Department of Fiscal Services

Maryland General Assembly

FISCAL NOTE
Revised

House Bill 699 (Delegate V. Mitchell, *et al.*)
Economic Matters Referred to Finance

Prevailing Wage - Overtime, Penalties, and Inspectors

This enrolled bill alters the overtime compensation requirements under the State's prevailing wage law by providing that a contractor must pay overtime to employees for each hour worked in excess of ten hours in any single calendar day, in excess of 40 hours during a single work week, or on a Sunday or legal holiday. Under current law, overtime must be paid for each hour worked in excess of eight hours in a single day.

The bill also increases the liquidated damages for which a contractor is liable to the State from $10 to $20 for each day each laborer is paid less than the prevailing wage. A $50 civil penalty may also be imposed on each contractor under a public works contract subject to prevailing wage who fails to post a statement of prevailing wage rates at the work site. It also increases, from one to two years, the period that a contractor who persistently and willfully violates prevailing wage requirements is prohibited from directly or indirectly entering into a contract to provide public works. The Governor is required to provide an appropriation for at least five Wage and Hour Inspectors in the Prevailing Wage Unit of the Department of Labor, Licensing, and Regulation (DLLR) in fiscal 1999. The bill applies only to contracts resulting from requests for proposals made after the bill's effective date. The changes in overtime compensation requirements, liquidated damages, and penalty provisions are effective January 1, 1999.

Fiscal Summary

State Effect: General fund expenditure increase of about $66,000 in FY 1999. Out-year expenditure projections reflect inflation. Expenditures could also decrease by an indeterminate amount due to reduced construction costs on public works projects. General fund revenues could increase by an indeterminate amount as a result of increased liquidated damages and the bill's civil penalty provision.

(in dollars)	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
GF Revenues	$0	---	---	---	---
GF Expenditures	0	66,000	63,000	66,000	68,000
Net Effect	$0	($66,000)	($63,000)	($66,000)	($68,000)

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

Local Effect: Expenditures could decrease by an indeterminate amount as discussed below. Revenues would not be affected.

Small Business Effect: Potential meaningful effect on small businesses as discussed below.

Fiscal Analysis

State Revenues: The Department of Labor, Licensing, and Regulation (DLLR) collected $72,000 in liquidated damages from contractors under public works contracts in 1996. The bill increases the liquidated damages DLLR could collect from contractors under such public works contracts by raising the contractor's liability from $10 to $20 for each day that each employee is not paid the prevailing wage rate. While doubling the liquidated damages penalty could conceivably generate an additional $72,000 annually, it could also serve as a deterrent to violations. Accordingly, any increase in revenue from increasing the penalty cannot be reliably estimated at this time.

In addition, general fund revenues could increase as a result of the $50 civil penalty that may be imposed on contractors under a public works contract subject to prevailing wage if the contractors do not post the statement of prevailing wage rates at the work site. The revenue generated through these civil penalties is assumed to be minimal.

State Expenditures: The bill requires the Governor to include an appropriation in the annual budgets beginning in fiscal 1999 for at least five Wage and Hour Inspectors in the Prevailing Wage Unit of DLLR. There are currently three Wage and Hour Inspectors in the Prevailing Wage Unit, thus the bill would require funding for two additional positions. Assuming that the funds will be appropriated for the two additional positions, general fund expenditures could increase by $66,000 in fiscal 1999. This reflects salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Out-year expenditures reflect 3% turnover, 3.5% salary increases, and 2% increases in ongoing operating expenses.

In addition, altering the requirements for overtime compensation as provided by the bill could give contractors more flexibility in work scheduling and possibly eliminate the need for overtime in some situations. Therefore, the cost of construction on certain public works contracts could decline. Any such decrease cannot be reliably estimated prior to the establishment of such public works contracts.

Local Expenditures: Expenditures could decrease to the extent that the costs of construction for certain public works contracts decline.

Small Business Effect: The majority of the contractors and subcontractors in the State are small businesses. It is assumed the majority of businesses hired for State projects that require prevailing wages are also small businesses. This bill would reduce expenditures for these businesses to the extent that the allowance of up to four ten-hour days per week at straight pay would reduce overtime costs and create greater scheduling flexibility.

The bill could also increase expenditures to the extent that contractors under public works contracts subject to prevailing wage violate either the prevailing wage posting requirements or fail to pay their employees the prevailing wage. A $50 civil penalty may be assessed for failure to post the prevailing wage at the work site. The liquid damages charged to contractors who do not pay the prevailing wage when required doubles under the bill from $10 to $20 for each day, each employee is not paid the prevailing wage. Contractors who willfully and persistently violate prevailing wage requirements may not directly or indirectly enter into contracts to perform public works for two years as a result the bill. Under current law, such contractors are prohibited from contracting to do public work for one year.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Budget and Management; Department of Fiscal Services

Fiscal Note History: First Reader - February 13, 1997
mld Revised - House Third Reader - March 24, 1997
Revised - Enrolled Bill - April 24, 1997

Analysis by: Shelley Finlayson
Reviewed by: John Rixey

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 841-3710
(301) 858-3710