



General Assembly

February Session, 2006

Raised Bill No. 402

LCO No. 1838



Referred to Committee on

Introduced by: **GOVERNMENT ADMINISTRATION & ELECTIONS**
(GAE)

AN ACT CONCERNING CERTAIN LABOR DISPUTES.

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

- 1 Section 1. Section 31-57f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2006*):
- 3 (a) As used in this section: (1) "Required employer" means any
4 provider of food, building, property or equipment services or
5 maintenance listed in this subdivision whose rate of reimbursement or
6 compensation is determined by contract or agreement with the state or
7 any state agent: (A) Building, property or equipment service
8 companies; (B) management companies providing property
9 management services; and (C) companies providing food preparation
10 or service, or both; (2) "state agent" means any state official, state
11 employee or other person authorized to enter into a contract or
12 agreement on behalf of the state; (3) "person" means one or more
13 individuals, partnerships, associations, corporations, business trusts,
14 legal representatives or organized groups of persons; [and] (4)
15 "building, property or equipment service" means any janitorial,
16 cleaning, maintenance or related service; (5) "labor dispute" means a
17 strike, picketing or a boycott of a required employer or a subcontractor

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18 that affects the employees engaged in the performance of work on the
19 goods and services for which the state has contracted; and (6) "day"
20 means a calendar day.

21 (b) On and after July 1, 2000, the wages paid on an hourly basis to
22 any employee of a required employer in the provision of food,
23 building, property or equipment services provided to the state
24 pursuant to a contract or agreement with the state or any state agent,
25 shall be at a rate not less than the standard rate determined by the
26 Labor Commissioner pursuant to subsection (g) of this section.

27 (c) Any required employer or agent of such employer that violates
28 subsection (b) of this section shall pay a civil penalty in an amount not
29 less than two thousand five hundred dollars but not more than five
30 thousand dollars for each offense. The contracting department of the
31 state that has imposed such civil penalty on the required employer or
32 agent of such employer shall, within two days after taking such action,
33 notify the Labor Commissioner, in writing, of the name of the
34 employer or agent involved, the violations involved and steps taken to
35 collect the fine.

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

39 (e) For the purpose of predetermining the standard rate of covered
40 wages on an hourly basis, the Labor Commissioner shall establish
41 classifications for all hourly nonsupervisory employees based on the
42 applicable occupation codes and titles set forth in the federal Register
43 of Wage Determinations under the Service Contract Act of 1965, 41
44 USC 351, et seq. The Labor Commissioner shall then determine the
45 standard rate of wages for each classification of hourly nonsupervisory
46 employees which shall be equivalent to the minimum hourly wages set
47 forth in the federal Register of Wage Determinations under the Service
48 Contract Act, plus a thirty per cent surcharge to cover the cost of any
49 health, welfare and retirement plans or, if no such plan is in effect

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50 between the employees and the employer, an amount equal to thirty
51 per cent of the hourly wage which shall be paid directly to the
52 employees.

53 (f) Required employers with employees covered by collective
54 bargaining agreements which call for wages and benefits that are
55 reasonably related to the standard rate shall not be economically
56 disadvantaged in the bidding process, provided the collective
57 bargaining agreement was arrived at through arms-length
58 negotiations.

59 (g) The Labor Commissioner shall, in accordance with subsection (e)
60 of this section, determine the standard rate of wages for each
61 classification on an hourly basis where any covered services are to be
62 provided, and the state agent empowered to let such contract shall
63 contact the Labor Commissioner at least ten days prior to the date such
64 contract will be advertised for bid, to ascertain the standard rate of
65 wages and shall include the standard rate of wages on an hourly basis
66 for all classifications of employment in the proposal for the contract.
67 The standard rate of wages on an hourly basis shall, at all times, be
68 considered the minimum rate for the classification for which it was
69 established.

70 (h) Each required employer subject to the provisions of this section
71 shall (1) keep, maintain and preserve such records relating to the
72 wages and hours worked by each employee and a schedule of the
73 occupation or work classification at which each person is employed
74 during each work day and week in such manner and form as the Labor
75 Commissioner establishes to assure the proper payments due to such
76 employees, and (2) upon written request, submit to the contracting
77 state agent a certified payroll which shall consist of a complete copy of
78 such records accompanied by a statement signed by the employer
79 which indicates that (A) such records are correct, (B) the rate of wages
80 paid to each employee is not less than the standard rate of wages
81 required by this section, (C) such employer has complied with the

82 provisions of this section, and (D) such employer is aware that filing a
83 certified payroll which it knows to be false is a class D felony for which
84 such employer may be fined not more than five thousand dollars or
85 imprisoned not more than five years, or both. Notwithstanding the
86 provisions of section 1-210, as amended, the certified payroll shall be
87 considered a public record and every person shall have the right to
88 inspect and copy such record in accordance with the provisions of
89 section 1-212. The provisions of subsections (a) and (b) of section 31-59,
90 section 31-66 and section 31-69 which are not inconsistent with the
91 provisions of this section shall apply. Any person who files a false
92 certified payroll in violation of subdivision (2) of this subsection shall
93 be guilty of a class D felony for which such person may be fined not
94 more than five thousand dollars or imprisoned not more than five
95 years, or both.

96 (i) This section shall not apply to contracts, agreements or grants
97 which do not exceed forty-nine thousand nine hundred ninety-nine
98 dollars per annum.

99 (j) On receipt of a complaint for nonpayment of the standard rate of
100 wages, the Labor Commissioner, the Director of Wage and Workplace
101 Standards and wage enforcement agents of the Labor Department shall
102 have power to enter, during usual business hours, the place of
103 business or employment of any employer to determine compliance
104 with this section, and for such purpose may examine payroll and other
105 records and interview employees, call hearings, administer oaths, take
106 testimony under oath and take depositions in the manner provided by
107 sections 52-148a to 52-148e, inclusive. The commissioner or the
108 director, for such purpose, may issue subpoenas for the attendance of
109 witnesses and the production of books and records. Any required
110 employer, an officer or agent of such employer, or the officer or agent
111 of any corporation, firm or partnership who wilfully fails to furnish
112 time and wage records as required by law to the commissioner, the
113 director or any wage enforcement agent upon request or who refuses
114 to admit the commissioner, the director or such agent to a place of

115 employment or who hinders or delays the commissioner, the director
116 or such agent in the performance of any duties in the enforcement of
117 this section shall be fined not less than twenty-five dollars nor more
118 than one hundred dollars, and each day of such failure to furnish time
119 and wage records to the commissioner, the director or such agent shall
120 constitute a separate offense, and each day of refusal of admittance, of
121 hindering or of delaying the commissioner, the director or such agent
122 shall constitute a separate offense.

123 (k) Notwithstanding subsection (i) of this section, any employer that
124 pays the state for a franchise to provide food preparation or service, or
125 both, for the state shall be required to certify that the wages and
126 benefits paid to its employees are not less than the standard rate
127 established pursuant to this section.

128 (l) The Labor Commissioner may adopt regulations, in accordance
129 with chapter 54, to carry out the provisions of this section.

130 (m) The provisions of this section and any regulation adopted
131 pursuant to subsection (l) of this section shall not apply to any contract
132 or agreement entered into before July 1, 2000.

133 (n) On and after the effective date of this section, any contract for
134 the provision of goods or services between a required employer and
135 the state shall provide that: (1) If the delivery of the goods or services
136 owed under such contract is delayed by not less than one-half of a day
137 as a direct result of a labor dispute, even if the dispute is not the sole
138 cause of the delay, such required employer shall pay a penalty of five
139 per cent of the annual amount of such contract for each day or one-half
140 of a day that delivery in full is delayed; and (2) if the goods and
141 services delivered under such contract are not of the quality promised
142 by the required employer under such contract and such deficiency is a
143 direct result of a labor dispute, even if the dispute is not the sole cause
144 of the deficiency, such required employer shall pay a penalty of two
145 per cent of the annual amount of such contract for each day or one-half
146 of a day that such deficiency exists.

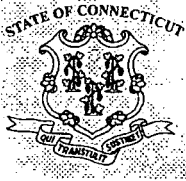
147 (o) Any labor union claiming violation of this section may bring an
 148 action against a required employer on behalf of an employee in the
 149 superior court to enforce the provisions of this section and shall be
 150 entitled to all remedies available under the law or in equity
 151 appropriate to remedy any violation of this section, including but not
 152 limited to, back pay, reinstatement or injunctive relief. The court shall
 153 award reasonable attorney's fees and costs to an employee who
 154 prevails in any such enforcement action. Nothing in this chapter shall
 155 be construed to limit an employee's right to bring a common law cause
 156 of action for wrongful termination.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2006	31-57f

Statement of Purpose:

To provide incentive for required employers to negotiate in good faith during any labor dispute.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]



Senate
CONNECTICUT STATE LIBRARY
LEGISLATIVE REFERENCE SECTION

General Assembly

File No. 378

February Session, 2006

Substitute Senate Bill No. 402

Senate, April 5, 2006

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CERTAIN SERVICE INTERRUPTIONS.

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

1 Section 1. Section 31-57f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

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

15 "building, property or equipment service" means any janitorial,
16 cleaning, maintenance or related service; (5) "service interruption"
17 means any interruption of goods or services provided by a required
18 employer or a subcontractor that affects the employees engaged in the
19 performance of work on the goods and services for which the state has
20 contracted, except an interruption caused by a fire, flood or other act of
21 God; and (6) "day" means a calendar day.

22 (b) On and after July 1, 2000, the wages paid on an hourly basis to
23 any employee of a required employer in the provision of food,
24 building, property or equipment services provided to the state
25 pursuant to a contract or agreement with the state or any state agent,
26 shall be at a rate not less than the standard rate determined by the
27 Labor Commissioner pursuant to subsection (g) of this section.

28 (c) Any required employer or agent of such employer that violates
29 subsection (b) of this section shall pay a civil penalty in an amount not
30 less than two thousand five hundred dollars but not more than five
31 thousand dollars for each offense. The contracting department of the
32 state that has imposed such civil penalty on the required employer or
33 agent of such employer shall, within two days after taking such action,
34 notify the Labor Commissioner, in writing, of the name of the
35 employer or agent involved, the violations involved and steps taken to
36 collect the fine.

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

40 (e) For the purpose of predetermining the standard rate of covered
41 wages on an hourly basis, the Labor Commissioner shall establish
42 classifications for all hourly nonsupervisory employees based on the
43 applicable occupation codes and titles set forth in the federal Register
44 of Wage Determinations under the Service Contract Act of 1965, 41
45 USC 351, et seq. The Labor Commissioner shall then determine the
46 standard rate of wages for each classification of hourly nonsupervisory
47 employees which shall be equivalent to the minimum hourly wages set

48 forth in the federal Register of Wage Determinations under the Service
49 Contract Act, plus a thirty per cent surcharge to cover the cost of any
50 health, welfare and retirement plans or, if no such plan is in effect
51 between the employees and the employer, an amount equal to thirty
52 per cent of the hourly wage which shall be paid directly to the
53 employees.

54 (f) Required employers with employees covered by collective
55 bargaining agreements which call for wages and benefits that are
56 reasonably related to the standard rate shall not be economically
57 disadvantaged in the bidding process, provided the collective
58 bargaining agreement was arrived at through arms-length
59 negotiations.

60 (g) The Labor Commissioner shall, in accordance with subsection (e)
61 of this section, determine the standard rate of wages for each
62 classification on an hourly basis where any covered services are to be
63 provided, and the state agent empowered to let such contract shall
64 contact the Labor Commissioner at least ten days prior to the date such
65 contract will be advertised for bid, to ascertain the standard rate of
66 wages and shall include the standard rate of wages on an hourly basis
67 for all classifications of employment in the proposal for the contract.
68 The standard rate of wages on an hourly basis shall, at all times, be
69 considered the minimum rate for the classification for which it was
70 established.

71 (h) Each required employer subject to the provisions of this section
72 shall (1) keep, maintain and preserve such records relating to the
73 wages and hours worked by each employee and a schedule of the
74 occupation or work classification at which each person is employed
75 during each work day and week in such manner and form as the Labor
76 Commissioner establishes to assure the proper payments due to such
77 employees, and (2) [upon written request] on or before January first of
78 each year, submit to the contracting state agent a certified payroll
79 which shall consist of a complete copy of such records accompanied by
80 a statement signed by the employer which indicates that (A) such

81 records are correct, (B) the rate of wages paid to each employee is not
82 less than the standard rate of wages required by this section, (C) such
83 employer has complied with the provisions of this section, and (D)
84 such employer is aware that filing a certified payroll which it knows to
85 be false is a class D felony for which such employer may be fined not
86 more than five thousand dollars or imprisoned not more than five
87 years, or both. Notwithstanding the provisions of section 1-210, as
88 amended, the certified payroll shall be considered a public record and
89 every person shall have the right to inspect and copy such record in
90 accordance with the provisions of section 1-212. The provisions of
91 subsections (a) and (b) of section 31-59, section 31-66 and section 31-69
92 which are not inconsistent with the provisions of this section shall
93 apply. Any person who files a false certified payroll in violation of
94 subdivision (2) of this subsection shall be guilty of a class D felony for
95 which such person may be fined not more than five thousand dollars
96 or imprisoned not more than five years, or both.

97 [(i) This section shall not apply to contracts, agreements or grants
98 which do not exceed forty-nine thousand nine hundred ninety-nine
99 dollars per annum.]

100 [(j)] (i) On receipt of a complaint for nonpayment of the standard
101 rate of wages, the Labor Commissioner, the Director of Wage and
102 Workplace Standards and wage enforcement agents of the Labor
103 Department shall have power to enter, during usual business hours,
104 the place of business or employment of any employer to determine
105 compliance with this section, and for such purpose may examine
106 payroll and other records and interview employees, call hearings,
107 administer oaths, take testimony under oath and take depositions in
108 the manner provided by sections 52-148a to 52-148e, inclusive. The
109 commissioner or the director, for such purpose, may issue subpoenas
110 for the attendance of witnesses and the production of books and
111 records. Any required employer, an officer or agent of such employer,
112 or the officer or agent of any corporation, firm or partnership who
113 wilfully fails to furnish time and wage records as required by law to
114 the commissioner, the director or any wage enforcement agent upon

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115 request or who refuses to admit the commissioner, the director or such
116 agent to a place of employment or who hinders or delays the
117 commissioner, the director or such agent in the performance of any
118 duties in the enforcement of this section shall be fined not less than
119 twenty-five dollars nor more than one hundred dollars, and each day
120 of such failure to furnish time and wage records to the commissioner,
121 the director or such agent shall constitute a separate offense, and each
122 day of refusal of admittance, of hindering or of delaying the
123 commissioner, the director or such agent shall constitute a separate
124 offense.

125 [(k) Notwithstanding subsection (i) of this section, any]

126 (j) Any employer that pays the state for a franchise to provide food
127 preparation or service, or both, for the state shall be required to certify
128 that the wages and benefits paid to its employees are not less than the
129 standard rate established pursuant to this section.

130 [(l)] (k) The Labor Commissioner may adopt regulations, in
131 accordance with chapter 54, to carry out the provisions of this section.

132 [(m)] (l) The provisions of this section and any regulation adopted
133 pursuant to subsection [(l)] (k) of this section shall not apply to any
134 contract or agreement entered into before July 1, 2000.

135 (m) On and after the effective date of this section, any contract for
136 the provision of goods or services between a required employer and
137 the state shall provide that: (1) If the delivery of the goods or services
138 owed under such contract is delayed by not less than one-half of a day
139 as a direct result of a service interruption, such required employer
140 shall pay a penalty of five per cent of the annual amount of such
141 contract for each day or one-half of a day that delivery in full is
142 delayed; and (2) if the goods and services delivered under such
143 contract are not of the quality promised by the required employer
144 under such contract and such deficiency is a direct result of a service
145 interruption, such required employer shall pay a penalty of two per
146 cent of the annual amount of such contract for each day or one-half of

147 a day that such deficiency exists.

This act shall take effect as follows and shall amend the following sections:

Section 1	July 1, 2006	31-57f
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GAE *Joint Favorable Subst.*

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The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Dept. of Administrative Services; Various State Agencies	All Funds - Cost	Significant	Significant
Dept. of Administrative Services; Various State Agencies	All Funds - Revenue Gain	Potential Indeterminate	Potential Indeterminate

Municipal Impact: None

Explanation

The bill eliminates the \$49,999 contract threshold that triggers the standard wage law, thus making the standard wage law applicable to certain service contracts¹ of any dollar amount. The labor commissioner establishes the standard rate of wages for service contract employees. This hourly rate plus a 30% surcharge to cover the cost of any health and retirement benefits is the minimum service workers must be paid. Extending the standard wage law to all service contracts will significantly increase future service contract costs to the state.

The Department of Administrative Services (DAS) handles the awarding of service contracts for the majority of executive branch agencies. DAS currently oversees approximately 200 active statewide service contracts under \$50,000 with a total contract value of \$4.4 million (over the term of the contracts). Additionally, various state agencies contract for services under \$50,000 independently; the total number and value of these contracts cannot be determined at this time.

Under the bill, all employees working for businesses that have

¹ For example: trash hauling, laundry, dry cleaning, pest control, janitorial, landscaping, and building maintenance.

service contracts with the state would have to be paid at least the standard wage rate, plus the 30% benefit surcharge. To the extent that vendors would have to increase employee wages and benefits to the standard wage rate, those costs would most likely be passed on to the state in the form of higher future service contract costs. This will significantly increase the costs to the state to contract out these services.

The bill imposes penalties on required employers for service interruptions that result in delays in the delivery of goods and services, and on goods and services that are not of the contractually-required quality. The penalty for a service interruption is 5% of the annual contract amount for each day or half-day that delivery is delayed. The penalty for goods and services that are not of the contractually-required quality is 2% of the annual contract amount for each day or half-day the quality deficiency exists.

This provision of the bill may result in an indeterminate revenue gain to the state if there are service interruptions or quality deficiencies. This revenue gain will be offset to some extent if the state has to contract another vendor to provide the services that were disrupted or not of the contractually-required quality.

Under the bill, required employers must submit a certified payroll to the contracting state agency each year. This provision has no fiscal impact on the state.

The Out Years

Costs to the state would increase in future years as current service contracts under \$50,000 expire (most are 3 year contracts) and must be put out for bid subject to the standard wage rate.

OLR Bill Analysis

sSB 402

AN ACT CONCERNING CERTAIN SERVICE INTERRUPTIONS.

SUMMARY:

This bill eliminates the \$49,999 contract threshold that triggers the standard wage law, thus making the law applicable to a contract of any dollar amount. Standard wage law requires businesses that contract with the state or its agent to provide building, food, property, or equipment services or maintenance ("required employers") to pay their employees at least the standard wage rate as determined by the labor commissioner.

The bill imposes penalties on required employers for service interruptions that result in (1) delays in the delivery of goods and services or (2) goods and services that are not of the promised quality. Under the bill, a "service interruption" is an interruption of goods or services provided by a required employer or subcontractor that affects the employees engaged in the performance of work on the goods and services. It does not include interruptions caused by fire, flood, or unpreventable events caused exclusively by forces of nature.

Under the bill, required employers must submit annual certified payrolls to the contracting state agencies. They currently submit certified payrolls upon request.

EFFECTIVE DATE: July 1, 2006

PENALTIES FOR SERVICE INTERRUPTIONS

The bill requires contracts between the state and required employers to include penalties of (1) 5% or (2) 2% of the annual contract amount for each calendar day or half-day that goods and services are not (1) delivered in full or (2) of the contractually-required quality,

respectively, as a direct result of a service interruption.

CERTIFIED PAYROLLS

Under the bill, required employers must submit a certified payroll to the contracting state agency by January 1 of each year. By law, certified payrolls must include a statement signed by the employer indicating the: (1) records are correct; (2) wage rate paid to each employee is at least the standard wage rate; (3) employer has complied with the standard wage rate law; and (4) employer is aware that knowingly filing a false certified payroll is a class D felony. A class D felony carries a fine of up to \$5,000, up to five years imprisonment, or both.

BACKGROUND

Standard Wage Law

Under this law, the Labor Department sets the hourly rate for all job classes based on those identified in the Federal Register of Wage Determinations under the Federal Service Contract Act, plus a 30% surcharge to represent the cost of health and retirement benefits.

The law also (1) prescribes how contracting agents inform potential bidders of standard wage rates to be met in preparing a contract proposal and (2) authorizes the department to investigate complaints and enforce the law, among other things.

Related Bill

HB 5031, favorably reported by the Labor and Public Employees Committee, eliminates the \$49,999 contract threshold that triggers the standard wage law.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 5 (03/17/2006)