

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1445
Economic Matters

(Delegate Stifler)

Finance

**Plumbing and Heating, Ventilation, Air-Conditioning, and Refrigeration
Employees - Public Work Contracts - License Requirement and Employee
Classification**

This bill prohibits a person from employing an individual to provide or assist in providing specified services under a public works contract subject to State prevailing wage law unless the individual is licensed by specified regulatory entities to perform those services. A person may not classify an employee under a public works contract subject to prevailing wage law who is licensed by the specified regulatory entities at a specific work classification that is higher than the employee's license type (apprentice, journeyman, master). The bill applies to plumbing services, for which an individual must be licensed by either the State Board of Plumbing, the Baltimore County Plumbing Board, or the Washington Suburban Sanitary Commission. It also applies to heating, ventilation, air conditioning, or refrigeration (HVACR) services, for which an individual must be licensed by the State Board of HVACR Contractors.

Fiscal Summary

State Effect: Assuming any individual affected by the bill (*i.e.*, a person performing journeyman work as an apprentice) is currently paid the prevailing wage for the work performed, the bill has no impact on State expenditures on public works contracts. Revenues are not affected.

Local Effect: Assuming any individual affected by the bill is currently paid the prevailing wage for the work performed, the bill has no impact on local finances.

Small Business Effect: Minimal.

Analysis

Current Law: Public works are structures or works, including bridges, buildings, ditches, roads, alleys, waterworks, or sewage disposal plants, that are 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. 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.

Prevailing wages are defined in statute as the wages paid to at least 50% of workers in a given locality who perform the same or similar work on projects that resemble the proposed public works project. The Commissioner of Labor and Industry within the Department of Labor, Licensing, and Regulation (DLLR) is responsible for determining prevailing wages for each public works project and job category, subject to the advice and recommendations of a six-member advisory council appointed by the Governor. The State prevailing wage rate does not apply to any part of a public works project funded with federal funds for which the contractor must pay the prevailing wage rate determined by the federal government.

Contractors and subcontractors under public works contracts must employ only competent workers and apprentices who participate in an apprenticeship program registered with the State's Apprenticeship and Training Council within DLLR and approved by the U.S. Department of Labor's Bureau of Apprenticeship and Training. An occupation must require at least 2,000 hours of training to be considered an apprenticeable occupation.

Apprentices must be at least 16 years old and have a written agreement with a sponsor (typically an employer or union) that specifies which trade or craft the apprentice is learning and the beginning and end dates of the apprenticeship. Apprentices on public works projects must be paid a wage that is at least the percentage, set by the council, of the prevailing wage rate for a journey worker in the trade in which the apprentice is employed. DLLR advises that, in general, apprentices are paid 75% of journey rates, but the percentages can vary somewhat by trade.

Plumbing

The State Board of Plumbing is housed within DLLR's Division of Occupational and Professional Licensing. The board has three statutorily established purposes: (1) to protect the integrity of the potable water supply; (2) to provide for the efficient and safe discharge of storm drainage and sanitary drainage; and (3) to ensure that qualified individuals carry out the board's charge.

Under State law, the board regulates the plumbing industry throughout most of Maryland, but it lacks jurisdiction in Baltimore County as well as in areas of Montgomery and Prince George's counties under the jurisdiction of the Washington Suburban Sanitary Commission. The licenses issued by the board are not valid in these jurisdictions; however, Baltimore County does require applicants for their journey examination to hold a current State apprentice license.

To provide plumbing services throughout most of the State, a person must be licensed by the board. The board issues three different plumbing licenses: master, journey, and apprentice. These licenses are typically held in conjunction with the equivalent gas fitters license. Journey plumbers and journeyman natural gas fitters are licensed to provide plumbing services while under the direction and control of a master plumber. Apprentice plumbers or gas fitters must have at least four years of experience and at least 7,500 hours under the direction and control of a master plumber or natural gas fitter to qualify to sit for the journey examination.

Heating, Ventilation, Air Conditioning, and Refrigeration Contractors

In Maryland, providing HVACR services means installing or maintaining heating systems, cooling systems, refrigeration systems, ventilation systems, or hydronic systems. The State Board of HVACR Contractors was established by Chapter 649 of 1992 to license individuals who offer HVACR services to protect the public, maintain efficient and safe systems, and promote high professional standards in the industry. The board is also the sole determiner of the State mechanical code; directs continuing education courses; and administers other minimum standards for State, county, and local government HVACR inspectors. The board is housed within DLLR's Division of Occupational and Professional Licensing.

Background: The Division of Labor and Industry within DLLR advises that it has been notified that some contractors have employed plumbing apprentices on State public works projects and paid them to perform journey level work. However, the apprentices are not registered with the Maryland Apprenticeship Training Council and, although they are paid the prevailing wage for plumbing journeymen, they are not authorized by their license to perform the full range of independent work that is taking place in the public works contract.

The federal Davis-Bacon Act, originally enacted in 1931, requires contractors working on federal public works contracts valued at more than \$2,000 to pay their employees the prevailing local wage for their labor class, as determined by the U.S. Secretary of Labor. The general intent of the law, and similar state and local laws, is to stabilize local wage rates by preventing unfair bidding practices and wage competition. Thirty-two states and the District of Columbia currently have prevailing wage laws; since 1979, nine states have repealed their prevailing wage laws.

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 State public works contracts exceeding \$500,000. There have been periodic changes to the law and the definition of prevailing wage. In 1983, the law was broadened to include public works projects in which the State funds 50% or more of the total project costs and 75% or more in the case of public schools. Chapter 208 of 2000 reduced the prevailing wage threshold for public schools from 75% to 50% of construction costs, thereby bringing school construction projects in line with prevailing wage requirements for other public works projects.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County; Department of Budget and Management; Department of General Services; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

Fiscal Note History: First Reader - March 26, 2012
ncs/mcr Revised - House Third Reader - April 7, 2012

Analysis by: Stephen M. Ross

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