

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 370 (Delegate McCray, *et al.*)
 Economic Matters

Prevailing Wage - Payment for Apprenticeship Programs

This bill requires a contractor or subcontractor on a public work contract to pay the full cost of the apprenticeship program for each apprentice that participates on the contract, unless the employer participates in an apprenticeship training program for each classification of worker on the project. The bill also establishes procedures for enforcing this requirement.

Fiscal Summary

State Effect: General fund expenditures by the Department of Labor, Licensing, and Regulation (DLLR) increase by \$90,100 in FY 2016 to enforce the bill’s requirements. Out-year expenditures reflect annualization and inflation. The cost of prevailing wage projects may increase to the extent that contractors pass along increased wage costs to the State; there is no effect on overall capital expenditures since they are fixed in each annual capital budget, but the requirement may result in fewer projects being funded in a given fiscal year. No effect on revenues.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	90,100	111,100	116,300	121,600	127,300
Net Effect	(\$90,100)	(\$111,100)	(\$116,300)	(\$121,600)	(\$127,300)

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

Local Effect: Local governments that fund public work projects may also experience the same increase in project costs as the State; it is assumed that local capital expenditures are not affected, but that fewer local projects may receive funding in a given fiscal year.

Small Business Effect: Potential meaningful for small construction companies.

Analysis

Bill Summary: “Participating in an apprenticeship training program” means that, during the term of the contract, a contractor or subcontractor makes regular financial contributions to apprenticeship programs for each classification of worker listed in the prevailing wage determination applicable to the public work contract that are at least equal to the hourly fringe benefit contribution rates required by the applicable determination provided by the Secretary of Labor, Licensing, and Regulation.

An investigation of a contractor or subcontractor by the Commissioner of Labor and Industry must include a determination of whether the contractor or subcontractor has violated the bill’s requirements. Upon notification by the commissioner that a contractor or subcontractor has violated the bill’s requirements, any money withheld from the employer by the public body that contracted for the work must include sufficient funds to pay the full cost of each apprenticeship program not paid for by the employer. Upon issuance of a final order by the commissioner that a contractor or subcontractor violated the bill’s requirements, the public body must, from the money due to the contractor or subcontractor, reimburse the apprentice for any amount the apprentice paid to the apprenticeship program that was not reimbursed by the employer and pay any remaining balance still owed to the apprenticeship program.

Each contractor required to pay the prevailing wage must keep a list of each apprentice and the apprenticeship program in which the apprentice takes part.

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

- the State, unit of State government, or instrumentality of the State;
- a political subdivision, agency, person, or entity, with respect to the construction of a public school, for which 25% or more of the money used for construction is State money; or
- a political subdivision, agency, person, or entity, with respect to the construction of any other public work, for which at least 50% of the money used for construction is State funds.

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 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 work 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 work project, or job category. 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.

State Apprenticeship Training Fund

Chapter 687 of 2009 established the State Apprenticeship Training Fund and requires contractors and some subcontractors on public work 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. The fund's revenues consist entirely of payments made by contractors and penalties collected due to violations of the statutory provisions.

Monies from the fund may be used only 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 administering the fund. The programs should prepare students to enter apprenticeship training programs. As of February 2015, the fund has a balance of about \$23,000; no payouts have been made from the fund since its inception.

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 at least 2,000 hours of supervised, structured, on-the-job training combined with at least 144 hours of annual 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. As of August 2014, there were 413 registered programs (but only 136 were considered active) and more than 9,000 registered apprentices in the State.

Prevailing wages vary by trade and location. Prior to bidding and/or starting construction on a public work project, a contractor typically requests from the commissioner a determination of the prevailing wage for each trade that will be working on the project. The wage determinations provided by the commissioner include both a base hourly wage and a fringe benefit payment. For employers who hire union laborers, the portion of the fringe benefit dedicated to apprenticeship programs is paid to the union to support its program, often under the terms of a collective bargaining agreement. Employers who do not hire union laborers typically operate their own program, participate in apprenticeship programs run by nonunion trade associations, contract out their training programs to community colleges or other third-party providers, or pay into the Apprenticeship Training Fund. In either case, the payments made by employers may not cover the full cost of the apprenticeship training programs, so participating apprentices may be required to pay to cover some program costs.

State Fiscal Effect:

Administrative Costs

Although DLLR currently enforces contractor compliance with Chapter 687, its work does not involve calculation of the cost of apprenticeship programs. For this bill, any investigation conducted by DLLR requires it to establish the full cost of an apprenticeship program as well as any costs that are charged to participating apprentices. This task requires extensive analysis of apprenticeship program operations and budgets and is outside the scope of enforcement work currently carried out by the Division of Labor and Industry within DLLR. Therefore, general fund expenditures increase by \$90,131 in fiscal 2016, which accounts for the bill’s October 1, 2015 effective date. This estimate reflects the cost of hiring one full-time administrative officer to conduct investigations and determine the full cost of apprenticeship programs. It also includes a half-time assistant Attorney General to develop regulations and prepare cases for adjudication. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1.5
Salaries and Fringe Benefits	\$78,427
Operating Expenses	<u>11,704</u>
Total FY 2016 State Expenditures	\$90,131

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Prevailing Wage Project Costs

The bill requires employers who do not participate in apprenticeship training programs for each trade involved in a project to pay the full cost of an apprenticeship program for each participating apprentice. This requirement could increase employer costs for prevailing wage projects in several ways, and those costs would likely be passed on to the State in the form of higher project costs. First, employers who do not participate in apprenticeship training programs pay the full cost for each apprentice they hire. A reliable estimate of the cost of apprenticeship programs is not available. Costs are likely to vary substantially, but generally are expected to be in the thousands of dollars for each apprentice. Second, the bill may dissuade some employers from using apprentices, prompting them to use journey laborers instead. This will also increase project costs as apprentices are typically paid a percentage of journey wages. To the extent that these factors cause project costs to increase, and that contractors pass along those increased costs to the State, the cost of prevailing wage projects increases. As total State spending for capital projects is fixed in each annual budget, any increase in project costs may result in fewer projects being funded in a given fiscal year.

Small Business Effect: Small construction companies that do not participate in apprenticeship training programs and hire apprentices to work on prevailing wage projects must pay (1) the \$0.25 hourly fringe benefit payment to the State Apprenticeship Training Fund required by current law and (2) the full cost of apprenticeship programs for each apprentice they hire, as required by the bill. To the extent that they pass along the additional cost to public bodies that contract with them, the overall effect is minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Public School Construction Program; University System of Maryland; Department of Legislative Services

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