

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 425
Economic Matters

(Delegate Wood, *et al.*)

Prevailing Wage Rates – Public Works Contracts – Exclusions

This bill raises the amount over which the State prevailing wage rate applies to construction contracts from \$500,000 to \$2.5 million and requires the Commissioner of Labor and Industry to adjust the threshold annually by the consumer price index or another appropriate index.

Fiscal Summary

State Effect: State special fund and bond expenditures for construction would decrease significantly in FY 2005 due to fewer projects requiring prevailing wages. Future year costs would depend on the number of construction projects between \$500,000 and \$2.5 million and would reflect annualization and inflation.

Local Effect: Potential meaningful reduction in expenditures for construction contracts.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The current threshold of \$500,000 was enacted in 1969. It is not currently adjusted for inflation. The threshold applies to construction by any public body including the State; a unit of State government or instrumentality of the State; or any political subdivision, agency, person, or entity with respect to the construction of any public work for which 50% or more of the money used for construction is State money.

For the purposes of the prevailing wage laws, construction is defined as:

- building;
- reconstructing;
- improving;
- enlarging;
- painting and decorating;
- altering;
- maintaining; and
- repairing.

Background: The federal Davis-Bacon Act requires that federal or District of Columbia public-works construction contracts over \$2,000 contain a prevailing wage clause. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on similar projects. Maryland adopted a prevailing wage law in 1945 (Chapter 999), but it only applied to road projects in Allegany, Garrett, and Washington counties. In 1969, the statute was amended to include public works projects of the State costing \$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.

This bill is a recommendation of the Task Force to Study Efficiency in Procurement. The task force was established by Chapter 386 of 2003 and issued its final report on December 31, 2003.

State Fiscal Effect: A recent study by Dr. Yale Stenzler, former director of the Maryland Interagency Committee on Public School Construction, found that significant savings could be realized by applying prevailing wage rates to fewer public school construction projects. During fiscal 2001 through 2003, 52 public school construction projects were subject to the State prevailing wage rate law. The study determined that removing the requirement of prevailing wages would reduce contract costs by 5% to 10%.

The Department of General Services (DGS) has provided detailed information on 55 new construction projects undertaken by the State in the past five fiscal years that were valued between \$500,000 and \$2.5 million. According to the department, contract awards for the projects totaled \$51.0 million. Under the provisions of this bill, none of those projects would have required prevailing wages. For illustrative purposes, assuming 30% labor costs as a percentage of total project cost and applying the cost savings estimates from Dr. Stenzler's report, State general fund savings for those 55 projects could total between \$765,000 to \$1.5 million.

DGS estimates it will award 15 contracts after the October 1, 2004 effective date of this bill that would cost over \$500,000 but under the \$2.5 million threshold in this bill. The total estimated value of those projects is \$16.5 million. Applying the 5% to 10% savings range would yield fiscal 2005 savings of \$247,500 and \$495,000.

Both the Public School Construction Program and the Maryland Department of Transportation estimate that significant savings can be realized in their respective capital programs if the threshold is increased and tied to an inflationary measure. Neither agency can reliably quantify the savings.

The Department of Legislative Services (DLS) concurs that increasing the threshold for prevailing wage rates to apply to State construction contracts would decrease construction costs significantly. DLS believes that the lower end of Dr. Stenzler's range is a reasonable savings estimates, but notes that savings would increase or decrease significantly based on the total levels of funding of construction and the number of contracts that fall between \$500,000 and \$2.5 million.

Local Expenditures: The impact of local government expenditures will depend on whether or not the jurisdiction has a construction project valued between \$500,000 and \$2.5 million that receives more than half of its funding from a State source. Savings would be of a similar magnitude to the estimates provided for State projects, but would vary significantly by jurisdiction.

Small Business Effect: Potential significant impact on the ability of small businesses to compete for construction contracts from public bodies. Small businesses that would have been unable to bid on projects due to prohibitive labor costs under prevailing wage would be able to bid on contracts.

Additional Information

Prior Introductions: None.

Cross File: SB 660 (Senator Hooper) – Finance.

Information Source(s): Department of General Services, Board of Public Works, University System of Maryland, Maryland Department of Transportation, Public School Construction Program, Department of Budget and Management, Department of Legislative Services

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