



Legislative Memo

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BILL: A.9375 (Camara)

OPPOSE

SUBJECT: Prevailing Wage for Service Workers

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DATE: May 15, 2012

The Business Council strongly opposes this legislation that would extend the state's **public sector** prevailing wage requirements to certain **private sector** service employees and subject employers to increased criminal penalties for violations.

Under current law a private contractor awarded a public contract for the construction or maintenance of a public project in New York State is required to pay employees a "prevailing wage." Specifically, Article 9 of the Labor Law mandates the payment of prevailing wages for building service workers, including janitors, groundskeepers, security guards, cleaners and gardeners, that act under contract with a "public entity." Prevailing wage standards were originally adopted by the state to ensure that contractors on public works projects did not win contracts awarded on the basis of the lowest bid by undercutting wages

This legislation would expand Article 9 to expand the prevailing wage requirements to independently owned utilities that provide electric light, power, gas or steam services at retail rates. There is no rationale offered by the sponsors to support expanding prevailing wage mandates to the private sector for non-public works.

Extending prevailing wage to service workers who work for independent contractors is inconsistent with longstanding state policy and caselaw. The expenditures of the utilities in sub-contracting for service work are inarguably private sector funds. The utilities are investor-owned, and the entity has a fiduciary responsibility to the shareholders to ensure that the services contracted for are competitively priced.

Moreover, as stated in Veto Memo No. 6838 of 2010:

"(U)nder the New York Public Service Law, those added labor costs would be passed on to ratepayers. In essence, the bills would have all New Yorkers - from individual citizens to small businesses to government entities - subsidize mandated wage rates that apply only to one class of workers. And while the sponsors note that the added imposition would result only in pennies per month on each utility bill almost any added expenditure can appear minor when viewed in such isolation. But the continual amalgamation of one such "minor" cost after another has

driven our State to the brink.”

New York already has some of the highest energy prices in the nation, in part driven by numerous state-imposed costs. New York’s power industry paid an estimated \$6.4 billion in state and local taxes, assessments and fees in 2009.

Furthermore, the process for determining prevailing wage is neither straight-forward nor transparent; the method for determining the prevailing wage for building and construction trades is specified in Article 8, Section 220 of the New York State Labor Law; in contrast, Article 9, Section 230, which establishes prevailing wage for building service employees, does not specify any criterion.

After determining prevailing wages schedules mandate considerably higher average wages than private employees, The Citizens Budget Commission (CBC) matched U.S. Bureau of Labor Statistics to NYC prevailing wage rates. The CBC determined that the prevailing wage rates tended to be significantly higher than the regional hourly private sector wage.

Hourly Wage Comparison ¹			
Title	New York City Prevailing Wage	NYC Regional Mean Hourly Private Sector Wage	Ratio of Prevailing Wage to Private Sector Wage
Office Building Cleaners	\$22.57-\$24.70	\$16.19-\$17.56	139-141%
Refuse Removers	\$26.70 -\$29.83	\$19.71	135-151%
Security Guards	\$12.35-\$27.50	\$11.36-\$13.09	109-210%

In addition, the requirement to pay a supplemental rate for fringe benefits adds significantly to the cost of compensation. The CBC determined in the same study that supplemental pay generally adds at least a third to the cost of wages.

Supplemental Pay For Fringe Benefits Comparison ²			
Title	Hourly Wage Rate	Supplemental Rate	Supplemental Rate As a Percent of Wage Rate
Office Building Cleaners	\$22.57-\$24.70	\$8.79	35-39%
Refuse Removers	\$26.70 -\$29.83	\$10.74	36-40%
Security Guards	\$12.35-\$27.50	\$4.56	17-34%

For the foregoing reasons, The Business Council opposes this legislation and urges that this legislation not be advanced.

¹ "6 Things New Yorkers Should Know About Prevailing Wage," Citizens Budget Commission, Feb. 14, 2012

² "6 Things New Yorkers Should Know About Prevailing Wage," Citizens Budget Commission, Feb. 14, 2012