

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 106
Economic Matters

(Delegate Davis)

State Procurement Contracts - Living Wage

This bill eliminates the State's two-tiered living wage based on geographic boundaries and establishes a statewide living wage of \$11.30 per hour, subject to annual increases for inflation.

Fiscal Summary

State Effect: Potential moderate to minimal increase in expenditures, all funds, in the short-term from contract costs passed on to the State; long-term costs are less certain but could be significant.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: 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.

The commissioner may adopt regulations, investigate wage complaints, issue orders for hearings, issue determinations, serve each interested party, and determine the amount of restitution for violations. Every three years, the commissioner must assess the appropriateness of the inflation measure used to recalculate the living wage rate on an annual basis (the Consumer Price Index for all Urban Consumers in the Washington-Baltimore metropolitan area). The commissioner must also assess whether Maryland counties are subject to the appropriate living wage rates, given labor costs in their jurisdictions. An employee may sue for damages when an employer fails to pay the living wage, regardless of whether the State has required the employer to pay restitution.

Employers who violate the living wage requirements must pay the affected employees the amount determined by the commissioner and pay the State \$20 per day per employee in liquidated damages. Employers must 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 commissioner is responsible for providing these notices to employers.

The University System of Maryland, Morgan State University, and St. Mary's College of Maryland are exempt from most provisions of State procurement law. Also, the following State agencies are exempted in whole or in part from most State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

Background: In 1994, Baltimore City became the first locality in the country to enact a living wage requirement for city contractors. Since then, living wage laws have been adopted in at least 120 localities in the U.S, including other large cities such as Detroit, Boston, and Los Angeles. In 2005, Montgomery County and Prince George's County joined Baltimore City as the only jurisdictions in the State to enact a living wage. Washington, DC enacted a living wage bill in 2006, which set the initial living wage at \$11.75, subject to annual increases. The current living wage rate is \$9.62 in Baltimore City, \$11.60 in Montgomery County, and \$11.25 in Prince George's County.

Maryland's minimum wage is currently \$6.15. The current federal minimum wage is \$5.85, increasing to \$6.55 in July 2008.

The U.S. Bureau of Economic Analysis projects that per capita income in 2010 will range from a high of \$57,375 in Montgomery County to a low of \$22,368 in Somerset County, with a statewide average of \$40,696.

State Fiscal Effect: Based on the experience of local jurisdictions that have had long-standing living wage ordinances, service contracts for maintenance and janitorial services are among the types of contracts most likely to be subject to living wage provisions. The Department of General Services, which serves as the procurement control agency for State maintenance contracts, has identified 21 contracts that currently are subject to the lower living wage. However, DGS is unable to quantify the value of these contracts and no data is yet available on the impact of Chapter 284 on procurement costs in fiscal 2008.

Research on the fiscal effects of living wage laws have found that contract costs may increase 0% to 2% in the short-term. Legislative Services estimated an increase of 1% on maintenance and food services costs, or \$430,000, in fiscal 2008 and 2009 due to enactment of Chapter 284. This is less than the annual inflation rate and so may be absorbed within automatic contract increases. The impact of eliminating the Tier 2 counties would be no greater than that, and would likely be less as most State facilities are located in central Maryland counties already subject to the higher living wage. In the long-term, wage spillover effects could increase costs but the fiscal impact cannot be reliably estimated and could be less than inflation.

Small Business Effect: Any increase in wage rates that small businesses in suburban and rural areas must pay their employees will be passed on to the State in the form of higher contract costs.

Small firms are less able than large firms to absorb the cost of increased wages without passing on the full cost to the State because small businesses are less able to take advantage of economies of scale to reduce costs. Often, small firms do not have a large enough client base over which to spread the increased costs. Therefore, imposing a higher living wage rate on small businesses in rural areas could put them at a competitive disadvantage in bidding for State contracts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; Prince George's County; Harford County; Department of General Services; Board of Public Works; Comptroller's Office; University System of Maryland; Maryland Department of Transportation; Department of Labor, Licensing, and Regulation; Carroll County; Department of Public Safety and Correctional Services; U.S. Bureau of Economic Analysis; Department of Legislative Services

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