

25<sup>th</sup>

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1935**



**ENROLLED**

**SENATE BILL No.** 37

(By Mr. Randolph)



**PASSED** February 22 1935

**In Effect** from Passage

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**ENROLLED**  
**Senate Bill No. 37**

(BY MR. RANDOLPH)

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[Passed February 22, 1935; in effect from passage.]

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AN ACT to amend and reenact chapter fifty-seven, acts of the  
Legislature of West Virginia, regular session, one thousand  
nine hundred thirty-three, relating to the rate of wages to be  
paid to workmen and mechanics employed in construction of  
public improvements.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-seven, acts of the Legislature of West Vir-  
ginia, regular session, one thousand nine hundred thirty-three, re-  
lating to the rate of wages to be paid to workmen and mechanics

employed in construction of public improvements, be amended and reenacted, so as to read as follows:

Section 1. The term "public authority," as used in this act, shall mean any officer, board or commission of the state of West Virginia, or any political subdivision thereof, authorized by law to enter into a contract for the construction of a public improvement. The term construction, as used in this act, shall mean any construction, reconstruction, improvement, enlargement or repair of any public improvement. The term "public improvement," as used in this act, shall include all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or works constructed by the state of West Virginia or any political subdivision thereof. The term "locality," as used in this act, shall mean the county wherein the physical work upon any public improvement is being performed.

Sec. 2. Any public authority authorized to contract for a public improvement, shall, before advertising for bids for the construction thereof, fix and determine a fair minimum rate of wages to be paid by the successful bidder to the employees in the various branches or classes of the work, to be performed.

6 The "fair minimum rate of wages," for the intents and  
7 purposes of this act, shall be the rate of wage paid in the  
8 locality as hereinbefore defined to the majority of workmen,  
9 laborers or mechanics in the same trade or occupation. In the  
10 event that it be determined that there is not a majority in the  
11 same trade or occupation paid at the same rate, then the rate  
12 paid to the greater number in such trade or occupation shall  
13 be the minimum rate, provided such greater number constitutes  
14 at least forty per cent of the laborers, workmen or mechanics  
15 engaged in such trade or occupation; in the event that there is  
16 less than forty per cent of the laborers, workmen or mechanics  
17 engaged in the same trade or occupation in the same locality  
18 paid the same rate, then the average rate paid such laborers,  
19 workmen or mechanics in the same trade or occupation shall  
20 be the minimum rate. The minimum rate of wages so fixed  
21 shall be printed on the bidding blanks.

Sec. 3. In all cases where any public authority shall fix a  
2 fair minimum rate or rates of wages as herein provided, the  
3 contract executed between the public authority and the suc-  
4 cessful bidder shall contain a provision requiring the successful  
5 bidder and all his subcontractors to pay a rate or rates of

6 wages which shall not be less than the minimum rate or rates  
7 of wages so fixed. It shall be the duty of the successful bidder  
8 and all his subcontractors to strictly comply with such pro-  
9 visions of the contract.

Sec. 4. A clearly legible statement of all minimum wage rates  
2 to be paid the several classes of labor employed on the work  
3 shall be kept posted in a prominent and easily accessible place  
4 at the site of the work.

Sec. 5. Any contractor or subcontractor who shall violate the  
2 wage provisions of such contract, or who shall suffer, permit or  
3 require any employee to work for less than the minimum rate  
4 of wages so fixed, shall be fined not less than fifty dollars nor  
5 more than five hundred dollars. Any employee upon any public  
6 improvement who is paid less than the fixed minimum rate of  
7 wages applicable thereto may recover from the contractor or  
8 subcontractor the difference between the fixed minimum rate  
9 of wages and the amount paid to him, and in addition thereto  
10 a penalty equal in amount to such difference.

Sec. 6. The provision of this act shall not apply to contracts  
2 participated in by the United States public works administra-  
3 tion or involving federal grant regulations.

Sec. 7. Each section of this act and every part thereof is  
2 hereby declared to be an independent section or part of a sec-  
3 tion, and if any section, subsection, sentence, clause or phrase  
4 of this act shall for any reason be held unconstitutional, the  
5 validity of the remaining phrases, clauses, sentences, subsec-  
6 tions, and sections of this act shall not be affected thereby.

7 All acts and parts of acts in conflict with the provisions of  
8 this act are hereby repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Clinton Howard*  
 Chairman Senate Committee

*Arnold M. Pickett*  
 Chairman House Committee

Originated in the *Senate*  
 Takes effect *from* passage.

*Muriel Smith*  
 Clerk of the Senate

*W. S. Hall*  
 Clerk of the House of Delegates

*Chas. E. Hodges*  
 President of the Senate

*John I. Belter*  
 Speaker House of Delegates

The within.....this the.....  
 day of....., 1935.

.....  
 Governor

Filed in the office of the Secretary of State  
 of West Virginia. **MAR 6 1935**  
 Wm. S. O'BRIEN,  
 Secretary of State

I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the 6th day of March,  
1935.

  
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SECRETARY OF STATE