SB 169

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 169 (Senator Mooney, *et al.*)
Finance

Repeal - Prevailing Wage for School Construction

This bill provides that 75% or more of an elementary or secondary school construction project be funded by the State in order for the prevailing wage law to apply.

Construction projects for elementary and secondary schools with construction costs of $500,000 or more, for which the State funds 75% or more of the construction costs, will be subject to the prevailing wage law.

Fiscal Summary

State Effect: State expenditures would decrease depending on the number of school construction projects subject to the prevailing wage. For illustrative purposes only, based on FY 2000 school construction projects, State expenditures in FY 2002 could decrease by $3.0 million to $14.8 million.

Local Effect: Local expenditures would decrease depending on the number of school construction projects subject to the prevailing wage. For illustrative purposes only, based on FY 2000 school construction projects, local expenditures in FY 2002 could decrease by $1.4 million to $7.1 million.

Small Business Effect: : Potential meaningful. Small businesses that were previously unable to bid because of the requirement to pay the Prevailing Wage may be able to bid and win contracts related to the construction of public schools.

Analysis

Current Law: Title 17, Subtitle 2, of the State Finance and Procurement Article outlines the definitions, procedures, and requirements of Maryland's prevailing wage law. The prevailing wage law applies to any public works contract when State funds are used to finance at least 50% of the construction costs of a particular project. Public school projects are subject to prevailing wages if the State funding contribution is at least 50% of total project funding. Chapter 208 of 2000 reduced the previous 75% requirement to 50%. The prevailing wage law does not apply to projects with a cost of less than $500,000.

By definition, prevailing wages are the hourly wage rates paid in the locality in which the construction work is to be performed. If 50% or more of all workers in a trade are paid exactly the same rate, that rate is considered the prevailing wage. If not, then 40% or more of the employees for each work classification must be paid the same rate in order for the rate to qualify as prevailing. If less than 40% receive the same rate, a weighted average is calculated and used as the prevailing wage. Prevailing wages are based on hourly salary levels, as well as employer benefit contributions.

The State share of eligible costs for school construction is 75% or less in all jurisdictions except Somerset, where it is 80%. In no jurisdiction is the State share less than 50%. A complete listing of the State share of eligible costs for public school construction is shown in **Attachment 1**. Since not all construction costs are eligible costs for computing State funding, most school construction projects with a State share of 50% of eligible costs would not be required to pay prevailing wages.

In awarding a contract for school construction, improvements, supplies, or equipment, the contract should be awarded to the lowest responsible bidder that meets specifications with consideration given to: (1) quantities involved; (2) time required for delivery; (3) required purpose; (4) competency and responsibility of the bidder; and (5) ability of the bidder to perform satisfactory service.

State Fiscal Effect: A number of factors would determine the extent of any decrease in costs for the State, including market and wage conditions. There are only two studies specific to the impact of prevailing wages on school construction in Maryland.

A study on the impact of prevailing wages was recently prepared for the Prince George's County Council by Dr. Mark Prus. The author concluded that building a school in a prevailing wage jurisdiction in Maryland would cost 1.9% more than building the same school in a non-prevailing wage jurisdiction, and that this result was not statistically significant.

A Department of Legislative Services (DLS) study in 1989 concluded that the prevailing wage increases project costs by 5% to 15%, and that the actual impact depends upon the type of project, labor costs as a share of total costs, and market conditions. In 1995, DLS reviewed the 1989 study and current data, and concluded that the 5% to 15% range was still valid. Although the DLS study was done before the current economic boom for the construction industry, it was done at the peak of the construction boom of the 1980s.

According to the U. S. Bureau of Economic Analysis, since the DLS study was conducted the Maryland Gross State Product from the construction industry has grown by 6.7% in nominal terms and labor compensation paid by the industry has grown by 15%. Because the growth in compensation has outpaced that of the industry and the current boom does not appear to have peaked yet, the differential between the prevailing wage and the current wage should be lower than found in the DLS study.

The two studies indicate that prevailing wages could add 2% to 15% to the cost of a project. Because of the change in compensation since the DLS study, the 15% may be reduced to as low as 10% in today's market.

The fiscal 2000 Public School Construction Capital Improvement Program had State funds totaling $257.5 million. Of this amount, $232.5 million was for projects of $500,000 or more. The distribution of the funds for projects over $500,000 was as follows:

- $132.1 million was for projects funded with more than 50% but less than 75% State funds for eligible costs;

- $79.1 million for projects with 50% or less in State funds for eligible costs; and

- $21.2 million for Allegany County and Baltimore City, with nothing for projects in Caroline and Somerset counties, all jurisdictions in which the prevailing wage would apply under current law.

The proposed fiscal 2002 budget includes $237.2 million for public school construction.

How many of the school construction projects in fiscal 2002 would no longer be subject to the prevailing wage because of the bill is not known. However, for illustrative purposes only, based on the fiscal 2000 school construction projects, State expenditures could decrease in fiscal 2002 by $3.0 to $14.8 million. This assumes:

- 20% ($15.8 million) of the $79.1 million for projects with 50% or less State funding for eligible costs will no longer be subject to the prevailing wage;

- all of the $132.1 million in other jurisdictions is no longer subject to the prevailing wage and the State share is 65% of the construction costs;

- all of the projects associated with these State funds are subject to prevailing wage under current law;

- project costs decrease by 2% to 10% due to no longer requiring payment of the prevailing wage; and

- State contractors are able to pass on all of the decrease in costs to the State.

Any increased activity for the Prevailing Wage Unit within the Department of Labor, Licensing, and Regulation could be handled with existing budgeted resources.

To the extent removing the prevailing wage requirement decreases the taxable income of workers on school construction projects, the State will realize a decrease in revenues from the personal income tax.

Local Fiscal Effect: The impact of local government expenditures would depend on whether or not the jurisdiction has a school project of $500,000 or more with less than 75% of the construction costs provided by the State.

The bill would not impact Allegany County and Baltimore City as both jurisdictions have local prevailing wage laws. In addition, Caroline and Somerset counties have a State share of construction costs of 75% or more.

For illustrative purposes only, based on the fiscal 2000 school construction projects and the assumptions stated above, local expenditures could decrease in fiscal 2001 by $1.4 to $7.1 million.

To the extent the prevailing wage requirement decreases the taxable income of workers on school construction projects, local jurisdictions will realize a decrease in revenues from the personal income tax. Since the personal income tax is paid to the jurisdiction in which the worker lives, and not the jurisdiction of the construction project, it is difficult to determine which jurisdictions will have a decrease in the local personal income tax.

Additional Information

Prior Introductions: None.

Cross File: HB 505 (Delegate Hutchins, *et al.*) – Economic Matters.

Information Source(s): Interagency Committee on School Construction; Department of Labor, Licensing, and Regulation (Division of Labor and Industry); Montgomery and Prince George's counties; Baltimore City; *Prevailing Wage Laws and School Construction Costs*, Dr. Mark J. Prus, PhD.,SUNY Cortland; *Maryland's Prevailing Wage Law: A Study of Costs and Benefits*, U.S. Department of Labor (Wage and Hours Division); Department of Legislative Services

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Attachment 1

State Share of Eligible Costs[1]
Public School Construction

50%	Anne Arundel; Baltimore County; Howard; Kent; Montgomery; Talbot; Worcester
55%	Calvert; Queen Anne's
60%	Prince George's[2]
65%	Carroll; Charles; Frederick; Harford; Washington
70%	Cecil; Dorchester; Garrett; St. Mary's; Wicomico
75%	Allegany; Baltimore City[3]; Caroline
80%	Somerset

[1] Since not all construction costs are eligible costs for computing State funding, most school construction projects with a State share of 50% of eligible costs will not be required to pay prevailing wages.

[2] For fiscal 1999 through 2002, Prince George's County's match will be 25% for the first $35 million allocated by the State and 40% on any State funds in excess of $35 million. At least $20 million of the State funds must be spent each year on neighborhood school projects.

[3] For fiscal 1998 through 2002, Baltimore City's match will be 10% for the first $10 million allocated by the State and 75% on any State funds in excess of $10 million.

Source: Interagency Committee on School Construction