HB 1282

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1282 (Delegate Hucker, *et al.*)
Economic Matters and Health and Government Operations

State Construction Projects - Contractors and Subcontractors - Employer-Paid Health Care Required

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This bill requires that contractors and subcontractors working on public works projects provide employer-paid health care or health insurance to their employees that covers medical care, prescription drugs, and vision care, if State funding for the project exceeds 50% of the project's total cost and the contract is for more than $500,000.

Fiscal Summary

State Effect: State expenditures (all funds) for construction contracts exceeding $500,000 could increase significantly, although the actual amount cannot be estimated reliably.

Local Effect: Local expenditures could increase significantly for school construction projects in which State funding exceeds 50% of a project's total cost and total project costs exceed $500,000. The amount cannot be estimated reliably.

Small Business Effect: Meaningful.

Analysis

Current Law: A public work is a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant that is constructed for public use or benefit or is paid for wholly or partly by public money. It does not include any structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority, unless the project is let to contract.

Prevailing Wage: Contractors working on State and local public works projects are required to pay the State's prevailing wage if 50% or more of total construction costs are paid by the State. The prevailing wage law does not apply to projects that cost less than $500,000.

Prevailing wages are defined in Maryland statute as the wages paid to 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 Commissioner of Labor and Industry is responsible for determining prevailing wages for each public works project and job category. In calculating prevailing wages for a locality, the commissioner may include the cost of fringe benefits mandated by law.

Living Wage: Chapter 284 of 2007 made Maryland the first state to require State contractors to pay their employees a "living wage." For fiscal 2008, the living wage is set at $11.30 in Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore counties and Baltimore City. It is set at $8.50 for all other areas of the State. The living wage rates are adjusted annually for inflation by the Commissioner of Labor and Industry.

The higher living wage rate ($11.30) applies to contracts in which at least 50% of the contract services will be performed in locations subject to the higher rate, as determined by the State agency responsible for the contract. The lower living wage rate ($8.50) applies to all other contracts. State contractors or subcontractors with a State contract for services valued at greater than $100,000 must pay the living wage to employees who spend at least half their time during any work week working on the State contract. However, the living wage requirement does not apply to employees who are under the age of 18 or who work full time for less than 13 consecutive weeks for the duration of the contract. Employers who provide health insurance to workers may reduce wages by all or part of the hourly cost of the employer's share of the premium for each employee. The Commissioner of Labor and Industry may allow an employer who contributes to its employees' tax-deferred retirement savings accounts to reduce the living wage rate by the hourly cost of the employer's contribution, up to 50 cents per hour.

State contractors are not required to pay a living wage if doing so would conflict with a federal requirement or if they are:

- providing emergency services to prevent or respond to an imminent threat to public health or safety;
- a public service company;
- a nonprofit organization;
- another State agency;
- a county government (including Baltimore City); or
- a firm with 10 or fewer employees that has a State contract valued at less than $500,000.

Local School Construction: The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors including each local school system's wealth and ability to pay. **Exhibit 1** shows the State share of eligible school construction costs for all Maryland jurisdictions beginning in fiscal 2010. New rates are being phased in over two or three years for Calvert, Dorchester, Garrett, Harford, Queen Anne's, and Somerset counties because, when the rates were recalculated in 2007 based on the same factors, they experienced a reduction of 5% or more in the State share of school construction costs compared with the fiscal 2006-2009 levels.

Exhibit 1
State Share of Eligible School Construction Costs
Fiscal 2009-2012

County	FY 2009	FY 2010	FY 2011	FY 2012
Allegany	90%	91%	91%	91%
Anne Arundel	50%	50%	50%	50%
Baltimore City	97%	94%	94%	94%
Baltimore	50%	50%	50%	50%
Calvert	69%	64%	61%	61%
Caroline	89%	86%	86%	86%
Carroll	65%	61%	61%	61%
Cecil	70%	75%	75%	75%
Charles	70%	77%	77%	77%
Dorchester	77%	72%	71%	71%
Frederick	72%	72%	72%	72%
Garrett	70%	65%	60%	59%
Harford	65%	60%	59%	59%
Howard	58%	61%	61%	61%
Kent	50%	50%	50%	50%
Montgomery	50%	50%	50%	50%
Prince George's	69%	73%	73%	73%
Queen Anne's	70%	65%	60%	55%
St. Mary's	72%	75%	75%	75%
Somerset	97%	92%	88%	88%
Talbot	50%	50%	50%	50%
Washington	65%	73%	73%	73%
Wicomico	81%	87%	87%	87%
Worcester	50%	50%	50%	50%

Source: Public School Construction Program

Background: According to a 2007 national survey by the Kaiser Family Foundation, 59% of firms in the agriculture/mining/construction industries offer health benefits to their employees, and 75% of employees in those same industries are eligible for employer-sponsored health insurance coverage. Across all industries, the average total premium cost was $4,479 for individual coverage and $12,106 for family coverage. However, the Kaiser survey found that employee cost sharing policies, including premium subsidies, deductibles, copayments, and out-of-pocket limits, differed across plan types and employers.

State Fiscal Effect: This bill could increase significantly the cost of State construction contracts valued at more than $500,000, but Legislative Services cannot reliably estimate the size of the increase. This assumes that some construction contractors and subcontractors currently do not provide health benefits to their employees, and that if they were required to do so, they would pass those costs along to the State in the form of higher contract bids. Health care costs for State employees are about 12.5% of employee compensation. However, Legislative Services cannot estimate by how much costs would actually increase for the following reasons.

- State agencies do not know how many construction contractors and subcontractors currently offer health benefits to employees, or how many would do so in the future. The national figures cited above are inconclusive because they include firms in two industries besides construction.
- The bill does not specify a minimum level of coverage that employers would have to provide to satisfy the bill's mandate.
- The degree of employee cost sharing would likely vary from contract to contract and employer to employer. Any portion of insurance costs paid by employees would decrease the costs passed on to the State.
- Some firms may limit the growth in personnel costs by reducing the wages they pay by the amount of the employer cost of health benefits, as allowed by both the living wage and prevailing wage statutes and presumed to apply to this bill.

Under current law, State expenditures for local school construction costs would not increase because any increase in the cost of local school construction prompted by this bill would be paid by local governments.

Local Fiscal Effect: Local school construction costs for projects in which the State provides at least 50% of total project costs could increase significantly, but Legislative Services cannot reliably estimate the size of the increase. Most school construction projects in Anne Arundel, Baltimore, Kent, Montgomery, Talbot, and Worcester counties would not be affected. Even though the State pays half of eligible costs for projects in these counties, total costs often exceed eligible costs, so very few projects in these counties would meet the 50% threshold required to provide health benefits under this bill. School construction projects in all other counties could meet the threshold, and local costs would increase by any amount that exceeds the State share approved by the Board of Public Works. The amount of increased costs cannot be estimated for the reasons listed above under State Fiscal Effect.

Small Business Effect: Across all industries, small businesses are less likely to provide employer-sponsored health coverage than large employers. The 2007 Kaiser survey found that 45% of all firms with between 3 and 9 employees offer health insurance, compared with 59% of firms with fewer than 200 employees. Therefore, small firms that bid on State construction contracts would be more likely than larger firms to have to begin offering health insurance. To the extent that their employees work only on State projects, there would be no added costs to the firm, assuming they passed those costs on to the State. However, small construction firms that work on both State and non-State contracts, which is likely quite common, could experience higher personnel costs to provide health benefits to all of their employees. Some of those increased costs could be offset by reductions in wages, as allowed by the State's prevailing wage and living wage statutes.

Additional Comments: To the extent the required provision of employer-paid health care or health insurance reduces the number of uninsured residents in Maryland, uncompensated care expenses in the State could decrease.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Board of Public Works, Kaiser Family Foundation, Maryland Insurance Administration, University System of Maryland, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2008
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