

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 644  
Economic Matters

(Delegate Manno, *et al.*)

Finance

**Procurement - Apprenticeship Training Programs**

This bill creates the State Apprenticeship Training Fund and requires contractors and some subcontractors on public works contracts that are subject to the prevailing wage law to either participate in an apprenticeship training program, make payments to a registered apprenticeship program or to an organization that operates registered programs for the purpose of supporting the programs, or contribute to the fund.

**Fiscal Summary**

**State Effect:** Special fund revenues for the State Apprenticeship Training Fund within the Department of Labor, Licensing, and Regulation (DLLR) increase by \$175,400 in FY 2010 due to payments from construction firms working on prevailing wage projects. Out-year revenues reflect annualization, but decline as employer participation in registered apprenticeship programs increases. Special fund expenditures from the fund are commensurate with revenues to pay for compliance monitoring and to promote preapprenticeship and workforce development programs. Out-year expenditures reflect annualization, inflation, and increased employer participation in registered programs.

| (in dollars)   | FY 2010   | FY 2011   | FY 2012   | FY 2013   | FY 2014   |
|----------------|-----------|-----------|-----------|-----------|-----------|
| SF Revenue     | \$175,400 | \$210,500 | \$187,100 | \$163,700 | \$140,300 |
| SF Expenditure | \$175,400 | \$210,500 | \$187,100 | \$163,700 | \$140,300 |
| Net Effect     | \$0       | \$0       | \$0       | \$0       | \$0       |

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

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The State Apprenticeship Training Fund is a special, nonlapsing fund within DLLR. The purpose of the fund is to promote preapprenticeship programs and other workforce development programs in the State's public secondary schools and community colleges and to cover the cost of implementing the bill's provisions. The programs should prepare students to enter apprenticeship training programs. The fund's revenues consist of payments made by contractors and penalties collected due to violations of the bill's provisions.

Subcontractors with contracts worth at least \$100,000 on eligible public works projects must also either participate in an apprenticeship training program, make payments to a registered apprenticeship program or an organization that operates registered programs for the purpose of supporting the programs, or contribute to the fund. Contractors and subcontractors that elect to contribute to the fund must pay, on a monthly basis, an amount determined by the Secretary of Labor, Licensing, and Regulation, not to exceed 25 cents per hour per employee in a covered craft. Any difference between the fringe benefit allocation included in the prevailing wage and the amount paid by the employer must be paid to the employee as wages. Payments to the fund satisfy required apprenticeship program contributions under the prevailing wage determination and may be deducted from the prevailing wage rate required to be paid to each employee.

DLLR is responsible for enforcing the provisions of the bill. DLLR must adopt regulations that establish an auditing procedure for organizations that operate apprenticeship programs to ensure that funds received under the bill are used solely to improve and expand apprenticeship programs, and these organizations must certify to the Secretary of Labor, Licensing, and Regulation that all funds received under the bill are used solely for those purposes.

Contractors and subcontractors that do not comply with the bill's provisions must pay into the fund twice the amount of unpaid apprenticeship training contributions required by the bill. Willful misrepresentation of prevailing wage records is subject to a civil penalty of \$1,000 for each employee and falsified record. The Secretary of Labor, Licensing, and Regulation may file suit in any court of competent jurisdiction to enforce the bill's provisions; contractors or subcontractors must pay reasonable legal fees and court costs associated with a civil action filed by the Secretary.

**Current Law:** Contractors working on eligible public works projects must pay their employees the prevailing wage rate. Eligible public works projects are those valued at more than \$500,000 and carried out by:

- the State, or
- a political subdivision, agency, person, or entity for which at least 50% of the project cost is paid for by State funds.

Public works are structures or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant that is constructed for public use or benefit or paid for entirely or in part by public money.

Prevailing wages are 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, or job category, subject to the advice and recommendations of a six-member advisory council appointed by the Governor.

Prevailing wage rates include both wage and benefit determinations, including a fringe benefit allocation to support apprenticeship programs.

The University System of Maryland, Morgan State University, St. Mary's College of Maryland, and the Maryland Stadium Authority are all exempt from the prevailing wage law.

**Background:** Apprenticeships are voluntary, industry-specific programs sponsored by employers, employer associations, and labor unions. Apprentices must be at least age 16 (or 18 for hazardous crafts) and receive supervised, structured, on-the-job training combined with technical instruction in a specific skilled trade or occupation.

The Maryland Apprenticeship and Training Council within DLLR registers apprenticeship programs. Registered programs must meet minimum standards established in statute and regulation. Most programs take three or four years to complete and lead to journeyman certification. The council has approved and registered apprenticeship programs in 230 occupations, and more than 28,512 apprentices have completed apprenticeship training in registered programs.

**State Fiscal Effect:** Prevailing wage calculations include an hourly fringe benefit rate to support apprenticeship and training programs. Therefore, State contract costs for prevailing wage projects do not increase under this bill because project bids already reflect the prevailing wage that includes fringe benefit allocations. In the Baltimore metropolitan area, the average fringe benefit allocation for apprenticeship programs is \$0.5023 per hour; it may be lower in other areas of the State. DLLR has no information

regarding trends in the amount of the fringe benefit allocation for apprenticeship training, but advises that it is unlikely to change in proportion to prevailing wage changes because it is affected most by participation rates in apprenticeship programs. For the purpose of this analysis, therefore, the fringe benefit allocation remains constant.

DLLR advises that 110 projects are currently covered by the State's prevailing wage law, but that on average there are about 90 projects a year. Given the types of jobs likely to be affected by the bill, and that about 20% of firms participate in apprenticeship programs, DLLR estimates that seven contractors with an average of 11 employees work on each project and do not currently participate in an apprenticeship program. Assuming that an average construction worker works 1,350 hours a year (after adjusting for weather-related influences on construction work schedules), and given the bill's effective date and the 25-cent cap on employer contributions to the fund, Legislative Services roughly estimates that the bill may generate as much as \$2.3 million a year in revenue for the new State Apprenticeship Training Fund if all of the firms not currently participating contribute to the fund.

However, DLLR projects that 90% of firms that do not already participate in apprenticeship programs will opt to either participate in the first year or make payments to a registered program or organization rather than pay into the State fund. Legislative Services concurs. Participation then increases by 1% each year thereafter.

Given the bill's October 1, 2009 effective date, special fund revenues increase by \$175,416 for the State Apprenticeship Training Fund in fiscal 2010 and by \$210,499 in fiscal 2011. Fund revenues decline annually thereafter to reflect marginally higher levels of participation in existing apprentice programs. Legislative Services assumes that DLLR annually disburses all revenues in the form of grants to carry out the bill's purpose and to cover the cost of monitoring compliance with the bill's provisions. To the extent that DLLR opts to distribute the fund's assets in a different manner, expenditures may vary.

Based on the bill's October 1 effective date, Legislative Services estimates that the cost of monitoring compliance with the bill's provisions is \$72,498 in fiscal 2010. This estimate reflects the cost of hiring one full-time equivalent financial compliance monitor and a half-time administrative specialist to monitor and enforce compliance by contractors on public works projects covered by the prevailing wage. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses:

|                                       |                 |
|---------------------------------------|-----------------|
| Positions                             | 1.5             |
| Salaries and Fringe Benefits          | \$62,208        |
| Start-up Costs                        | 5,535           |
| Operating Expenses                    | <u>4,755</u>    |
| <b>FY 2010 Personnel Expenditures</b> | <b>\$72,498</b> |

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

As noted above, these expenditures are made from the new special fund, thereby limiting the funds available to support preapprenticeship programs. Based on this estimate, the fund will have \$102,918 available in fiscal 2010 to support preapprenticeship programs, and \$119,619 in fiscal 2011. Legislative Services notes that, after six years, based on gradually diminishing employer payments to the fund due to increased employer participation in apprenticeship programs or payments to registered programs, administrative costs exceed revenues for the fund.

**Small Business Effect:** Small businesses that work on public works projects subject to the prevailing wage and that do not currently participate in any apprenticeship programs must elect to either participate in a program, make payments to a registered program or organization, or contribute to the fund. In any case, their incomes decrease by the amount they contribute.

---

### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 405 (Senator Conway) - Finance and Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Board of Public Works; Maryland Department of Transportation; University System of Maryland; Judiciary; Department of Budget and Management; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2009  
ncs/rhh Revised - House Third Reader - April 8, 2009  
Revised - Enrolled Bill - May 20, 2009

---

Analysis by: Michael C. Rubenstein

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510