

# County Council of Howard County, Maryland

2007 Legislative Session

Legislative Day No. 9

## Bill No. 51 - 2007

Introduced by Calvin Ball  
Co-sponsored by Jennifer Terrasa

AN ACT requiring a minimum wage for employees of certain contractors and subcontractors of the County; providing for exceptions; providing for bid and proposal requirements; prohibiting certain acts; authorizing specified reductions to wages; specifying how certain minimum wage rates are calculated; specifying when other laws or agreements control wages; providing for enforcement; requiring an annual report; and generally relating to procurement of services.

---

Introduced and read first time \_\_\_\_\_, 2007. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2007.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

This Bill was read the third time on \_\_\_\_\_, 2007 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_ day of \_\_\_\_\_, 2007 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Approved by the County Executive \_\_\_\_\_, 2007

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 *Section 1. Be it enacted by the County Council of Howard County, Maryland, that Section 4-*  
2 *122A “Wage Requirements” be added to Subtitle 1 “Purchasing” of Title 4 “Contracts,*  
3 *Purchasing and Property” of the Howard County Code to read as follows:*  
4

5 **Title 4. Contracts, Purchasing and Property.**

6  
7 **Subtitle 1. Purchasing.**

8  
9  
10 **SECTION 4.122A. WAGE REQUIREMENTS.**

11  
12 (A) “COVERED EMPLOYER” DEFINED. IN THIS SECTION, “COVERED  
13 EMPLOYER” MEANS A CONTRACTOR OR SUBCONTRACTOR THAT IS SUBJECT TO  
14 THIS SECTION.

15  
16 (B) SCOPE.

17 (1) A COUNTY CONTRACT FOR PROCUREMENT OF CONTRACTUAL  
18 SERVICES SHALL REQUIRE THE CONTRACTOR AND ANY SUBCONTRACTOR TO  
19 COMPLY WITH THE WAGE REQUIREMENTS OF THIS SECTION.

20 (2) THIS SECTION DOES NOT APPLY TO:

21 (I) A CONTRACTOR WHO:

- 22 1. EMPLOYS FEWER THAN 5 EMPLOYEES WHEN THE  
23 CONTRACTOR SUBMITS A BID OR PROPOSAL, AND  
24 2. DOES NOT EMPLOY 5 OR MORE EMPLOYEES AT ANY  
25 TIME THE CONTRACT IS IN EFFECT AS A RESULT OF PERFORMING THE  
26 CONTRACT;

27 (II) A CONTRACTOR WHO, AT THE TIME A CONTRACT IS  
28 SIGNED:

- 29 1. HAS RECEIVED LESS THAN \$100,000 FROM THE  
30 COUNTY IN THE MOST RECENT 12-MONTH PERIOD; AND  
31 2. WILL BE ENTITLED TO RECEIVE LESS THAN \$100,000  
32 FROM THE COUNTY UNDER THAT CONTRACT IN THE NEXT 12-MONTH PERIOD;

33 (III) A COUNTY CONTRACT WITH A GOVERNMENTAL ENTITY;

1 (IV) A COUNTY CONTRACT WITH A NONPROFIT  
2 ORGANIZATION THAT HAS QUALIFIED FOR AN EXEMPTION FROM FEDERAL  
3 INCOME TAXES UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE;

4 (V) A COUNTY CONTRACT AWARDED UNDER §§ 4.110, 4.111, OR  
5 4.112 OF THIS SUBTITLE;

6 (VI) A COUNTY CONTRACT FOR ELECTRICITY, TELEPHONE,  
7 CABLE TELEVISION, WATER, SEWER, OR SIMILAR SERVICE DELIVERED BY A  
8 REGULATED PUBLIC UTILITY;

9 (VII) AN EMPLOYER TO THE EXTENT THAT THE EMPLOYER IS  
10 EXPRESSLY PRECLUDED FROM COMPLYING WITH THIS SECTION BY THE TERMS  
11 OF ANY FEDERAL OR STATE LAW, CONTRACT, OR GRANT; AND

12 (VII) A COUNTY CONTRACT ENTERED INTO UNDER  
13 COOPERATIVE PROCUREMENT WITH ANOTHER GOVERNMENT OR  
14 ORGANIZATION OF GOVERNMENTS.

15  
16 (C) SOLICITATION REQUIREMENTS.

17 (1) EACH BID OR PROPOSAL TO PROVIDE CONTRACTUAL SERVICES  
18 SHALL SPECIFY HOW THE COVERED EMPLOYER WILL COMPLY WITH THE WAGE  
19 REQUIREMENTS OF THIS SECTION.

20 (2) TO AVOID THE IMPOSITION OF ANY REQUIREMENT UNDER THIS  
21 SECTION, A COVERED EMPLOYER SHALL NOT:

22 (I) SUBDIVIDE A CONTRACT;

23 (II) PAY AN EMPLOYEE THROUGH A THIRD PARTY; OR

24 (III) TREAT AN EMPLOYEE AS A SUBCONTRACTOR OR  
25 INDEPENDENT CONTRACTOR.

26  
27 (D) HEALTH INSURANCE. IF A COVERED EMPLOYER COMMITS IN ITS BID  
28 OR PROPOSAL TO PROVIDE HEALTH INSURANCE TO AN EMPLOYEE WHO  
29 PROVIDES SERVICES TO THE COUNTY, THE COVERED EMPLOYER MAY:

1 (1) CERTIFY IN ITS BID OR PROPOSAL THE PER-EMPLOYEE HOURLY  
2 COST OF THE EMPLOYER'S SHARE OF THE PREMIUM FOR THAT INSURANCE, AND

3 (2) REDUCE THE WAGE PAID UNDER SUBSECTION (E) TO AN  
4 EMPLOYEE COVERED BY THE INSURANCE BY ALL OR PART OF THE PER-  
5 EMPLOYEE HOURLY COST OF THE EMPLOYER'S SHARE OF THE PREMIUM.

6  
7 (E) WAGE REQUIREMENT.

8 (1) A COVERED EMPLOYER SHALL PAY TO EACH EMPLOYEE AN  
9 HOURLY RATE SUFFICIENT TO AT LEAST EQUAL 125% OF THE FEDERAL  
10 POVERTY GUIDELINES FOR A FAMILY OF 4 INDIVIDUALS CALCULATED ON THE  
11 BASIS OF A 40-HOUR WORK WEEK FOR 52 WEEKS.

12 (2) FOR PURPOSES OF THIS SUBSECTION, THE FEDERAL POVERTY  
13 GUIDELINES ARE THE MOST RECENT OF THOSE THAT ARE UPDATED  
14 PERIODICALLY IN THE FEDERAL REGISTER BY THE U.S. DEPARTMENT OF  
15 HEALTH AND HUMAN SERVICES UNDER THE AUTHORITY OF 42 U.S.C. 9902(2).

16 (3) THE HOURLY RATE SHALL BE ROUNDED TO THE NEAREST  
17 MULTIPLE OF 5 CENTS.

18 (4) THE WAGE RATE CALCULATED UNDER THIS SUBSECTION SHALL  
19 BE PAID TO AN EMPLOYEE DURING THE TIME THE EMPLOYEE ACTUALLY  
20 PROVIDES SERVICES TO THE COUNTY.

21  
22 (F) EXCEPTIONS TO WAGE REQUIREMENT. THE WAGE REQUIREMENTS OF  
23 THIS SECTION DO NOT APPLY TO AN EMPLOYEE:

24 (1) WHO PERFORMS NO MEASURABLE WORK RELATED TO ANY  
25 CONTRACT WITH THE COUNTY;

26 (2) WHO PARTICIPATES IN A GOVERNMENT-OPERATED OR  
27 GOVERNMENT-SPONSORED PROGRAM THAT RESTRICTS THE EARNINGS OF OR  
28 WAGES PAID TO EMPLOYEES TO A LEVEL BELOW THE WAGE REQUIRED UNDER  
29 THIS SECTION;

1 (3) WHO PARTICIPATES FOR NOT LONGER THAN 120 DAYS IN A  
2 CALENDAR YEAR IN A GOVERNMENT-OPERATED OR GOVERNMENT-SPONSORED  
3 SUMMER YOUTH EMPLOYMENT PROGRAM;

4 (4) FOR WHOM A DIFFERENT WAGE RATE IS EXPRESSLY SET IN A  
5 COLLECTIVE BARGAINING AGREEMENT; OR

6 (5) FOR WHOM A HIGHER WAGE RATE IS REQUIRED BY A FEDERAL,  
7 STATE, OR COUNTY LAW.

8  
9 (G) ENFORCEMENT.

10 (1) THE COUNTY PURCHASING AGENT SHALL REQUIRE EACH  
11 COVERED EMPLOYER TO:

12 (I) CERTIFY THAT THE EMPLOYER AND ANY SUBCONTRACTOR  
13 WILL COMPLY WITH THIS SECTION;

14 (II) KEEP THE RECORDS NECESSARY TO SHOW COMPLIANCE;

15 (III) SUBMIT THE RECORDS TO THE PURCHASING AGENT ON  
16 REQUEST OF THE PURCHASING AGENT; AND

17 (IV) PUBLICIZE THE REQUIREMENTS OF THIS SECTION TO ANY  
18 EMPLOYEES WHO MAY BE COVERED BY THIS SECTION.

19 (2) THE COUNTY PURCHASING AGENT SHALL ENFORCE THIS  
20 SECTION AND INVESTIGATE ANY COMPLAINT OF A VIOLATION.

21 (3) AN EMPLOYER SHALL NOT DISCHARGE OR OTHERWISE  
22 RETALIATE AGAINST AN EMPLOYEE FOR ASSERTING A RIGHT UNDER THIS  
23 SECTION OR FOR FILING A COMPLAINT OF VIOLATION. ANY RETALIATION IS A  
24 VIOLATION OF THIS SECTION PUNISHABLE UNDER § 4.121 OF THIS SUBTITLE.

25 (4) EACH CONTRACT SUBJECT TO THIS SECTION:

26 (I) MAY SPECIFY THAT LIQUIDATED DAMAGES FOR  
27 NONCOMPLIANCE WITH THIS SECTION INCLUDE THE AMOUNT OF UNPAID  
28 WAGES, WITH INTEREST, AND THAT THE CONTRACTOR IS JOINTLY AND  
29 SEVERALLY LIABLE FOR NONCOMPLIANCE BY A SUBCONTRACTOR

1 (II) SHALL SPECIFY THAT AN AGGRIEVED EMPLOYEE, AS A  
2 THIRD-PARTY BENEFICIARY, MAY BRING A CIVIL ACTION TO:

3 1. ENFORCE THE PAYMENT OF WAGES DUE UNDER THIS  
4 SECTION;

5 2. RECOVER WAGES DUE UNDER THIS SECTION WITH  
6 INTEREST; AND

7 3. RECOVER REASONABLE ATTORNEY'S FEES.  
8

9 (H) ANNUAL REPORT. ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE  
10 COUNTY PURCHASING AGENT SHALL REPORT TO THE COUNTY COUNCIL AND  
11 THE COUNTY EXECUTIVE ON THE OPERATION OF THIS SECTION DURING THE  
12 PREVIOUS FISCAL YEAR.  
13

14 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland, that*  
15 *subsection (g) "Violation of subtitle" shall be added to Section 4.121 "Violations" of Subtitle 1*  
16 *"Purchasing" of Title 4 "Contracts, Purchasing and Property" of the Howard County Code to*  
17 *read as follows:*  
18

19 **Section 4.121. Violations.**  
20

21 (G) WAGE REQUIREMENTS. A VIOLATION § 4.122A OF THIS SUBTITLE IS A  
22 CLASS A CIVIL OFFENSE AND, IN ADDITION TO A FINE, THE COUNTY  
23 PURCHASING AGENT MAY SUSPEND OR DEBAR THE VIOLATOR UNDER § 4.117 OF  
24 THIS SUBTITLE.  
25

26 *Section 3. And Be It Further Enacted by the County Council of Howard County, Maryland, that*  
27 *this Act applies only prospectively and does not have any effect on a contract awarded before the*  
28 *effective date of this Act.*  
29

30 *Section 4. And Be It Further Enacted by the County Council of Howard County, Maryland, that*  
31 *Sections 1 and 2 of this Act shall apply on and after January 1, 2008.*  
32

33 *Section 5. And Be It Further Enacted by the County Council of Howard County, Maryland, that*  
34 *this Act shall become effective 61 days after its enactment.*