

1 HOUSE BILL NO. 139  
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
3 (Proposed by the House Committee on Labor and Commerce  
4 on February 6, 2024)  
5 (Patron Prior to Substitute--Delegate Simonds)

6 A BILL to require payment of prevailing wage rate for underground infrastructure works by public service  
7 companies.

8 **Be it enacted by the General Assembly of Virginia:**

9 1. § 1. Each public service company, when procuring services or letting contracts for underground  
10 infrastructure works, or when overseeing or administering such contracts for underground infrastructure  
11 works, shall ensure that its bid specifications or other contracts applicable to underground infrastructure  
12 works require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other  
13 remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform  
14 services in connection with the contract for underground infrastructure works at the prevailing wage rate.  
15 Each contract for underground infrastructure works by a public service company shall contain a provision  
16 requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker  
17 on the work contracted to be done under the contract shall be at a rate equal to the prevailing wage rate.  
18 The Department of Labor and Industry (the Department) shall determine and make available the prevailing  
19 wage rate for underground infrastructure work.

20 A public service company subject to the requirements of this act shall, prior to entering into or  
21 modifying a contract for underground infrastructure work, request and obtain the prevailing minimum  
22 wage and benefit rates for highway and road construction determined by the Commissioner of Labor and  
23 Industry (the Commissioner) and make them available to the public service company's contractors. A  
24 contractor or subcontractor who performs underground infrastructure work shall pay not less than the  
25 prevailing minimum wage and fringe benefit rates for highway and road construction determined by the

26 Commissioner to every worker in every trade or craft employed on an underground infrastructure works  
27 project.

28 Contractors and subcontractors performing underground infrastructure work shall post the general  
29 prevailing wage rate for each craft and classification involved, as determined by the Commissioner,  
30 including the effective date of any changes thereof, in a prominent and easily accessible place at the work  
31 site or any such place used by the contractor or subcontractor to pay workers their wages. A public service  
32 company, or a contractor or subcontractor of a public service company, shall, for each craft or trade  
33 employed on the project, (i) specify the total hourly amount to be paid to employees, including wages and  
34 applicable fringe benefits; (ii) provide an itemization of the amount paid in wages and each applicable  
35 benefit; and (iii) list the names and addresses of any third-party fund, plan, or program to which benefit  
36 payments will be made on behalf of employees.

37 Each public service company, contractor, or subcontractor subject to the provisions of this act shall  
38 keep, maintain, and preserve (a) records relating to the wages paid to and hours worked by each individual  
39 performing the work of any mechanic, laborer, or worker and (b) a schedule of the occupation or work  
40 classification at which each individual performing the work of any mechanic, laborer, or worker on the  
41 public works project is employed during each work day and week. The public service company, contractor,  
42 or subcontractor shall preserve these records for a minimum of six years and make such records available  
43 to the Department within 10 days of a request and shall certify that records reflect the actual hours worked  
44 and the amount paid to its workers for whatever time period the Department requests. The provisions of  
45 this act shall not apply to any contract for underground infrastructure works of \$250,000 or less.

46 As used in this act:

47 "Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other  
48 remuneration prevailing for the corresponding class of mechanics, laborers, or workers employed for the  
49 same work in the same trade or occupation in the locality where the facility or immovable property that is  
50 the subject of underground infrastructure works is located, as determined by the Commissioner on the  
51 basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the  
52 provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.

53 "Public service company" means the same as that term is defined in § 56-1, except that "public  
54 service company" does not include any communications service provider, as defined in § 58.1-647.

55 The provisions of this act shall apply to underground infrastructure work by a public service  
56 company that is performed under a contract that is entered into, amended, or modified on or after July 1,  
57 2024.

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