

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1293 (Delegate Reznik, *et al.*)  
Health and Government Operations

---

State Finance and Procurement - Public Works Contracts - Required Clause

---

This bill requires a public body to include a clause in any public works contract valued at more than \$500,000 obligating the contractor to certify that not more than 10% of the contractor's employees receive public assistance through the Maryland Medical Assistance Program (Medicaid) before entering into a public works contract. Public bodies include the State, county and municipal governments, public instrumentalities, or any governmental unit authorized to award a contract.

---

Fiscal Summary

**State Effect:** State procurement units can implement the bill's requirements with existing budgeted resources. However, the certification required by the bill may reduce the number of bidders on public works contracts. This reduced competition for public works contracts may increase the cost of those projects.

**Local Effect:** No direct effect on local government finances; however, the bill's potential indirect effect on the cost of local public works projects are the same as those described for State projects.

**Small Business Effect:** Potential meaningful.

---

## Analysis

### Current Law:

#### *Public Works*

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.

Contractors working on eligible public works projects must pay their employees the prevailing wage rate and certify that they participate in apprenticeship programs for each covered craft involved in the project. Eligible public works projects are those valued at more than \$500,000 and carried out either 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.

The State prevailing wage rate does not apply to any part of a public work project funded with federal funds that is subject to a prevailing wage rate determined by the federal government.

#### *Medicaid and the Maryland Children's Health Program (MCHP)*

Medicaid provides health care coverage to children, pregnant women, elderly or disabled individuals, and indigent parents who pass certain income and asset tests. Eligibility for MCHP currently extends to individuals younger than age 19 with family incomes up to 300% of the federal poverty guidelines (FPG). Children in families with incomes above 200% but at or below 300% FPG are enrolled in the MCHP Premium Plan. Individuals who have been eligible for employer-sponsored health insurance in the previous six months are ineligible for MCHP. Children and pregnant women who have not been legal immigrants for at least five years are ineligible for federal Medicaid and MCHP benefits. The State currently provides Medicaid benefits to legal immigrant pregnant women and children who have been in the country for less than five years using general funds only. Emergency services are provided to all financially eligible individuals regardless of immigration status.

**Background:** The State's prevailing wage calculation includes a fringe benefit allocation that includes the cost of providing health insurance to an employee being paid the prevailing wage. Employers that provide health insurance, either directly or through a multi-employer plan, may withhold the fringe benefit allocation and deposit it in an appropriate fringe benefit fund (*e.g.*, a health plan) for the benefit of the employee. Employers that do not provide health insurance pay the fringe benefit allocation directly to the employee in the form of wages.

**State Fiscal Effect:** The bill places no additional fiscal or administrative burden on State procurement units that oversee public works projects. However, the bill may have the effect of limiting bidders on public works projects to those that provide health insurance to their employees because they will be able to certify that their employees do not participate in Medicaid. Other employers that do not provide health insurance may not be able to provide that certification and, therefore, will not qualify to bid on public works projects. To the extent that the bill reduces competition for public works projects, it may increase the costs of those projects.

**Small Business Effect:** Public works contractors that do not provide health insurance to their employees will first have to ask each employee whether he or she participates in Medicaid. If more than 10% of a contractor's employees do participate, the contractor will no longer be eligible to bid on public works contracts in the State.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Kent and Worcester counties; towns of Bel Air and Leonardtown; cities of Salisbury and Westminster; Baltimore City; Department of Budget and Management; Department of General Services; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Maryland Association of Counties; Maryland Municipal League; Public School Construction Program; University System of Maryland; Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2010  
ncs/rhh

---

Analysis by: Michael C. Rubenstein

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