond by
23 the city, town or village shall be as specified in this section. The council may enforce the escrow
24 or bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of
25 the completion of the work and installations previous to the final approval of a plat, for an
26 assessment or other method whereby the council is put in an assured position to do the work and
27 make the installations at the cost of the owners of the property within the subdivision. The
28 regulations may provide for the dedication, reservation or acquisition of lands and open spaces
29 necessary for public uses indicated on the city plan and for appropriate means of providing for
30 the compensation, including reasonable charges against the subdivision, if any, and over a period
31 of time and in a manner as is in the public interest.

32 3. The regulations shall provide that in the event a developer who has posted an escrow,
33 or letter of credit, or bond with a city, town, or village in accordance with subsection 2 of this
34 section transfers title of the subdivision property prior to full release of the escrow, letter of
35 credit, or bond, the municipality shall accept a replacement escrow or letter of credit from the
36 successor developer in the form allowed in subsection 2 of this section and in the amount of the
37 escrow or letter of credit held by the city, town, or village at the time of the property transfer, and
38 upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release
39 the original escrow or letter of credit in full and release the prior developer from all further
40 obligations with respect to the subdivision improvements if the successor developer assumes all
41 of the outstanding obligations of the previous developer. The city, town, or village may accept
42 a surety bond from the successor developer in the form allowed in subsection 2 of this section
43 and in the amount of the bond held by the city, town, or village at the time of the property
44 transfer, and upon receipt of the replacement bond, the city, town, or village shall release the
45 original bond in full, and release the prior developer from all further obligations with respect to
46 the subdivision improvements.

47 4. The regulations shall provide that any escrow or bond amount held by the city, town
48 or village to secure actual construction and installation on each component of the improvements
49 or utilities shall be released within thirty days of completion of each category of improvement
50 or utility work to be installed, minus a maximum retention of five percent which shall be released
51 upon completion of all improvements and utility work. The city, town, or village shall inspect
52 each category of improvement or utility work within twenty business days after a request for such
53 inspection. Any such category of improvement or utility work shall be deemed to be completed
54 upon certification by the city, town or village that the project is complete in accordance with the
55 ordinance of the city, town or village including the filing of all documentation and certifications
56 required by the city, town or village, in complete and acceptable form. The release shall be

57 deemed effective when the escrow funds or bond amount are duly posted with the United States
58 Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount
59 are hand delivered to an authorized person or place as specified by the owner or developer.

60 5. If the city, town or village has not released the escrow funds or bond amount within
61 thirty days as provided in this section or provided a timely inspection of the improvements or
62 utility work after request for such inspection, the city, town or village shall pay the owner or
63 developer in addition to the escrow funds due the owner or developer, interest at the rate of one
64 and one-half percent per month calculated from the expiration of the thirty-day period until the
65 escrow funds or bond amount have been released. Any owner or developer aggrieved by the
66 city's, town's or village's failure to observe the requirements of this section may bring a civil
67 action to enforce the provisions of this section. In any civil action or part of a civil action
68 brought pursuant to this section, the court may award the prevailing party or the city, town or
69 village the amount of all costs attributable to the action, including reasonable attorneys' fees.

70 6. Nothing in this section shall apply to performance, maintenance and payment bonds
71 required by cities, towns or villages.

72 7. Before adoption of its subdivision regulations or any amendment thereof, a duly
73 advertised public hearing thereon shall be held by the council.

74 8. The provisions of subsection 2 of this section requiring the acceptance of an escrow
75 secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the
76 developer, all of the provisions of subsection 3 of this section, and the provisions of subsections
77 4 and 5 of this section regarding an inspection of improvements or utility work within twenty
78 business days shall not apply to any home rule city with more than four hundred thousand
79 inhabitants and located in more than one county.

80 [9. Notwithstanding the provisions of section 290.210 to the contrary, improvements
81 secured by escrow, letter of credit, or bond as provided in this section shall not be subject to the
82 terms of sections 290.210 to 290.340 unless they are paid for wholly or in part out of public
83 funds.]

285.500. For the purposes of sections 285.500 to 285.515 the following terms mean:

2 (1) "Employee", any individual who performs services for an employer that would
3 indicate an employer-employee relationship in satisfaction of the factors in IRS Rev. Rule 87-41,
4 1987-1 C.B.296.;

5 (2) "Employer", any individual, organization, partnership, political subdivision,
6 corporation, or other legal entity which has or had in the entity's employ five or more individuals
7 performing public works [as defined in section 290.210];

8 (3) "Knowingly", a person acts knowingly or with knowledge:

9 (a) With respect to the person's conduct or to attendant circumstances when the person
10 is aware of the nature of the person's conduct or that those circumstances exist; or

11 (b) With respect to a result of the person's conduct when the person is aware that the
12 person's conduct is practically certain to cause that result;

13 **(4) "Public works", all fixed works constructed for public use or benefit or paid for**
14 **wholly or in part out of public funds. It also includes any work done directly by any public**
15 **utility company when performed by it pursuant to the order of the public service**
16 **commission or other public authority whether or not it is done under public supervision**
17 **or direction or paid for wholly or in part out of public funds when let to contract by the**
18 **utility. It does not include any work done for or by any drainage or levee district.**

290.095. [1. No contractor or subcontractor may directly or indirectly receive a wage
2 subsidy, bid supplement, or rebate for employment on a public works project if such wage
3 subsidy, bid supplement, or rebate has the effect of reducing the wage rate paid by the employer
4 on a given occupational title below the prevailing wage rate as provided in section 290.262.

5 2. In the event] **If a contractor or subcontractor directly or indirectly receives** a wage
6 subsidy, bid supplement, or rebate [is lawfully provided or received under subsections 1 or 2 of
7 this section] **for employment on a public works project**, the entity receiving such subsidy,
8 supplement, or rebate shall report the date and amount of such subsidy, supplement, or rebate
9 to the public body within thirty days of receipt of payment. This disclosure report shall be a
10 matter of public record under chapter 610.

11 [3. Any employer in violation of this section shall owe to the public body double the
12 dollar amount per hour that the wage subsidy, bid supplement, or rebate has reduced the wage
13 rate paid by the employer below the prevailing wage rate as provided in section 290.262 for each
14 hour that work was performed. It shall be the duty of the department to calculate the dollar
15 amount owed to the public body under this section.]

290.550. As used in sections 290.550 to 290.580, the following terms mean:

2 (1) "Laborers from nonrestrictive states", persons who are residents of a state which has
3 not enacted state laws restricting Missouri laborers from working on public works projects in that
4 state, as determined by the labor and industrial relations commission;

5 (2) "Missouri laborer", any person who has resided in Missouri for at least thirty days
6 and intends to become or remain a Missouri resident;

7 (3) "A period of excessive unemployment", any month immediately following two
8 consecutive calendar months during which the level of unemployment in the state has exceeded
9 five percent as measured by the United States Bureau of Labor Statistics in its monthly
10 publication of employment and unemployment figures;

11 (4) "Public works", [projects defined as public works pursuant to section 290.210] **all**
12 **fixed works constructed for public use or benefit or paid for wholly or in part out of public**
13 **funds. It also includes any work done directly by any public utility company when**
14 **performed by it pursuant to the order of the public service commission or other public**
15 **authority whether or not it is done under public supervision or direction or paid for wholly**
16 **or in part out of public funds when let to contract by the utility. It does not include any**
17 **work done for or by any drainage or levee district.**

292.630. 1. At all construction projects at which twenty people or more are engaged in
2 the performance of work, the primary employer or contractor at such project shall provide at least
3 one portable toilet for each twenty people; except that, the provisions of this section shall not
4 apply to any railroad company.

5 2. The provisions of this section shall be enforced by the department of labor and
6 industrial relations through the division of labor standards. Upon a finding by a court of
7 competent jurisdiction that a primary employer or contractor has willfully violated or omitted
8 to comply with the requirements of this section, such person or persons shall be [subject to
9 penalty as provided by section 290.340] **punished for each violation thereof by a fine not**
10 **exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both**
11 **such fine and imprisonment. Each day such violation or omission continues shall constitute**
12 **a separate offense as contemplated by this section.**

393.715. 1. The general powers of a commission to the extent provided in section
2 393.710 to be exercised for the benefit of its contracting members shall include the power to:

3 (1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate
4 in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by
5 participation with electric cooperative associations, municipally owned or public utilities or
6 acquire any interest in or any rights to capacity of a project, within or outside the state, and act
7 as an agent, or designate one or more other persons participating in a project to act as its agent,
8 in connection with the planning, acquisition, construction, operation, maintenance, repair,
9 extension or improvement of such project;

10 (2) Acquire, sell, distribute and process fuels necessary to the production of electric
11 power and energy; provided, however, the commission shall not have the power or authority to
12 erect, own, use or maintain a transmission line which is parallel or generally parallel to another
13 transmission line in place within a distance of two miles, which serves the same general area
14 sought to be served by the commission unless the public service commission finds that it is not
15 feasible to utilize the transmission line which is in place;

16 (3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,
17 wells, check dams, pumping stations, water purification plants, and other facilities for the

18 production, wholesale distribution, and utilization of water and to own and hold such real and
19 personal property as may be necessary to carry out the purposes of its organization; provided,
20 however, that a commission shall not sell or distribute water, at retail or wholesale, within the
21 certificated area of a water corporation which is subject to the jurisdiction of the public service
22 commission unless the sale or distribution of water is within the boundaries of a public water
23 supply district or municipality which is a contracting municipality in the commission and the
24 commission has obtained the approval of the public service commission prior to commencing
25 such said sale or distribution of water;

26 (4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells,
27 pumping stations, sewage treatment plants and other facilities for the treatment and
28 transportation of sewage and to own and hold such real and personal property as may be
29 necessary to carry out the purposes of its organization;

30 (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling,
31 transmission and other similar agreements with any person;

32 (6) Make and execute contracts and other instruments necessary or convenient to the
33 exercise of the powers of the commission;

34 (7) Employ agents and employees;

35 (8) Contract with any person, within or outside the state, for the construction of any
36 project or for any interest therein or any right to capacity thereof, without advertising for bids,
37 preparing final plans and specifications in advance of construction, or securing performance and
38 payment of bonds, except to the extent and on such terms as its board of directors or executive
39 committee shall determine[. Any contract entered into pursuant to this subdivision shall contain
40 a provision that the requirements of sections 290.210 to 290.340 shall apply];

41 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat
42 or electric power and energy, or any by-product resulting therefrom, within and outside the state,
43 in such amounts as it shall determine to be necessary and appropriate to make the most effective
44 use of its powers and to meet its responsibilities, and to enter into agreements with any person
45 with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms
46 and for such period of time as its board of directors or executive committee shall determine. A
47 commission may not sell or distribute water, gas, heat or power and energy, or sell sewage
48 service at retail to ultimate customers outside the boundary limits of its contracting
49 municipalities except pursuant to subsection 2 or 3 of this section;

50 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of,
51 mortgage, pledge, or grant a security interest in any real or personal property, commodity or
52 service or interest therein;

53 (11) Exercise the powers of eminent domain for public use as provided in chapter 523,
54 except that the power of eminent domain shall not be exercised against any electric cooperative
55 association, municipally owned or public utility;

56 (12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the
57 authority granted in Section 27 of Article VI of the Missouri Constitution;

58 (13) Sue and be sued in its own name;

59 (14) Have and use a corporate seal;

60 (15) Fix, maintain and revise fees, rates, rents and charges for functions, services,
61 facilities or commodities provided by the commission. The powers enumerated in this
62 subdivision shall constitute the power to tax for purposes of Article X, Section 15 of the
63 Missouri Constitution;

64 (16) Make, and from time to time, amend and repeal bylaws, rules and regulations not
65 inconsistent with this section to carry into effect the powers and purposes of the commission;

66 (17) Notwithstanding the provisions of any other law, invest any funds held in reserve
67 or sinking funds, or any funds not required for immediate disbursement, including the proceeds
68 from the sale of any bonds, in such obligations, securities and other investments as the
69 commission deems proper;

70 (18) Join organizations, membership in which is deemed by the board of directors or its
71 executive committee to be beneficial to accomplishment of the commission's purposes;

72 (19) Exercise any other powers which are deemed necessary and convenient by the
73 commission to effectuate the purposes of the commission; and

74 (20) Do and perform any acts and things authorized by this section under, through or by
75 means of an agent or by contracts with any person.

76 2. When a municipality purchases a privately owned water utility and a commission is
77 created pursuant to sections 393.700 to 393.770, the commission may continue to serve those
78 locations previously receiving water from the private utility even though the location receives
79 such service outside the geographical area of the municipalities forming the commission. New
80 water service may be provided in such areas if the site to receive such service is located within
81 one-fourth of a mile from a site serviced by the privately owned water utility.

82 3. When a commission created by any of the contracting entities listed in subdivision (4)
83 of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer
84 corporation or other nonprofit agency or entity organized to provide water or sewer service, the
85 commission may continue to serve, as well as provide new service to, those locations and areas
86 previously receiving water or sewer service from such nonprofit entity, regardless of whether or
87 not such location receives such service outside the geographical service area of the contracting

88 entities forming such commission; provided that such locations and areas previously receiving
89 water and sewer service from such nonprofit entity are not located within:

90 (1) Any county of the first classification with a population of more than six hundred
91 thousand and less than nine hundred thousand;

92 (2) The boundaries of any sewer district established pursuant to article VI, section 30(a)
93 of the Missouri Constitution; or

94 (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction
95 of the public service commission.

516.130. Within three years:

2 (1) An action against a sheriff, coroner or other officer, upon a liability incurred by the
3 doing of an act in his official capacity and in virtue of his office, or by the omission of an official
4 duty, including the nonpayment of money collected upon an execution or otherwise;

5 (2) An action upon a statute for a penalty or forfeiture, where the action is given to the
6 party aggrieved, or to such party and the state[;

7 (3) An action under section 290.300].

630.546. 1. The commissioner of administration is authorized to enter into a lease
2 purchase agreement for the use of facilities to be constructed by a private developer on the
3 grounds of the existing St. Louis state hospital for the use of the department of mental health,
4 provided any facilities to be constructed shall contain provisions for a possible adaptive re-use
5 of the present "dome" building.

6 2. The attorney general shall approve the instrument of conveyance as to form.

7 [3. Not less than the prevailing hourly rate of wages paid generally in the locality in
8 which the work is performed shall be paid by contractors or subcontractors to employees or other
9 workers when such contractors or subcontractors construct facilities for private developers on
10 the grounds of the existing St. Louis state hospital for the use of the department of mental health.
11 Such construction projects shall be considered public works and the determination of the
12 prevailing hourly rate of wages for the locality shall be made in accordance with the provisions
13 of sections 290.210 to 290.340.]

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

3 (1) "Adjacent county", any Missouri county of the third or fourth
4 classification having a boundary that, at any point, touches any boundary of the
5 locality for which the wage rate is being determined;

6 (2) "Collective bargaining agreement" means any written agreement or
7 understanding between an employer or employer association and a labor
8 organization or union which is the exclusive bargaining representative of the
9 employer's or employer association's employees pursuant to the terms of the
10 National Labor Relations Act and which agreement or understanding or

11 predecessor agreement or understanding has been used to determine an
12 occupational title wage rate;

13 (3) "Construction" includes construction, reconstruction, improvement,
14 enlargement, alteration, painting and decorating, or major repair;

15 (4) "Department" means the department of labor and industrial relations;

16 (5) "Labor organization" or "union" means any entity which has been
17 designated pursuant to the terms of the National Labor Relations Act as the
18 exclusive bargaining representative of employees of employers engaged in the
19 construction industry, which entity or affiliated entity has ever had a collective
20 bargaining agreement which determined an occupational title wage rate;

21 (6) "Locality" means the county where the physical work upon public
22 works is performed;

23 (7) "Maintenance work" means the repair, but not the replacement, of
24 existing facilities when the size, type or extent of the existing facilities is not
25 thereby changed or increased;

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

48 (9) "Previous six annual wage order reporting periods" means the current
49 annual wage order reporting period under consideration for wage rate
50 determinations and the five immediately preceding annual wage order reporting
51 periods;

52 (10) "Public body" means the state of Missouri or any officer, official,
 53 authority, board or commission of the state, or other political subdivision thereof,
 54 or any institution supported in whole or in part by public funds;

55 (11) "Public works" means all fixed works constructed for public use or
 56 benefit or paid for wholly or in part out of public funds. It also includes any work
 57 done directly by any public utility company when performed by it pursuant to the
 58 order of the public service commission or other public authority whether or not
 59 it be done under public supervision or direction or paid for wholly or in part out
 60 of public funds when let to contract by said utility. It does not include any work
 61 done for or by any drainage or levee district;

62 (12) "Workmen" means laborers, workmen and mechanics.]
 63

2 [290.220. It is hereby declared to be the policy of the state of Missouri
 3 that a wage of no less than the prevailing hourly rate of wages for work of a
 4 similar character in the locality in which the work is performed shall be paid to
 5 all workmen employed by or on behalf of any public body engaged in public
 6 works exclusive of maintenance work.]

2 [290.230. 1. Not less than the prevailing hourly rate of wages for work
 3 of a similar character in the locality in which the work is performed, and not less
 4 than the prevailing hourly rate of wages for legal holiday and overtime work,
 5 shall be paid to all workmen employed by or on behalf of any public body
 6 engaged in the construction of public works, exclusive of maintenance work.
 7 Only such workmen as are directly employed by contractors or subcontractors in
 8 actual construction work on the site of the building or construction job shall be
 9 deemed to be employed upon public works. Any such workman who agrees in
 10 writing to volunteer his or her labor without pay shall not be deemed to be
 11 employed upon public works, and shall not be entitled to the prevailing hourly
 12 rate of wages. For the purposes of this section, the term "workman who agrees
 13 in writing to volunteer his or her labor without pay" shall mean a workman who
 14 volunteers his or her labor without any promise of benefit or remuneration for
 15 such voluntary activity, and who is not a prisoner in any jail or prison facility and
 16 who is not performing community service pursuant to disposition of a criminal
 17 case against him, and is not otherwise employed for compensation at any time in
 18 the construction or maintenance work on the same public works for which the
 19 workman is a volunteer. Under no circumstances may an employer force, compel
 20 or otherwise intimidate an employee into performing work otherwise paid by a
 21 prevailing wage as a volunteer.

22 2. When the hauling of materials or equipment includes some phase of
 23 construction other than the mere transportation to the site of the construction,
 24 workmen engaged in this dual capacity shall be deemed employed directly on
 25 public works.]

2 [290.240. 1. The department shall inquire diligently as to any violation
3 of sections 290.210 to 290.340, shall institute actions for penalties herein
4 prescribed, and shall enforce generally the provisions of sections 290.210 to
5 290.340.

6 2. The department may establish rules and regulations for the purpose of
7 carrying out the provisions of sections 290.210 to 290.340.]

2 [290.250. 1. Every public body authorized to contract for or construct
3 public works before advertising for bids or undertaking such construction shall
4 request the department to determine the prevailing rates of wages for workmen
5 for the class or type of work called for by the public works, in the locality where
6 the work is to be performed. The department shall determine the prevailing
7 hourly rate of wages in the locality in which the work is to be performed for each
8 type of workman required to execute the contemplated contract and such
9 determination or schedule of the prevailing hourly rate of wages shall be attached
10 to and made a part of the specifications for the work. The public body shall then
11 specify in the resolution or ordinance and in the call for bids for the contract what
12 is the prevailing hourly rate of wages in the locality for each type of workman
13 needed to execute the contract and also the general prevailing rate for legal
14 holiday and overtime work. It shall be mandatory upon the contractor to whom
15 the contract is awarded and upon any subcontractor under him to pay not less
16 than the specified rates to all workmen employed by them in the execution of the
17 contract. The public body awarding the contract shall cause to be inserted in the
18 contract a stipulation to the effect that not less than the prevailing hourly rate of
19 wages shall be paid to all workmen performing work under the contract. The
20 employer shall forfeit as a penalty to the state, county, city and county, city, town,
21 district or other political subdivision on whose behalf the contract is made or
22 awarded one hundred dollars for each workman employed, for each calendar day,
23 or portion thereof, such workman is paid less than the said stipulated rates for any
24 work done under said contract, by him or by any subcontractor under him, and
25 the said public body awarding the contract shall cause to be inserted in the
26 contract a stipulation to this effect. It shall be the duty of such public body
27 awarding the contract, and its agents and officers, to take cognizance of all
28 complaints of all violations of the provisions of sections 290.210 to 290.340
29 committed in the course of the execution of the contract, and, when making
30 payments to the contractor becoming due under said contract, to withhold and
31 retain therefrom all sums and amounts due and owing as a result of any violation
32 of sections 290.210 to 290.340. It shall be lawful for any contractor to withhold
33 from any subcontractor under him sufficient sums to cover any penalties withheld
34 from him by the awarding body on account of said subcontractor's failure to
35 comply with the terms of sections 290.210 to 290.340, and if payment has already
36 been made to him, the contractor may recover from him the amount of the
penalty in a suit at law.

37 2. In determining whether a violation of sections 290.210 to 290.340 has
38 occurred, and whether the penalty under subsection 1 of this section shall be
39 imposed, it shall be the duty of the department to investigate any claim of
40 violation. Upon completing such investigation, the department shall notify the
41 employer of its findings. If the department concludes that a violation of sections
42 290.210 to 290.340 has occurred and a penalty may be due, the department shall
43 notify the employer of such finding by providing a notice of penalty to the
44 employer. Such penalty shall not be due until forty-five days after the date of the
45 notice of the penalty.

46 3. The employer shall have the right to dispute such notice of penalty in
47 writing to the department within forty-five days of the date of the notice. Upon
48 receipt of this written notice of dispute, the department shall notify the employer
49 of the right to resolve such dispute through arbitration. The state and the
50 employer shall submit to an arbitration process to be established by the
51 department by rule, and in conformance with the guidelines and rules of the
52 American Arbitration Association or other arbitration process mutually agreed
53 upon by the employer and the state. If at any time prior to the department
54 pursuing an enforcement action to enforce the monetary penalty provisions of
55 subsection 1 of this section against the employer, the employer pays the back
56 wages as determined by either the department or the arbitrator, the department
57 shall be precluded from initiating any enforcement action to impose the monetary
58 penalty provisions of subsection 1 of this section.

59 4. If the employer fails to pay all wages due as determined by the
60 arbitrator within forty-five days following the conclusion of the arbitration
61 process, or if the employer fails to exercise the right to seek arbitration, the
62 department may then pursue an enforcement action to enforce the monetary
63 penalty provisions of subsection 1 of this section against the employer. If the
64 court orders payment of the penalties as prescribed in subsection 1 of this section,
65 the department shall be entitled to recover its actual cost of enforcement from
66 such penalty amount.

67 5. Nothing in this section shall be interpreted as precluding an action for
68 enforcement filed by an aggrieved employee as otherwise provided in law.]

69

2 [290.260. 1. The department, as it deems necessary, shall from time to
3 time investigate and determine the prevailing hourly rate of wages for heavy and
4 highway construction work in the localities. In doing so, the department shall
5 accept and consider information regarding local wage rates that is submitted in
6 either paper or electronic formats. A determination applicable to every locality
7 to be contained in a general wage order shall be made annually on or before July
8 first of each year for the Missouri state highways and transportation commission
9 and shall remain in effect until superseded by a new general wage order. In
determining prevailing rates, the department shall ascertain and consider the

10 applicable wage rates established by collective bargaining agreements, if any, and
11 the rates that are paid generally within the locality.

12 2. A certified copy of the determination so made shall be filed
13 immediately with the secretary of state and with the department in Jefferson City.
14 Copies shall be supplied by the department to all persons requesting them within
15 ten days after the filing.

16 3. At any time within thirty days after the certified copies of the
17 determinations have been filed with the secretary of state and the department, any
18 person who is affected thereby may object in writing to the determination or the
19 part thereof that he deems objectionable by filing a written notice with the
20 department, stating the specific grounds of the objection.

21 4. Within thirty days of the receipt of the objection, the department shall
22 set a date for a hearing on the objection. The date for the hearing shall be within
23 sixty days of the receipt of the objection. Written notice of the time and place of
24 the hearing shall be given to the objectors at least ten days prior to the date set for
25 the hearing.

26 5. The department at its discretion may hear each written objection
27 separately or consolidate for hearing any two or more written objections. At the
28 hearing the department shall first introduce in evidence the investigation it
29 instituted and the other facts which were considered at the time of the original
30 determination which formed the basis for its determination. The department, or
31 the objector, or any interested party, thereafter may introduce any evidence that
32 is material to the issues.

33 6. Within twenty days of the conclusion of the hearing, the department
34 must rule on the written objection and make the final determination that it
35 believes the evidence warrants. Immediately, the department shall file a certified
36 copy of its final determination with the secretary of state and with the department
37 and shall serve a copy of the final determination on all parties to the proceedings
38 by personal service or by registered mail.

39 7. This final decision of the department of the prevailing wages in the
40 locality is subject to review in accordance with the provisions of chapter 536.
41 Any person affected, whether or not the person participated in the proceedings
42 resulting in the final determination, may have the decision of the department
43 reviewed. The filing of the final determination with the secretary of state shall
44 be considered a service of the final determination on persons not participating in
45 the administrative proceedings resulting in the final determination.

46 8. At any time before trial any person affected by the final determination
47 of the department may intervene in the proceedings to review under chapter 536
48 and be made a party to the proceedings.

49 9. All proceedings in any court affecting a determination of the
50 department under the provisions of sections 290.210 to 290.340 shall have
51 priority in hearing and determination over all other civil proceedings pending in
52 the court, except election contests.]

53

[290.262. 1. Except as otherwise provided in section 290.260, the department shall annually determine the prevailing hourly rate of wages in each locality for each separate occupational title. In doing so, the department shall accept and consider information regarding local wage rates that is submitted in either paper or electronic formats. A final determination applicable to every locality to be contained in an annual wage order shall be made annually on or before July first of each year and shall remain in effect until superseded by a new annual wage order or as otherwise provided in this section. The department shall, by March tenth of each year, make an initial determination for each occupational title within the locality.

2. The prevailing wage rate for an occupational title in a locality shall, with the exception of localities that are counties of the third and fourth classification and any county of the second classification with more than fifty-eight thousand but fewer than sixty-five thousand inhabitants, be the wage rate most commonly paid, as measured by the number of hours worked at each wage rate, for that occupational title within that locality. In determining such prevailing wage rates, the department shall ascertain and consider the applicable wage rates established by collective bargaining agreements, if any, when no wages were reported.

3. With respect only to localities that are counties of the third and fourth classification and any county of the second classification with more than fifty-eight thousand but fewer than sixty-five thousand inhabitants, the prevailing wage rate for an occupational title within such locality shall be determined in the following manner:

(1) The total number of hours worked that are not paid pursuant to a collective bargaining agreement for the time period in that occupational title in the locality and the total number of hours worked that are paid pursuant to a collective bargaining agreement for the time period in that occupational title in the locality shall be considered;

(2) If the total number of hours that are not paid pursuant to a collective bargaining agreement, in the aggregate, exceeds the total number of hours that are paid pursuant to such an agreement, in the aggregate, then the prevailing wage rate shall be the rate most commonly paid that is not paid pursuant to a collective bargaining agreement as measured by the number of hours worked at such rate for that occupational title within the locality;

(3) If the total number of hours that are paid pursuant to a collective bargaining agreement, in the aggregate, exceeds the total number of hours that are not paid pursuant to such an agreement, in the aggregate, then the prevailing wage rate shall be the rate most commonly paid that is paid pursuant to a collective bargaining agreement as measured by the number of hours worked at such rate for that occupational title within the locality;

42 (4) If no work within a particular occupational title has been performed
43 in a locality at any wage rate, the prevailing wage rate for that occupational title
44 in that locality shall be determined in the following manner:

45 (a) If wages were reported for an occupational title within a locality
46 within the previous six annual wage order reporting periods and the prevailing
47 wage rate was determined by a collective bargaining agreement by hours worked
48 pursuant to such agreement in the most recent annual wage order reporting period
49 where such wages were reported, then the wage rate paid pursuant to the current
50 collective bargaining agreement shall be the prevailing rate for that occupational
51 title within the locality;

52 (b) If wages were reported for an occupational title within a locality
53 within the previous six annual wage order reporting periods and the prevailing
54 wage rate was not determined by hours worked pursuant to a collective
55 bargaining agreement in the most recent annual wage order reporting period
56 where such wages were reported, then the wage rate paid in the most recent
57 annual wage order reporting period when such wages were reported shall be the
58 prevailing wage rate for that occupational title within the locality;

59 (c) If no wages were reported for an occupational title within a locality
60 within the previous six annual wage order reporting periods, the department shall
61 examine hours and wages reported in all adjacent Missouri counties during the
62 same periods. The most recent reported wage rate in a given wage order period
63 in the adjacent Missouri county with the most reported hours actually worked for
64 that occupational title in the wage period during the previous six annual wage
65 order reporting periods shall be used to determine the prevailing wage rate;

66 (d) If no wages were reported for an occupational title within any
67 adjacent Missouri county within the previous six annual wage order reporting
68 periods, then the rate paid pursuant to the current collective bargaining agreement
69 shall be the prevailing wage rate for that occupational title within the locality.

70 4. A certified copy of the initial determinations so made shall be filed
71 immediately with the secretary of state and with the department in Jefferson City.
72 Copies shall be supplied by the department to all persons requesting them within
73 ten days after the filing.

74 5. At any time within thirty days after the certified copies of the
75 determinations have been filed with the secretary of state and the department, any
76 person who is affected thereby may object in writing to a determination or a part
77 thereof that he deems objectionable by filing a written notice with the
78 department, stating the specific grounds of the objection. If no objection is filed,
79 the determination is final after thirty days.

80 6. After the receipt of the objection, the department shall set a date for
81 a hearing on the objection. The date for the hearing shall be within sixty days of
82 the receipt of the objection. Written notice of the time and place of the hearing
83 shall be given to the objectors at least ten days prior to the date set for the
84 hearing.

85 7. The department at its discretion may hear each written objection
86 separately or consolidate for hearing any two or more written objections. At the
87 hearing the department shall first introduce in evidence the investigation it
88 instituted and the other facts which were considered at the time of the original
89 determination which formed the basis for its determination. The department, or
90 the objector, or any interested party, thereafter may introduce any evidence that
91 is material to the issues.

92 8. Within twenty days of the conclusion of the hearing, the department
93 shall rule on the written objection and make the final determination that it
94 believes the evidence warrants. Immediately, the department shall file a certified
95 copy of its final determination with the secretary of state and with the department
96 and shall serve a copy of the final determination on all parties to the proceedings
97 by personal service or by registered mail.

98 9. This final decision of the department of the prevailing wages in the
99 locality for each occupational title is subject to review in accordance with the
100 provisions of chapter 536. Any person affected, whether or not the person
101 participated in the proceedings resulting in the final determination, may have the
102 decision of the department reviewed. The filing of the final determination with
103 the secretary of state shall be considered a service of the final determination on
104 persons not participating in the administrative proceedings resulting in the final
105 determination.

106 10. At any time before trial any person affected by the final determination
107 of the department may intervene in the proceedings to review under chapter 536
108 and be made a party to the proceedings.

109 11. Any annual wage order made for a particular occupational title in a
110 locality, that is based on the number of hours worked under a collective
111 bargaining agreement, may be altered once each year, as provided in this
112 subsection. The prevailing wage for each such occupational title may be adjusted
113 on the anniversary date of any collective bargaining agreement which covers all
114 persons in that particular occupational title in the locality in accordance with any
115 annual incremental wage increases set in the collective bargaining agreement. If
116 the prevailing wage for an occupational title is adjusted pursuant to this
117 subsection, the employee's representative or employer in regard to such collective
118 bargaining agreement shall notify the department of this adjustment, including
119 the effective date of the adjustment. The adjusted prevailing wage shall be in
120 effect until the next final annual wage order is issued pursuant to this section.
121 The wage rates for any particular job, contracted and commenced within sixty
122 days of the contract date, which were set as a result of the annual or revised wage
123 order, shall remain in effect for the duration of that particular job.

124 12. In addition to all other reporting requirements of sections 290.210 to
125 290.340, each public body which is awarding a contract for a public works
126 project shall, prior to beginning of any work on such public works project, notify
127 the department, on a form prescribed by the department, of the scope of the work

128 to be done, the various types of craftsmen who will be needed on the project, and
129 the date work will commence on the project.]

130

2 [290.263. The hourly wages to be paid as prescribed in section 290.250
3 to workmen upon public works shall not be less than the minimum wage
4 specified under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as
5 amended.]

6

2 [290.265. A clearly legible statement of all prevailing hourly wage rates
3 to be paid to all workmen employed in order to execute the contract and
4 employed on the construction of the public works shall be kept posted in a
5 prominent and easily accessible place at the site thereof by each contractor and
6 subcontractor engaged in the public works projects under the provisions of this
7 law and such notice shall remain posted during the full time that any such
8 workman shall be employed on the public works.]

9

2 [290.270. The finding of the department ascertaining and declaring the
3 prevailing hourly rate of wages shall be final for the locality, unless reviewed
4 under the provisions of sections 290.210 to 290.340. Nothing in sections
5 290.210 to 290.340, however, shall be construed to prohibit the payment to any
6 workman employed on any public work of more than the prevailing rate of
7 wages. Nothing in sections 290.210 to 290.340 shall be construed to limit the
8 hours of work which may be performed by any workman in any particular period
9 of time.]

10

2 [290.280. The authorized representative of the department may
3 administer oaths, take or cause to be taken the depositions of witnesses, and
4 require by subpoena the attendance and testimony of witnesses and the
5 production of all books, records, and other evidence relative to any matter under
6 investigation or hearing. The subpoena shall be signed and issued by the
7 department's authorized representative. In case of failure of any person to comply
8 with any subpoena lawfully issued under this section, or on the refusal of any
9 witness to produce evidence or to testify to any matter regarding which he may
10 be lawfully interrogated, the authorized representative of the department may
11 proceed to enforce obedience to the subpoenas in the manner provided by section
12 536.077 for administrative agencies. The authorized representative of the
13 department shall have the power to certify to official acts.]

14

2 [290.290. 1. The contractor and each subcontractor engaged in any
3 construction of public works shall keep full and accurate records clearly
4 indicating the names, occupations and crafts of every workman employed by
5 them in connection with the public work together with an accurate record of the
6 number of hours worked by each workman and the actual wages paid therefor.

6 The payroll records required to be so kept shall be open to inspection by any
7 authorized representative of the contracting public body or of the department at
8 any reasonable time and as often as may be necessary and such records shall not
9 be destroyed or removed from the state for the period of one year following the
10 completion of the public work in connection with which the records are made.

11 2. Each contractor and subcontractor shall file with the contracting public
12 body upon completion of the public work and prior to final payment therefor an
13 affidavit stating that he had fully complied with the provisions and requirements
14 of this chapter, and no public body shall be authorized to make final payment
15 until such affidavit is filed therewith in proper form and order.

16 3. Each contractor and subcontractor engaged in any construction of
17 public works shall have its name, acceptable abbreviation or recognizable logo
18 and the name of the city and state of the mailing address of the principal office
19 of the company, on each motor vehicle and motorized self-propelled piece of
20 equipment which is used in connection with such public works project during the
21 time the contractor or subcontractor is engaged on such project. The sign shall
22 be legible from a distance of twenty feet but the size of the lettering need not be
23 larger than two inches. In cases where equipment is leased or where affixing a
24 legible sign to the equipment is impractical, the contractor may place a temporary
25 stationary sign, with the information required pursuant to this subsection, at the
26 main entrance of the construction project in place of affixing the required
27 information on the equipment so long as such sign is not in violation of any state
28 or federal statute, rule or regulation. Motor vehicles which are required to have
29 similar information affixed thereto pursuant to requirements of a regulatory
30 agency of the state or federal government are exempt from the provisions of this
31 subsection.

32 4. The provisions of subsection 3 of this section shall not apply to
33 construction of public works for which the contract awarded is in the amount of
34 two hundred fifty thousand dollars or less.]

35

2 [290.300. Any workman employed by the contractor or by any
3 subcontractor under the contractor who shall be paid for his services in a sum less
4 than the stipulated rates for work done under the contract, shall have a right of
5 action for double whatever difference there may be between the amount so paid
6 and the rates provided by the contract together with a reasonable attorney's fee to
7 be determined by the court, and an action brought to recover same shall be
8 deemed to be a suit for wages, and any and all judgments entered therein shall
9 have the same force and effect as other judgments for wages.]

9

2 [290.305. No person, firm or corporation shall violate the wage
3 provisions of any contract contemplated in sections 290.210 to 290.340 or suffer
4 or require any employee to work for less than the rate of wages so fixed, or
violate any of the provisions contained in sections 290.210 to 290.340. Where

5 workmen are employed and their rate of wages has been determined as provided
6 in sections 290.210 to 290.340, no person, either for himself or any other person,
7 shall request, demand or receive, either before or after such workman is engaged,
8 that such workman pay back, return, donate, contribute, or give any part or all of
9 said workman's wages, salary, or thing of value, to any person, upon the
10 statement, representation, or understanding that failure to comply with such
11 request or demand will prevent such workman from procuring or retaining
12 employment, and no person shall, directly or indirectly, pay, request or authorize
13 any other person to violate this section. This section does not apply to any agent
14 or representative of a duly constituted labor organization acting in the collection
15 of dues or assessments of such organization.]
16

2 [290.315. All contractors and subcontractors required in sections 290.210
3 to 290.340 to pay not less than the prevailing rate of wages shall make full
4 payment of such wages in legal tender, without any deduction for food, sleeping
5 accommodations, transportation, use of small tools, or any other thing of any kind
6 or description. This section does not apply where the employer and employee
7 enter into an agreement in writing at the beginning of said term of employment
8 covering deductions for food, sleeping accommodations, or other similar items,
9 provided such agreement is submitted by the employer to the public body
10 awarding the contract and the same is approved by such public body as fair and
11 reasonable.]

2 [290.320. No public body, officer, official, member, agent or
3 representative authorized to contract for public works shall fail, before
4 advertising for bids or contracting for such construction, to have the department
5 determine the prevailing rates of wages of workmen for each class of work called
6 for by the public works in the locality where the work is to be performed as
7 provided in sections 290.210 to 290.340.]

2 [290.325. No public body, officer, official, member, agent or
3 representative thereof authorized to contract for public works shall award a
4 contract for the construction of such improvement or disburse any funds on
5 account of the construction of such public improvement, unless such public body
6 has first had the department determine the prevailing rates of wages of workmen
7 for the class of work called for by such public works in the locality where the
8 work is to be performed and such determination has been made a part of the
9 specifications and contract for such public works.]

2 [290.330. The department after investigation, upon complaint or upon its
3 own initiative, shall file with the secretary of state a list of the contractors and
4 subcontractors who it finds have been prosecuted and convicted for violations of
sections 290.210 to 290.340 and such contractor or subcontractor, or simulations

5 thereof, shall be prohibited from contracting directly or indirectly with any public
6 body for the construction of any public works or from performing any work on
7 the same as a contractor or subcontractor for a period of one year from the date
8 of the first conviction for such violation and for a period of three years from the
9 date of each subsequent violation and conviction thereof. No public body shall
10 award a contract for a public works to any contractor or subcontractor, or
11 simulation thereof, during the time that its name appears on said list. The filing
12 of the notice of conviction with the secretary of state shall be notice to all public
13 bodies and their officers, officials, members, agents and representatives.]
14

2 [290.335. If it is found that a public body, contractor or subcontractor has
3 not complied with any of the terms of sections 290.210 to 290.340, the
4 department shall give notice of the precise violation in writing to such public
5 body, contractor or subcontractor. Sufficient time may be allowed for
6 compliance therewith as the department deems necessary. After the expiration
7 of the time prescribed in said notice, the department may in writing inform the
8 attorney general of the fact that such notice has been given and that the public
9 body, contractor or subcontractor or the authorized representative or agent thereof
10 to whom it was directed has not complied with such notice. Upon receipt thereof,
11 the attorney general shall at the earliest possible time bring suit in the name of the
12 state in the circuit court of the county in which such public body is located or
13 where any such contractor or subcontractor is engaged in any public works to
14 enjoin the award of such contract for a public works, or any further work or
15 payments thereunder if the contract has been awarded, until the requirements of
16 such notice are fully complied with. The court may issue a temporary restraining
17 order with due notice to the defendant in such action. The plaintiff shall in any
18 such injunctive action post an adequate bond to be set by the circuit judge. Upon
19 final hearing thereof, if the court is satisfied that the requirements of the notice
20 by the department to the defendant were not unreasonable or arbitrary, it shall
21 issue an order enjoining the awarding of such contract for a public works, or any
22 further work or payments thereunder if the contract has been awarded, until the
23 notice is fully complied with. Such injunction shall continue operative until the
24 court is satisfied that the requirements of such notice have been complied with
25 and the court shall have and exercise with respect to the enforcement of such
26 injunctions all the power in it in other similar cases. Both the plaintiff and
27 defendant in such action have the same rights of appeal as are provided by law
28 in other injunction proceedings.]

2 [290.340. Any officer, official, member, agent or representative of any
3 public body, contractor or subcontractor who willfully violates and omits to
4 comply with any of the provisions and requirements of sections 290.210 to
5 290.340 shall be punished for each violation thereof by a fine not exceeding five
6 hundred dollars, or by imprisonment not exceeding six months, or by both such

6 fine and imprisonment. Each day such violation or omission continues shall
7 constitute a separate offense as contemplated by this section.]

✓