Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 465 (Delegate McCray, *et al.*)
Economic Matters

"EARN" Apprenticeships (Expand Apprenticeship Resources Now Act)

This bill requires each contractor or subcontractor that performs work on a construction project on a State-owned building or facility to employ only workers who either (1) have completed or are enrolled in a registered apprenticeship program or (2) are paid at least journeyman's wages for the appropriate trade or craft. This requirement does not apply if there are no registered apprenticeship programs for a particular trade or craft. The Secretary of Labor, Licensing, and Regulation must adopt regulations to implement the bill that establish a process for a contractor or subcontractor to provide written verification that the requirements have been met. A person who violates the bill's provision may be assessed a civil penalty of no more than $20,000.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: No material effect in FY 2017. General fund expenditures by the Department of Labor, Licensing, and Regulation (DLLR) increase by at least $71,800 to implement the bill in FY 2018; expenditures may increase by more if more rigorous enforcement of the bill's provisions is deemed appropriate. The cost of construction projects on State buildings may increase; no effect on total capital funding, but fewer projects may be funded in any given year. The bill's penalty provisions are not expected to materially affect general fund revenues or caseloads for the Office of Administrative Hearings.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	$0	$0	$0	$0	$0
GF Expenditure	71,800	68,800	72,000	75,400	79,000
Net Effect	($71,800)	($68,800)	($72,000)	($75,400)	($79,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law/Background:

Prevailing Wage

Contractors and subcontractors working on eligible public works projects in Maryland must pay their employees the prevailing wage rate. "Public works" are structures or works, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that are constructed for public use or benefit or paid for entirely or in part by public money. Eligible public works projects include those carried out by the State.

Prevailing wages are wages paid to at least 50% of workers in a given locality who perform the same or similar work on projects that resemble the proposed public works project. If fewer than 50% of workers in a job category earn the same wage, the prevailing wage is the rate paid to at least 40% of those workers. If fewer than 40% receive the same wage rate, the prevailing wage is calculated using a weighted average of local pay rates. The State Commissioner of Labor and Industry is responsible for determining prevailing wages for each public works project and job category based on annual surveys of contractors and subcontractors working on both public works and private construction projects.

Apprenticeships

Generally, apprenticeship is a voluntary, industry-sponsored system that prepares individuals for occupations typically requiring high-level skills and related technical knowledge. Apprenticeships are sponsored by one or more employers and may be administered solely by the employer or jointly by management and labor groups. An apprentice receives supervised, structured, on-the-job training under the direction of a skilled journeyperson and related technical instruction in a specific occupation. Apprenticeships are designed to meet the workforce needs of the program sponsor. Many industry sponsors use apprenticeship as a method to train employees in the knowledge necessary to become a skilled worker. This also means the number of apprenticeships available is dependent on the current workforce needs of the industry.

Apprenticeships are available to individuals age 16 and older; an employer, however, may set a higher entry age. By law, individuals must be age 18 to apprentice in hazardous occupations. Apprenticeships last from one to six years, although most are three to four years, and involve a minimum of 144 hours of classroom instruction per year and at least 2,000 hours per year of on-the-job training. A national apprenticeship and training program was established in federal law in 1937 with the passage of the National Apprenticeship Act, also known as the Fitzgerald Act. The purpose of the Act was to promote national standards of apprenticeship and to safeguard the welfare of apprentice workers.

Along with 24 other states, Maryland has chosen to operate its own apprenticeship programs. In 1962, Maryland created the 12-member Maryland Apprenticeship and Training Council (MATC). Within the framework established in federal law, the State's apprenticeship and training law also established the guidelines, responsibilities, and obligations for training providers and created certain guarantees for workers who become apprenticed.

MATC, along with the Division of Workforce Development and Adult Learning (DWDAL) within DLLR, serves in a regulatory and advisory capacity by providing guidance and oversight to the Maryland Apprenticeship and Training Program, which is responsible for the daily oversight of State apprenticeship programs. More specifically, MATC and DWDAL approve new apprenticeship programs and changes to current programs. The approval process involves assessing the appropriateness of an apprenticeship program in a proposed industry, the education that will be provided to the apprentice, the current staffing level of the entity proposing the program to determine whether adequate supervision can be provided, recruitment and retention efforts, and the overall operations of the entity. MATC also serves in an advisory role for legislation and regulations, recommending changes to update apprenticeship laws.

In fiscal 2016, there were 11,821 active apprentices in Maryland, of whom 1,070 apprentices had just begun their apprenticeship, and there were 428 active apprenticeship programs.

State Expenditures: The bill affects State finances in at least two ways: the cost of construction projects and administrative expenses to enforce the bill.

Construction Costs

State construction projects, including those on State-owned facilities, are subject to the prevailing wage statute. Prevailing wage rates vary not only by trade but also by county. Similarly, journey wage rates also vary and are not as easily determined as prevailing wage rates, which are available to the public on DLLR's website. Thus, any difference between journey wages and prevailing wage cannot be established or factored into this analysis. However, it is possible that at least in some cases, journey wages exceed prevailing wages, thereby increasing the cost of construction projects on State-owned facilities. Although the total amount of the State's capital budget likely does not increase, fewer projects may be funded in any given year, likely causing delays in carrying out the State's capital improvements.

The Maryland Center on Construction Education and Innovation has identified a shortage of qualified construction workers as a major risk factor affecting the construction industry going forward. Also, a substantial number of construction workers have not completed an apprenticeship program. To the extent that the bill restricts the availability of construction labor by limiting it only to workers who have completed an apprenticeship program, it likely increases the cost of labor and, thus, total project cost. As noted above, the alternative of paying journey wages may have a similar effect.

Administrative Costs

The bill establishes a fairly low level of enforcement: Regulations by DLLR must require only that contractors or subcontractors submit written verification to DLLR that they comply with the bill's requirement. Under this enforcement model, DLLR requires only one additional position to manage the verification process and communicate with other agencies with regard to construction contractors and subcontractors that have been cleared to work on affected projects. Therefore, general fund expenditures increase by at least $71,845 in fiscal 2018, which accounts for a 30-day delay from the bill's June 1, 2017 effective date. This estimate reflects the cost of hiring one administrator to manage the verification process and communicate with other State agencies regarding firms that have been verified. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	$66,580
Operating Expenses	5,265
Total FY 2018 State Expenditures	**$71,845**

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

If a higher level of enforcement is deemed appropriate, enforcement costs for DLLR increase by a greater amount to hire at least two investigators to perform on-site inspections and payroll verification functions. The bill also has an operational effect on the Department of General Services (DGS), which manages construction contracts on most State buildings. DGS will need to notify DLLR any time a new construction contract is initiated for work on a State-owned building or facility. DGS can carry out this responsibility with existing resources.

Small Business Effect: Small construction companies seeking to do work on State facilities will be able to hire only workers who are enrolled in or have completed an apprenticeship program, or they must pay them at least journey wages. This may either preclude them from participating on State projects or potentially increase their labor costs (which they will likely pass on to the State in the form of higher bid prices).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management; Department of General Services; Department of Labor, Licensing, and Regulation; Office of Administrative Hearings; Department of Legislative Services

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