

SECOND REGULAR SESSION

# HOUSE BILL NO. 1939

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BOWMAN (Sponsor),  
DARROUGH AND LOW (39) (Co-sponsors).

Read 1st time January 31, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4218L.01I

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### AN ACT

To amend chapter 290, RSMo, by adding thereto ten new sections relating to living wages.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 290, RSMo, is amended by adding thereto ten new sections, to be  
2 known as sections 290.650, 290.655, 290.660, 290.665, 290.670, 290.675, 290.680, 290.685,  
3 290.690, and 290.695, to read as follows:

**290.650. As used in sections 290.650 to 290.695, the following words mean:**

2 **(1) "Department", the department of labor and industrial relations;**

3 **(2) "Employer", a contractor or subcontractor that has a state contract for services**  
4 **valued at one hundred thousand dollars or more. "Employer" shall not include a**  
5 **contractor or subcontractor that:**

6 **(a) Employs ten or less employees; and**

7 **(b) Has a state contract for services that is valued at less than five hundred**  
8 **thousand dollars;**

9 **(3) "Living wage", a wage on which it is possible for a wage earner or an individual**  
10 **and his or her family to live at least according to minimum customary standards;**

11 **(4) "Unit", an officer or other entity that is in the executive branch of state**  
12 **government and is authorized by law to enter into a state procurement contract. "Unit"**  
13 **shall not include:**

14 **(a) A bistate, multistate, bicounty, or multicounty governmental agency; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (b) A special tax district, sanitary district, drainage district, soil conservation  
16 district, water supply district, or other political subdivision of this state.

20.655. 1. Sections 290.650 to 290.695 applies to an employee of an employer for  
2 the duration of a contract subject to sections 290.650 to 290.695 if at least one-half of the  
3 employee's time during any workweek relates to a state contract for services or a  
4 subcontract for services under a state contract.

5 2. Sections 290.650 to 290.695 shall not apply to an employee of an employer if the  
6 employee:

7 (1) Is seventeen years of age or younger for the duration of a contract subject to  
8 sections 290.650 to 290.695; or

9 (2) Works less than thirteen consecutive weeks for the duration of a contract  
10 subject to sections 290.650 to 290.695 and during that period works full time.

11 3. Sections 290.650 to 290.695 shall not apply to a contract:

12 (1) For services needed immediately to prevent or respond to an imminent threat  
13 to public health or safety;

14 (2) With a public service company;

15 (3) With a nonprofit organization;

16 (4) Between units; or

17 (5) Between a unit and a county.

18 4. If the unit responsible for a state contract determines that application of sections  
19 290.650 to 290.695 would conflict with an applicable federal program requirement, sections  
20 290.650 to 290.695 shall not apply to the contract or program.

290.660. 1. Except as provided in subsection 3 of this section, an employer subject  
2 to sections 290.650 to 290.695 shall pay each employee covered under sections 290.650 to  
3 290.695 at least eight dollars and fifty cents per hour.

4 2. (1) Not later than ninety days after the start of each fiscal year, the department  
5 shall adjust the living wage rate required in subsection 1 of this section by the annual  
6 average increase or decrease, if any, in the consumer price index or any successor index for  
7 the previous calendar year.

8 (2) If the department adjusts the living wage rate in accordance with subdivision  
9 (1) of this subsection, the department shall publish the new living wage rate on the  
10 department's Internet web site.

11 (3) On request by any person, the department shall give such person a printed copy  
12 of the new living wage rate.

13 3. If an employer commits in its bid or proposal to provide health insurance to an  
14 employee, either directly or through an employee representative, the employer may:

15           (1) Certify in its bid or proposal the hourly cost of the employer's share or the  
16 premium for that insurance for each employee; and

17           (2) Reduce the living wage paid under subsection 1 of this section to any employee  
18 covered by the insurance by all or part of the hourly cost of the employer's share of the  
19 premium for each employee.

20           4. The department may authorize, by rule, an employer to reduce the living wage  
21 rate paid under subsection 1 of this section by no more than fifty cents of the hourly cost  
22 of the employer's contribution to an employee's deferred compensation plan.

          290.665. 1. The department shall adopt rules governing employers subject to  
2 sections 290.650 to 290.695.

3           2. The department may require that an employer keep records and submit reports  
4 to the department that it determines necessary for the effective administration and  
5 enforcement of sections 290.650 to 290.695.

6           3. Every three years, the department shall assess the appropriateness of the  
7 measures used to adjust the living wage rate under subsection 2 of section 290.660 to  
8 ensure that the measures accurately reflect the living wage rate of employees in this state.

          290.670. An agreement by an employee to commute, release, or waive the  
2 employee's rights under sections 290.650 to 290.695 shall be void.

          290.675. 1. During any period in which an employee of the employer is entitled to  
2 a living wage rate under sections 290.650 to 290.695, each employer subject to sections  
3 290.650 to 290.695 shall post in a prominent and easily accessible place at the work site an  
4 employee described in subsections 1 and 2 of section 290.655 a notice of:

5           (1) The living wage rate;

6           (2) Employee rights under sections 290.650 to 290.695; and

7           (3) The name, address, and telephone number of the department.

8           2. The notice required under this section shall be:

9           (1) Developed by the department in English, Spanish, and any other language  
10 commonly used by employees at a work site; and

11           (2) On request of an employer:

12           (a) Provided without charge to the employer; or

13           (b) Made available for download on the Internet without charge.

14           3. The department may impose a civil penalty not to exceed fifty dollars per  
15 violation for any person who violates this section.

          290.680. 1. If a complaint is filed based on a violation of sections 290.650 to  
2 290.695, the department shall investigate the complaint within thirty days of its filing in  
3 accordance with sections 290.650 to 290.695.

4           **2. A written or oral complaint or statement made by an employee under sections**  
5 **290.650 to 290.695 shall be confidential and shall not be disclosed to the employer without**  
6 **the consent of the employee.**

7           **3. An employer subject to sections 290.650 to 290.695 shall allow the department**  
8 **or the department's designee access to a work site and payroll records and allow an**  
9 **opportunity to interview employees for purposes of enforcing sections 290.650 to 290.695.**

10           **4. (1) Within thirty days after completing an investigation, the department shall**  
11 **issue an order for a hearing.**

12           **(2) Within thirty days before the hearing, the department shall serve, personally**  
13 **or by mail, written notice of the hearing on all interested parties.**

14           **(3) The notice shall include:**

15           **(a) A statement of facts disclosed in the investigation; and**

16           **(b) The time and place of the hearing.**

17           **(4) In conducting a hearing, the department may:**

18           **(a) Subpoena witnesses;**

19           **(b) Administer oaths; and**

20           **(c) Compel the production of records, books, papers, and other evidence.**

21           **5. (1) Within thirty days after the conclusion of the hearing, the department shall:**

22           **(a) Issue a determination; and**

23           **(b) Serve, personally or by mail, each interested party with a copy of the**  
24 **determination.**

25           **(2) If the department finds a violation of sections 290.650 to 290.695, the**  
26 **department shall determine the amount of restitution and liquidated damages to be**  
27 **assessed under section 290.685.**

28           **(3) On receipt of the determination, the employer shall pay the affected employees**  
29 **the amount due in accordance with the department's determination.**

**290.685. If the department determines that the employer violated a provision of**  
2 **sections 290.650 to 290.695, the employer shall:**

3           **(1) Pay restitution to each affected employee; and**

4           **(2) Pay to the state liquidated damages of twenty dollars per day for each employee**  
5 **who was paid less than the hourly rate required under sections 290.650 to 290.695.**

**290.690. 1. (1) If an employee was paid less than the living wage rate required**  
2 **under sections 290.650 to 290.695, the employee is entitled to sue to recover the amount of**  
3 **the difference between the living wage rate required under sections 290.650 to 290.695 and**  
4 **the amount received by the employee.**

5           (2) A determination by the department that an employer is required to make  
6 restitution shall not preclude an employee from filing an action under this section.

7           2. (1) An action under this section is considered to be a suit for wages.

8           (2) A judgment in an action under this section shall have the same force and effect  
9 as any other judgment for wages.

10          3. The failure of an employee to protest orally or in writing the payment of a wage  
11 that is less than the living wage rate required under sections 290.650 to 290.695 shall not  
12 bar recovery in an action under this section.

          290.695. The department shall promulgate rules to implement the provisions of  
2 sections 290.650 to 290.695. Any rule or portion of a rule, as that term is defined in section  
3 536.010, RSMo, that is created under the authority delegated in this section shall become  
4 effective only if it complies with and is subject to all of the provisions of chapter 536,  
5 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
6 nonseverable and if any of the powers vested with the general assembly under chapter 536,  
7 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are  
8 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
9 proposed or adopted after August 28, 2008, shall be invalid and void.

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