

**H. B. 2273**

(By Delegate Deem)

[Introduced January 23, 2015; referred to the  
Committee on Industry and Labor then the Judiciary.]

A BILL to amend and reenact §21-5A-5 of said code, relating to prevailing wages; providing for  
prevailing wages to be established by a commission.

*Be it enacted by the Legislature of West Virginia:*

That §21-5A-5 of said code be amended and reenacted to read as follows:

**ARTICLE 5A. WAGES FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS.**

**§21-5A-5. Prevailing wages established at regular intervals by a commission; how  
determined; filing; appeals.**

(a) There is established a State Prevailing Wage Commission composed of the Secretary of  
Labor, the Director of the State Wage and Hour Division, and five persons appointed by the  
Governor, by and with the advice and consent of the Senate. The commission shall from this  
membership elect a chair for a term of two years. Each member of the commission shall be  
reimbursed for all reasonable and necessary expenses actually paid, and the per diem and expense  
reimbursement established for the Legislature in the performance of his or her duties as a member

1 of the commission.

2 (b) The commission, from time to time, shall investigate and determine the prevailing hourly  
3 rate of wages in the localities in this state. Determinations thereof shall be made annually on January  
4 1 of each year and shall remain in effect during the successive year: *Provided*, That such rates shall  
5 not remain in effect for a period longer than fifteen months from the date they are published.

6 (c) In determining prevailing rates, the commission may ascertain and consider the applicable  
7 wage rates established by collective bargaining agreements, if any, and such rates as are paid  
8 generally within the locality in this state where the construction of the public improvement is to be  
9 performed. In determining wage rates, the commission shall gather information from a variety of  
10 sources including, but not limited to, labor unions. The commission may establish prevailing wage  
11 rates for various areas of the state so as to reflect the prevailing rate paid in the area where the work  
12 is being performed.

13 (d) A copy of determinations so made, certified by the secretary of the commission, shall be  
14 filed immediately with the Secretary of State and with the Department of Labor. Within ten days  
15 after filing, copies shall be supplied by the Department of Labor to all persons requesting them.

16 (e) Any party to the proceeding before the commission or any person affected thereby may  
17 within thirty days after receipt of the notice of its decision, appeal the commission's decision to the  
18 circuit court of the county wherever the construction of a public improvement is to be performed,  
19 which shall consider the case on the record made before the commission. The decision of the circuit  
20 court may be appealed to the Supreme Court of Appeals of West Virginia by any party to the  
21 proceedings or by any person affected thereby in the manner provided by law for appeals in civil  
22 actions.

1        (f) Pending the decision on appeal, the rates for the preceding year shall remain in effect.

NOTE: The purpose of this bill is to require prevailing wages to be established by a commission.

This section has been completely rewritten; therefore, it has been completely underscored.