HB 1192

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1192 (Delegate Taylor, *et al.*)
Economic Matters Finance

State Procurement Contracts - Living Wage

This bill requires certain employers to pay their employees a "living wage." The living wage is set at $10.50 for fiscal 2005 and then adjusted annually by the Commissioner of Labor and Industry. The bill provides for investigation of complaints, hearings, and fines and penalties for noncompliance, and authorizes an employee to sue for damages when an employer fails to pay the living wage.

The bill is effective October 1, 2004 and applies only prospectively to contracts awarded by the State after the effective date.

Fiscal Summary

State Effect: Potential significant increase in State expenditures, all funds, for contract costs. General fund revenues would increase from liquidated damages and penalties imposed by the Division of Labor and Industry and from an increase in taxable wages. The following table shows only the general fund administrative costs and penalty revenues associated with the bill.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	$40,000	$80,000	$80,000	$80,000	$80,000
GF Expenditure	134,300	166,200	176,400	187,400	199,300
GF/SF/FF Exp.	-	-	-	-	-
Net Effect	($94,300)	($86,200)	($96,400)	($107,400)	($119,300)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill defines the term "living wage" as $10.50 per hour. The Commissioner of Labor and Industry is required to adjust the wage rate annually based on the Consumer Price Index for all urban consumers in the Washington-Baltimore metropolitan area. The employers required to pay a living wage are contractors or subcontractors with a State contract for services valued greater than $100,000. If employers provide health insurance to workers, the employer may reduce the wages paid under this bill by all or part of the hourly cost of the employer's share of the premium for each employee.

Employers are not required to pay a living wage under certain circumstances, including if higher wages are required under other provisions (if the Maryland Prevailing Wage Law applies to a procurement contract, and the prevailing wage rate exceeds the living wage rate, the prevailing wage would apply). Employers are also not required to pay the living wage to employees who are 17 years old or younger for the duration of the contract or who work full time for less than 13 consecutive weeks for the duration of the contract. Units of State government are required to determine if the application of the living wage would conflict with any applicable federal program requirement. If a unit of State government determines that the application of the living wage program would conflict with federal program requirements, the living wage will not apply to that contract or program.

The bill requires the Commissioner of Labor and Industry to adopt regulations, investigate wage complaints, issue orders for hearings, issue determinations, serve each interested party, and determine the amount of restitution for violations. The bill requires The Department of Budget and Management (DBM) to investigate complaints for all units of State government. The bill authorizes an employee to sue for damages when an employer fails to pay the living wage.

Employers who violate the living wage requirements must pay the affected employees the amount determined by the commissioner and $20 per day per employee in liquidated damages to the State. The bill also requires employers to post a notice of the living wage rate, the employees' rights under the bill, and contact information for the commissioner in English, Spanish, and any other language commonly used at the work site.

The living wage does not apply to State contracts: (1) for services needed immediately to prevent or respond to an imminent threat to public health or safety; (2) with a public service company; (3) with a nonprofit entity; (4) between units of State government; or (5) between a unit and a county or Baltimore City.

The bill requires the Department of Legislative Services (DLS) to conduct a study of the fiscal and economic impacts of this bill on the public and private sectors. DLS is required to consult with the Department of Labor, Licensing, and Regulation (DLLR); the Office of the Attorney General; local governments; and other appropriate units. The bill requires units of State government and local governments to cooperate with DLS. DLS must report its findings by January 1, 2006 to the General Assembly.

Current Law: There is no requirement for a living wage for State contractors. Contracts for cleaning the World Trade Center Building in Baltimore City are subject to the living wage provisions of the city.

Background: Living wage laws are currently in force in 105 localities and counties in the U.S. There are currently no statewide living wage laws. Wage levels without health benefits range from $6.15 in New Orleans, Louisiana to $13.00 in Fairfax, California. In Maryland, Baltimore City and Montgomery and Prince George's counties have passed living wage laws. In Baltimore City, Ordinance 442 requires the payment of a living wage set by the Board of Estimates. The hourly wage rate in effect for fiscal 2004 is $8.70. The board revises the living wage level annually. Montgomery and Prince George's counties each have living wage rates set at $10.50.

Contract Costs and Competition

Several recent studies of the impact of living wage laws note that contract costs as a percent of total local jurisdiction budgets increased between 0.003% - 0.079% or between 0.3% - 2.79% of total contract costs for human services contracts. For example, a 1999 Johns Hopkins University study by Christopher Niedt found that for the 26 living wage contracts in Baltimore City that could be compared before and after the living wage law was implemented, the total cost increase to the city was 1.2%, less than the rate of inflation at that time.

DLLR indicates that there are approximately 148,363 private sector employers in Maryland, with less than 10% of those being nonprofit. DLLR estimates that no more than 15% of total employers would be affected by the application of the living wage law.

The Economic Policy Institute (EPI) has analyzed disaggregated data from service contracts with DBM and estimates that the bill could cover approximately 7,900 workers. EPI estimates that approximately 2,000 of those workers earn less than $10.50 per hour, with an average wage of $7.80 per hour.

Worker Productivity and Retention

Research by Responsible Wealth, United for a Fair Economy, and the Brennan Center for Justice links the low cost increases of contracts in living wage jurisdictions with two main factors. First, several studies note that employers may simply be absorbing the cost of increased wages by lowering profit expectations. Studies also note that employers have to pay less for employee turnover and training because retention rates improve with higher-paying jobs. While hours for lower-paying jobs may decrease and contractors may hire fewer workers, the savings from improved productivity are still positive. These turnover savings mitigate the need for contract cost increases by vendors.

Tax Base and Assistance Payments

Raising wages for contract employees with the State would also have a positive impact on State revenues in the form of higher income taxes. *How Living Wage Laws Affect Low-Wage Workers and Low-Income Families*, a 2002 study authored by the Public Policy Institute of California, indicates that while living wage laws may reduce the size of the low-wage workforce by a small amount, that reduction is offset by the increases in wages for the remaining workers and the reduced costs of employing those workers. The study also reports that urban poverty declines in jurisdictions that enact living wage laws. Increases in income tax collections would be coupled with reductions in payments of child, child care, or earned income tax credits.

In addition to direct tax implications, living wage laws are intended to provide families with an income that removes the need to rely on assistance payments. Reductions in payments through the Temporary Assistance for Needy Families, Medicaid, food stamps, and other programs could provide cost savings not only to workers (as health improves and health care costs decrease) but also to the State (through reduced program costs). There is no quantifiable data or significant study results detailing the impact of living wage laws on reduced government assistance payments or health care costs. In the past two years, the National Policy Association has published both *Income, Socioeconomic Status, and Health: Exploring the Relationships* and *Improving the Health of Working Families: Research Connections Between Work and Health*, which indicate that health care costs and negative health outcomes decline substantially with an increase in family income, especially when the increased income moves the family above the federal poverty level.

Economic Development

It is unclear whether rising wage costs would drive employers away from living wage areas and result in significant job losses. That pressure may be offset by economic development policies that stress higher paying jobs in the service sectors, biotechnology, and information technology transfers. The Department of Business and Economic

Development has a policy to require recipients of financial assistance to pay their employees at least 150% of federal minimum wage as well as benefits. The small amount of empirical evidence that does exist (from sources and studies mentioned above) suggests that job losses may be offset by increased worker retention and tax collections. Data from Minneapolis, San Antonio, Toledo, and Los Angeles suggest that there has not been a decline in applications for local economic development aid in jurisdictions that have enacted living wage ordinances.

State Revenues: Based on similar liquidated damages provisions in the Prevailing Wage Law, it is estimated that the division would collect approximately $40,000 in liquidated damages and penalties in fiscal 2005 and about $80,000 annually thereafter.

State Expenditures: This bill could result in a significant increase in State expenditures, all funds, as a result of increased contract costs and administrative costs.

Contract Costs: DBM is the control agency for service contracts in Maryland. DBM is unable to provide specific wage data at an aggregate level. In addition, the Department of General Services (facilities maintenance, security), the Department of Health and Mental Hygiene (direct care providers), and the Department of Human Resources (child care, foster care services) do not have aggregate wage data from service contracts. Without specific wage data, it is not possible to articulate realistic cost estimates for implementing living wage laws, or to model the tax implications of raising wages or reducing child, child care, or earned income tax credits. Specific wage data are also needed to estimate reductions in welfare, food stamp, and other assistance payments.

In fiscal 2004, the State appropriated $889 million in total funds for service contracts. **Exhibit 1** shows appropriated funds by service contract category for fiscal 2004. It is unclear how much of those contract costs are wages, and what proportion of those wages would fall below a living wage threshold. For illustrative purposes, if State contract costs resemble the experience in Baltimore City (1.2% total contract cost increase), increased costs on the contracts contained in Exhibit 1 could be $10.7 million. If State contract costs increase based on the EPI estimates, the total increase could be $5.5 million ($889 million with 70% of costs from labor and 25% of labor costs increasing from $7.80 to $10.50). Adjusting for increased tax payments and reduction in government assistance program costs would reduce any direct contract cost increase. There is no reliable method to predict job loss or gain totals due to the implementation of a living wage law, and tax implications could only be estimated with reliable wage data from current contracts. DLS also notes that because the wage will track inflation each year, there will not be significant annual contract cost increases. The total impact will be realized incrementally as contracts are rebid.

Exhibit 1
Service Contracts − Statewide Budgeted Funds
Fiscal 2004 Legislative Appropriation

Title	Total Fund	General Fund*	Special Fund*	Federal Fund*
Food Services	$87,213,909	$52,328,345	$17,442,782	$17,442,782
Janitorial Services	30,195,541	18,117,325	6,039,108	6,039,108
Grounds Maintenance	3,330,462	1,998,277	666,092	666,092
Laundry	1,434,487	860,692	286,897	286,897
Housekeeping	14,053,233	8,431,940	2,810,647	2,810,647
Purchase of Care Services**	709,623,328	371,610,624	35,906,159	302,106,545
Security Services	32,436,795	19,462,077	6,487,359	6,487,359
Trash and Garbage Removal	4,747,822	2,848,693	949,564	949,564
Office Assistance	6,435,273	3,861,164	1,287,055	1,287,055
Total	**$889,470,850**	**$479,519,137**	**$71,875,663**	**$338,076,049**

* Fund split estimated as 60/20/20 GF/SF/FF. Purchase of Care Services is actual fund split.
** Developmental Disabilities Administration and Department of Human Resources

Administrative Costs: General fund expenditures could increase by an estimated $134,250 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. The Division of Labor and Industry expects to handle 1,000 complaints each year resulting from the failure of employers to pay the living wage and have 300 additional hearings before the Office of Administrative Hearings. Based on the Division of Labor and Industry's experience with the investigations conducted by the Employment Standards Service, the division would need four new positions (an administrative officer, two wage and hour investigators, and a data device operator). The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	$116,440
Operating Expenses	17,810
Total FY 2005 State Expenditures	**$134,250**

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

DLS advises that it will likely be able to conduct the study with existing resources, depending on the number of other required reports mandated during the 2004 session. Staff resources could be diverted from other responsibilities.

Small Business Effect: Some businesses associated with State contracts will have to pay the living wage, while others will not have to pay the living wage. If demand for the services of some firms required to pay the living wage is low, they will be unable to pass all the increased costs onto the State. Small businesses are, because of their size, often unable to take advantage of some of the economies of scale that large businesses can use to reduce costs. Often they do not have a large client base over which to spread any increase in costs. Without the ability to reduce or recover their costs, small businesses could be at a competitive disadvantage compared to large businesses and have a loss of income as a result.

Additional Information

Prior Introductions: Several similar bills have been introduced in recent years including SB 685 (withdrawn) and HB 964 (unfavorable report from Economic Matters) in 2002, SB 414 (unfavorable report from Finance) of 2001, HB 1201 (unfavorable reports from Economic Matters) in 2000, and SB 581 (referred to Finance, no action taken) and HB 687 (unfavorable reports from Economic Matters) in 1999.

Cross File: SB 621 (Senator Klausmeier, *et al.*) – Finance.

Information Source(s): Department of General Services; Board of Public Works; University System of Maryland; Department of Labor, Licensing, and Regulation; Department of Budget and Management; Progressive Maryland; Responsible Wealth; United for a Fair Economy; Brennan Center for Justice; National Policy Association; Johns Hopkins University; Public Policy Institute of California; Economic Policy Institute; Department of Legislative Services

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