

TENTH GUAM LEGISLATURE
1970 (SECOND) Regular Session

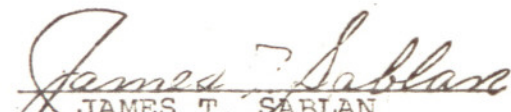
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This certifies that Bill No. 526, "An Act to add Chapter 5 to Title XI of the Government Code of Guam to require the payment of prevailing wages on public projects" was on the 10th day of February, 1970, duly and regularly passed.



JOAQUIN C. ARRIOLA
Speaker

ATTESTED:


JAMES T. SABLAN
Legislative Secretary

This Act was received by the Governor this 5th day
of March, 1970 at 2:20 o'clock P.M.

/s/ Pedro D. Perez

PEDRO D. PEREZ
Secretary of Guam
Acting

APPROVED:


CARLOS G. CAMACHO

CARLOS G. CAMACHO
Governor of Guam

DATED: APR 4 1970

4:45 P.M.

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TENTH GUAM LEGISLATURE
1970 (SECOND) Regular Session

Bill No. 526

Introduced by _____
W. D. L. Flores

AN ACT TO ADD CHAPTER 5 TO TITLE XI OF THE
GOVERNMENT CODE OF GUAM TO REQUIRE THE PAY-
MENT OF PREVAILING WAGES ON PUBLIC PROJECTS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Chapter 5 is hereby added to Title XI of the
3 Government Code of Guam to read as follows:

4 "CHAPTER 5

5 Prevailing Wages

6 "Section 10300. Rate of wages for laborers and mecha-
7 nics.

8 (a) The advertised specifications for every contract
9 to which the government of Guam is a party, for cons-
10 truction, alteration, or repair, including painting and
11 decorating, of public buildings or public works of the
12 government of Guam and which requires or involves the
13 employment of mechanics or laborers, or both, shall con-
14 tain a provision stating the minimum wages to be paid
15 various classes of laborers and mechanics which shall
16 be based upon the wages that will be determined by the
17 Director of Labor to be prevailing for the corresponding
18 classes of laborers and mechanics employed on projects
19 of a character similar to the contract on Guam; and
20 every contract based upon these specifications shall
21 contain a stipulation that the contractor or his
22 subcontractor shall pay all mechanics and laborers
23 employed directly upon the site of the work, uncondi-
24 tionally and not less often than once a week, and without
25 subsequent deduction or rebate on any account, the full

1 amounts accrued at time of payment, computed at wage
2 rates not less than those stated in the advertised
3 specifications, regardless of any contractual relation-
4 ship which may be alleged to exist between the con-
5 tractor or subcontractor and such laborers and mechanics,
6 and that the scale of wages to be paid shall be posted
7 by the contractor in a prominent and easily accessible
8 place at the site of the work; and the further stipu-
9 lation that there may be withheld from the contractor
10 so much of accrued payments as may be considered neces-
11 sary by the contracting officer to pay to laborers and
12 mechanics employed by the contractor or any subcon-
13 tractor on the work the difference between the rates
14 of wages required by the contract to be paid laborers
15 and mechanics or the work and the rates of wages
16 received by such laborers and mechanics and not re-
17 funded to the contractor, subcontractors, or their
18 agents.

19 (b) As used in this Chapter the term 'wages',
20 'scale of wages', 'wage rates', 'minimum wages', and
21 'prevailing wages' shall include----

22 (1) the basic hourly rate of pay; and

23 (2) the amount of----

24 (A) the rate of contribution irrevocably
25 made by a contractor or subcontractor to a
26 trustee or to a third person pursuant to a fund,
27 plan, or program; and

28 (B) the rate of costs to the contractor
29 or subcontractor which may be reasonably antici-
30 pated in providing benefits to laborers and
31 mechanics pursuant to an enforceable commitment

1 to carry out a financially responsible plan or
2 program which was communicated in writing to the
3 laborers and mechanics affected, for medical
4 or hospital care, pensions on retirement or
5 death, compensation for injuries or illness
6 resulting from occupational activity, or
7 insurance to provide any of the foregoing, for
8 unemployment benefits, life insurance, disabili-
9 lity and sickness insurance, or accident in-
10 surance, for vacation and holiday pay, for
11 defraying costs of apprenticeship or other
12 similar programs, or for other bona fide fringe
13 benefits, but only where the contractor or sub-
14 contractor is not required by Federal or Guam
15 law to provide any of such benefits:

16 Provided, That the obligation of a contractor or
17 subcontractor to make payment in accordance with
18 the prevailing wage determinations of the Director
19 of Labor, insofar as this Chapter and other Acts
20 incorporating this Chapter by reference are con-
21 cerned may be discharged by the making of payments
22 in cash, by the making of contributions of a type
23 referred to in paragraph (2) (A), or by the assump-
24 tion of an enforceable commitment to bear the costs
25 of a plan or program of a type referred to in para-
26 graph (2) (B), or any combination thereof, where the
27 aggregate of any such payments, contributions, and
28 costs is not less than the rate of pay described in
29 paragraph (1) plus the amount referred to in para-
30 graph (2).

31 In determining the overtime pay to which the

1 laborer or mechanic is entitled under any Federal
2 or territorial law, his regular or basic hourly
3 rate of pay (or other alternative rate upon which
4 premium rate of overtime compensation is computed)
5 shall be deemed to be the rate computed under para-
6 graph (1), except that where the amount of payments,
7 contributions, or costs incurred with respect to
8 him exceeds the prevailing wage applicable to him
9 under this Chapter, such regular or basic hourly
10 rate of pay (or such other alternative rate) shall
11 be arrived at by deducting from the amount of pay-
12 ments, contributions, or costs actually incurred with
13 respect to him, the amount of contributions or costs
14 of the types described in paragraph (2) actually
15 incurred with respect to him, or the amount deter-
16 mined under paragraph (2) but not actually paid,
17 whichever amount is the greater.

18 Section 10301. Termination of work on failure
19 to pay agreed wages; completion of work by govern-
20 ment.

21 Every contract within the scope of this
22 Chapter shall contain the further provision that
23 in the event it is found by the contracting
24 officer that any laborer or mechanic employed
25 by the contractor or any subcontractor directly
26 on the site of the work covered by the contract
27 has been or is being paid a rate of wages less
28 than the rate of wages required by the contract
29 to be paid as aforesaid, the government of Guam
30 may, by written notice to the contractor, ter-
31minate his right to proceed with the work or

1 such part of the work as to which there has been
2 a failure to pay said required wages and to prose-
3 cute the work to completion by contract or other-
4 wise, and the contractor and his sureties shall be
5 liable to the government of Guam for any excess
6 costs occasioned the government of Guam thereby;
7 Section 10302. Payment of wages by Treasurer from
8 withheld payments; listing contractors violating con-
9 tracts.

10 (a) The Treasurer of Guam is authorized and
11 directed to pay directly to laborers and mechanics
12 from any accrued payments withheld under the terms
13 of the contract any wages found to be due laborers
14 and mechanics pursuant to this Chapter, and the
15 Treasurer is further authorized and is directed to
16 distribute a list to all departments of the govern-
17 ment of Guam, giving the names of persons or firms whom
18 he has found to have disregarded their obligations to
19 employees and subcontractors. No contract shall be
20 awarded to the persons or firms appearing on this
21 list or to any firm, corporation, partnership, or
22 association in which such persons or firms have
23 an interest until three years have elapsed from the
24 date of publication of the list containing the names
25 of such persons or firms.

26 (b) If the accrued payments withheld under the
27 terms of the contract, as aforesaid, are insufficient
28 to reimburse all the laborers and mechanics, with
29 respect to whom there has been a failure to pay
30 the wages required pursuant to this Chapter, such
31 laborers and mechanics shall have the right of action

1 or of intervention against the contractor and his
2 sureties conferred by law upon persons furnishing
3 labor or materials, and in such proceedings it shall
4 be no defense that such laborers and mechanics ac-
5 cepted or agreed to accept less than the required
6 rate of wages or voluntarily made refunds.

7 Section 10303. Effect on other laws.

8 This Chapter shall not be construed to supersede
9 or impair any authority otherwise granted by law
10 to provide for the establishment of specific wage
11 rates.

12 Section 10304. Effective date of Chapter 5.

13 This Chapter shall take effect thirty days after
14 March 31, 1970, but shall not affect any contract
15 then existing or any contract that may thereafter be
16 entered into pursuant to invitations for bids that
17 are outstanding on March 31, 1970.

18 Section 10305. Suspension of Chapter 5 during emer-
19 gency.

20 In the event of a national emergency the Governor
21 is authorized to suspend the provisions of this
22 Chapter.

23 Section 10306. Application of Chapter to contracts
24 entered into without regard to this Title.

25 The fact that any contract authorized by any
26 Act is entered into without regard to this Title,
27 or upon a cost-plus-a-fixed-fee basis or otherwise
28 without advertising for proposals, shall not be
29 construed to render inapplicable the provisions of
30 this Chapter, if such would otherwise be applicable
31 to such contract.

1 Section 10307. Regulations governing contractors
2 and subcontractors.

3 The Director of Labor shall make reasonable
4 regulations for contractors and subcontractors
5 engaged in the construction, prosecution, completion
6 or repair of public buildings, public works or build-
7 ings or works financed in whole or in part by loans
8 or grants from the government of Guam, including a
9 provision that each contractor and subcontractor
10 shall furnish weekly a statement with respect to the
11 wages paid each employee during the preceding
12 week."

13 Section 2. This Act is an urgency measure.