

Legislative History for Connecticut Act

SB729 PA 486 1961

Senate: P. 2138-2139

House: P. 3425

Labor: P. 252, 243, 245-247, 249-250

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Renato Ricciuti:
Commissioner of
Labor

Mr. Chairman, Members of the Committee, speaking in favor of S. B. No. 724 (Sen. Miller) PREVENTION OF CONTINUED VIOLATION OF PREVAILING RATES OF WAGE STATUTES, while it's true that there is now a penalty in the law, I think this will strengthen it and also act as a further deterrent to employers who continually violate the prevailing wage statute.

On S. B. No. 727 (Sen. Miller) DETERMINATION OF PREVAILING RATES FOR THE PURPOSE OF STATE CONSTRUCTION CONTRACTS, this is a change in order to clear up part of the--or one of the motives involved in the changes, to clear up an ambiguity in the law. At one point, it speaks of the Labor Commissioner setting the prevailing wage rates and then, at another point, it says that he shall call a hearing at any required time. It doesn't make clear when a public hearing ought to be called and the change is to make it according to the discretion of the Labor Commissioner to call a hearing.

Previously, the rates under this Statute were set by a Board many years ago. This Board did hold many public hearings in various parts of the State. There are so many classifications involved and so many areas involved that it just became administratively impossible and if it weren't necessary for us to call public hearings in each of the 169 towns of Connecticut in order to set a rate, it would make it very difficult for the Department to administer this particular Statute. So, I think that the change clears up the ambiguity and also makes for a much better operation of the Statute.

On S. B. No. 729 (Sen Miller) PAYMENT OF HEALTH AND WELFARE AND PENSION CONTRIBUTIONS, legislation has been introduced from time to time over the years to provide for the payment of fringe benefits. It's my understanding that this bill now restricts it to Health and Welfare Plans and Pension Plans and I believe that this is a good bill and should receive the favorable consideration of the Committee.

I might point out that it also has been discussed that possibly the payments involved might be paid into the Fund, the various Funds which exist, and if you'll notice the bill provides that the money involved if it isn't going into a Fund will go directly to the workmen involved which I think also is a favorable change over previous legislation. This type of Statute has been passed in other states, Mr. Chairman. New York now has a Statute of this type and I believe that Connecticut should have one, too.

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Jesse Baldwin: It is very difficult for us to enforce this without proper records and without the right to go to the job and observe the type of work the employees are doing. In other words, as the Commissioner said we need this as one of our tools to try to do our job and again I recommend that this law be passed.

Chairman Miller: Thank you. Any other proponents to any of these bills?

Norman Zolot:
Conn. State Labor
Council

Mr. Chairman, Members of the Committee, I speak on these bills and, in addition to that, with respect to S. B. No. 729 (Sen. Miller) PAYMENT OF HEALTH AND WELFARE AND PENSION CONTRIBUTIONS, may I say also that I speak for the Connecticut State Building Trades Council and, believe it or not, Teamsters Joint Council 64 which is also involved in construction.

First of all, by way of background, may I say that there is a Statute on the books today which calls for the payment of the prevailing rate of wage to mechanics and laborers employed in the construction of "public building and public highways and bridges". The theory of the bill which was a WPA offshoot was that employees should be paid a decent rate of pay and the test for the decent rate of pay is the rate which would prevail in the area where the work is being performed. It was designed, in brief, to prevent the payment of sub-standard wages on public construction and, through the years, it has been, we think successful in achieving that goal.

S. B. No. 724 (Sen. Miller) PREVENTION OF CONTINUED VIOLATION OF PREVAILING RATES OF WAGE STATUTES, however, is addressed to one of the problems we have from time to time where a contractor fairly consistently continues to violate the payment of the prevailing rate of wage law. We chase him. We ask the Labor Department to go after him and if we catch him, he pays up. If we don't catch him, then there's nothing we can do about it. But we think that the employer who is caught with the goods is not the type of employer that the State of Connecticut should employ because he is defrauding his employees and he is in violation of the law when he fails to pay the prevailing rate of wage and we think that he should be eliminated as an eligible contractor for a period of three years from the date he is found to have committed such violation or is convicted. Now, I want you to know that every employer charged will have an opportunity to defend himself - that it is

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Norman Zolot:

not an arbitrary act but an act under which he will have due process of law to determine whether or not he has, in fact, violated the law.

S. B. No. 727 (Sen. Miller) DETERMINATION OF PRE-VAILING WAGE RATES FOR THE PURPOSE OF STATE CONSTRUCTION CONTRACTS, as the Commissioner has indicated, clarifies this ambiguity and requires no explanation on my part.

S. B. No. 729 (Sen. Miller) PAYMENT OF HEALTH AND WELFARE AND PENSION CONTRIBUTIONS, is one of the key bills for the construction industry in the State of Connecticut and for construction contractors in the State of Connecticut. This bill provides that the prevailing rate of wage will not only include the hourly rate of pay but also the amount of contributions that the prevailing pattern in the area would call for a contractor to contribute to a Health and Welfare Fund or to a Pension Fund.

As I indicated to you earlier, contributions to Health and Welfare Funds and Pension Funds are negotiated in lieu of wages and in the minds of the employees and in the minds of the contractor, they are essentially wages. We think that they should be treated as wages, both for the purpose of non-payment and also for the purposes of the prevailing rate of wage connected with public construction.

If this is not done, then we have the situation and I might say this is not uncommon, where some employers who do not provide these benefits for their employees, are at a competitive, economic advantage over employers who do and who do the same work. The nature and order of that competitive advantage may be as high as twenty to thirty cents per hour or between five and ten percent of the wage cost. This has meant, in some cases, that the contractor who is obligated to make such contributions in the area must compete with a contractor who is not under a similar obligation. The granting of a contract to a contractor who does not have such a contract means, in effect, that the State of Connecticut is favoring a sub-standard working condition. It is contrary, in our opinion, to the whole theory of the prevailing rate of wage concept. If it is true that the State of Connecticut as a matter of public policy thinks that prevailing rate of wage should be paid on the job then, realistically it should include not only the base rate but it must also include the payments made in lieu of wages. We also provide in that bill that the prevailing rate of wage with respect to fringe benefits will be determined in the same way as the prevailing rate of wages themselves. We've also provided that the trustees

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are authorized to sue on the bond on construction work. There's been some question as to whether or not the contribution due to a Health and Welfare Fund or Pension are covered by a surety bond furnished by a contractor in connection with work to be done on public buildings. In the one case which I was involved in, we were paid by the Surety and the theory that, under the Federal Act, the Miller Act, the contractor had to pay it there and the insurance company did not want to contest the scope of the Connecticut Act. But we were paid in the one case in which I know this became a problem and Sec-5 is designed to make sure that the trustees can sue for that particular purpose.

Now, in terms of parallel, the New York State Law the Massachusetts State Law, has already made these provisions. As a matter of fact, they're much broader than these provisions. In New York State, any fringe benefit which has a cost value is included as part of the prevailing rate of wage which they call 'supplements'. We have limited ours to those contributions for Welfare, Health and Pension so that this would not effect any one who is not in the construction industry. It effects only those engaged in public work for the State of Connecticut.

I might say, although I don't see any representatives here, it is my understanding that the Connecticut State Road Builders' Association is in support of this bill and I hope that Judge Savitt will be here and speak in behalf of it because his people are vitally effected.

S. B. No. 731 (Sen. Miller) PREVAILING WAGES ON PUBLIC CONSTRUCTION WORK, as Mr. Baldwin has indicated, is essential if we are to have proper policing of the prevailing rate of wage Statute itself. You cannot, very well, enforce the Act unless you know what the records are. Again, may I draw upon my personal experience in the connection with the one case I mentioned where we had to go to the Surety to collect the Health and Welfare Fund contributions. The employer maintains his records in his home in a payroll book. He has varying numbers of employees on the books. The number varies from approximately six to sixty-six. The period involved covers approximately a year and a half. In order to intelligently determine which employees were involved on the bond, it was necessary, first, to determine where each employee worked because we could only collect when and if the employee worked on the State job and this particular contractor had several jobs.

Then, from those employees whom we were able to

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Norman Zolot: be anticipated during the term of the contract and he bills into his bid such wage increases so that the job would still be profitable for him. It's only the contractor who does not have that foresight who occasionally gets caught short and resists such wage increases. If it is again true that the prevailing rate of wage should be paid on the job, then it seems to me to permit a contractor to pay twenty cents or forty cents below the established rate is contrary to the spirit of prevailing rate Statutes and should not be permitted and it's for that reason that we oppose this bill.

Chairman Miller: Thank you.

Rep. Rand:
Salisbury Mr. Zolot, is it a sure thing that wages will go constantly up? Are we always to face this? Do they never go down? I mean in prevailing rate.

Norman Zolot: Mr. Rand, if I had my crystal ball and could answer that, I'd be a profit. I would say it's hard to say and the answer in some cases is no but what has happened is the labor cost has increased because the employer in lieu of wages has provided alternate benefits which have a monetary value, such as Health and Welfare or Pension in lieu of the wage increase. When the cycle of wage increase and price increase will stop and who will chop it up, I don't know and I couldn't predict.

Chairman Miller: Thank you.

Rep. Rand:
Salisbury The State Labor Council seems to have no intention of letting it stop. Right?

Norman Zolot: The State Labor Council is the voice of its affiliated organizations. I would say that it is much concerned with providing adequate purchasing power for the members of labor organizations as it can and to that extent, I would say that the answer would be yes. But, on the other hand, they are not for inflation perse.

Chairman Miller: Are there any other-- Would you please make the questions brief? It's twenty-five after now and we have to get out of here at twelve o'clock and we have about five or six more bills.

Rep. McGee:
Farmington Mr. Zolot, you come from the theoretical to the practical. Isn't the practical effect of S. B. No. 729 (Sen. Miller) PAYMENT OF HEALTH AND WELFARE AND PENSION CONTRIBUTIONS, to compel employers to pay Health and Welfare benefits which benefits are normally a matter of negotia-

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Rep. McGee:
Farmington

tion and bargaining between the employer and the employee and if so, why is that justified in this instance and not in other instances where it still is controlled by bargaining between the two parties?

Norman Zolot:

Mr. McGee, if I understand your question, the answer first of all is that the employer would be required to pay--to provide Health and Welfare contributions or pay his employees the equivalent amount. The prevailing rate of wage is determined in the area by the employers and the employees operating in that area. If it is a predominantly unionized area, they determine the pattern. If it is a predominantly non-union or unorganized area, they would determine the pattern. So that whether or not the union determines the wage level depends upon the area.

But, let's assume, as you do, that this pattern is determined for the entire area and the question then is for the need or justification for this type of legislation. And I go back to what I consider a fundamental approach, namely, that if the theory of the prevailing rate of wage is that the employees should be paid the wage pattern which prevails in the area, that today the wage pattern includes not only the hourly rate but also the monetary values given in lieu of wages - namely, the Health and Welfare and the Pension. They have real money value which are clearly ascertainable. In the construction trade - it's not like manufacturing - the employer is required to contribute X¢, 7¢, 10¢ or whatever it is per hour. It's very fixed. In manufacturing, the situation is a little different. He is required, in most cases by an insurance company, to pay a premium and then based upon his experience, there's an adjustment in rate. So that there may be an advantage or a disadvantage but in the construction industry, it's a flat sum. The advantage or disadvantage is administered by the trustees to provide him with benefits for the employees.

Chairman Miller:

Thank you. Senator Lupton, would you like to speak?

Sen. Lupton:
25th District

Thank you, Senator Miller. Gentlemen of the Committee, I would like to support the bill before you which is H. B. No. 2393 (Rep. McLain) PUBLIC STRUCTURES, BONDS FOR PROTECTION OF EMPLOYEES AND MATERIAL MEN, and to call the attention of the Committee that the same bill is in the Judiciary Committee under the title of S. B. No. 823. You might wish to pull it out of the Judiciary Committee to save overlapping.

Chairman Miller:

Well, we've got it down for a hearing today so we'll

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Rep. Rourke:
New Haven

sight, she could have discretionary powers.
That was the reason for this.

Chairman Miller:

Thank you. Are there any other proponents to these bills. We've discussed them all pretty thoroughly so we'd appreciate---

R. L. GOODMAN:

The remarks will be brief - yes sir. Ladies and gentlemen of the Committee, in this capacity my dual role as Executive Secretary of the Connecticut Association of Plumbing and Heating Contractors and Executive Secretary of the Hartford Mechanical Contractors, Inc., we are definitely in favor of S. B. No. 729 (Sen Miller) PAYMENT OF HEALTH AND WELFARE AND PENSION CONTRIBUTIONS. Our people are constantly involved in competition with contractors who have a distinct advantage and that it is not necessary for them to pay the existing fringe benefits which again I must refer to as wages and, therefore, a part of the prevailing wage in an area. In our case, we have resisted payments of fringes because of the fact that of this differential in the prices that we must pay as contractors for our help.

At the present time, there is a ten cent an hour health and welfare benefit, a fifteen cent an hour pension and a vacation fund was negotiated but it was kept away from fringes and the men are paying withholding taxes on it and it is, in effect, a voluntary savings plan, a withholding plan that we're involved in. Had we allowed that to become a fringe, we would then have had a differential of some forty cents an hour but based on the present differential of twenty-five cents an hour on a job requiring 10,000 man hours, it's very easy to see that there is a distinct price advantage to the contractor who does not pay these fringes of \$2500.00.

We sincerely hope that you will concur in the passage of this bill.

Chairman Miller:-

Thank you. Are there any other proponents? If not, are there any opponents? For the record, I have seven letters from the Connecticut Road Builders' Association, Inc. They're opposed to S. B. No. 724, 725, 727, 730, 731 and in favor of H. B. No. 2393 and 4049. Are there any other opponents to any of these bills? If not, we'll go to S. B. No. 730 (Sen. Miller) PREFERENCE TO RESIDENTS ON STATE HIGHWAYS AND BRIDGES. Any proponents to this bill?

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opposed, the bill is passed.

THE CLERK:

Cal. No. 853, file 1021, Sub. for SB No. 729. An Act concerning the payment of prevailing wages. Favorable report of THE JSC on Labor.

THE CHAIR:

Senator Miller of the 13th District.

SENATOR MILLER:

Which one is this, Mr. President?

THE CHAIR:

Page 5, Cal. No. 853, file 1021, second from the bottom.

SENATOR MILLER:

Mr. President, I move acceptance of the committee's favorable report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR MILLER:

This bill gives recognition to the rights of employers engaged in public construction to allow the hourly contributions made to welfare and pension funds for employees' welfare benefits as defined by Sec. 31-78 of the General Statutes to be considered as a valid portion of hourly wages in the determination of wage classification schedules issued for public instruction. Employee welfare plans have long become a well established practice in employer and employee relations and negotiations in the state and in the nation. The National Industrial Conference Board estimates payments by employers to private pension and welfare funds

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in the United States totaled eight point five billion dollars in 1960. The recommended procedure contained in this bill for credited employee welfare benefits will provide an equitable basis in the competition for public instruction projects for those Connecticut contractors who extend such benefits to their employees in conformity with state and federal regulations.

This bill would exclude projects under \$5,000., where previously all projects were covered.

THE CHAIR:

Are there further remarks? No further remarks, the question is on the acceptance of the committee's favorable report and passage of the bill. Those in favor will signify by saying AYE, opposed, the bill is passed.

THE CLERK:

C_a 1. No. 854, file No. 1018, SB No. 1223. An Act concerning the sewer commission of the town of Enfield.

THE CHAIR:

Senator Pickett of the 33rd District.

SENATOR PICKETT:

Mr. President, I move for acceptance of the committee's favorable report and passage of the bill.

THE CHAIR:

Will you remark?

SENATOR PICKETT:

Mr. President, this bill will revise the Sewer Commission statutes for the town of Enfield. It contains referendum provision.

~~I move its acceptance and adoption.~~

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1961

SPECIAL SESSION

VOL. 9

PART 7

3081-3587

Thursday, June 1, 1961.

No. 729, an Act concerning the Payment of Prevailing Wages.

Favorable report, Joint Committee on Labor.

THE SPEAKER: The gentleman from Norfolk.

MR. ZANOBI OF NORFOLK:

Mr. Speaker, I move the acceptance of the Committee's favorable report and passage of the bill in concurrence.

THE SPEAKER:

The question is on the acceptance of the Committee's favorable report and passage of the bill. Will you remark?

MR. ZANOBI OF NORFOLK:

At the present time each contract for the construction, remodeling and repair of any public building by the State, its agents or political subdivision, provides that wages paid on an hourly basis shall be not less than the customary or prevailing wages in the town where the work is being done. This bill adds to the prevailing wages, the amount of welfare fund that is prevailing and customary in that town. This bill also exempts from this provision, contracts that total less than \$5000.

THE SPEAKER: Will you remark further? The gentleman from Coventry.

MR. LOYZIM OF COVENTRY:

This bill is a very good bill and I urge its unanimous passage.

THE SPEAKER: Will you remark further? If not, all those in favor signify by saying aye; opposed no; the ayes have it and the bill is passed.

THE CLERK: Calendar No. 1141, File No. 1102, Substitute for Senate