

# SENATE BILL 15

F1, P2, K3

9lr0778

(PRE-FILED)

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By: **Senator Serafini**

Requested: November 16, 2018

Introduced and read first time: January 9, 2019

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public School Construction – Innovation Incentive Pilot Program – Prevailing**  
3 **Wage Requirements**

4 FOR the purpose of exempting a public school facility construction project that is approved  
5 to participate in the Public School Facility Construction Innovation Incentive Pilot  
6 Program from complying with prevailing wage requirements if less than a certain  
7 percent of the money used for the project is State money; requiring a public school  
8 facility construction project that is approved to participate in the Pilot Program and  
9 required to comply with prevailing wage requirements to use certain regional  
10 prevailing wage rates; requiring the Commissioner of Labor and Industry to  
11 determine regional prevailing wage rates for each classification of worker engaged  
12 in work of the same or a similar character in certain regions for certain public school  
13 facility construction projects; requiring the Commissioner, in setting regional  
14 prevailing wage rates, to collect and consider certain information; altering a certain  
15 definition; making conforming changes; and generally relating to prevailing wage  
16 rates and public school construction projects.

17 BY repealing and reenacting, with amendments,  
18 Article – Education  
19 Section 5–323  
20 Annotated Code of Maryland  
21 (2018 Replacement Volume and 2018 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – State Finance and Procurement  
24 Section 17–201(a)  
25 Annotated Code of Maryland  
26 (2015 Replacement Volume and 2018 Supplement)

27 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Finance and Procurement  
2 Section 17–201(h) and 17–208  
3 Annotated Code of Maryland  
4 (2015 Replacement Volume and 2018 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
6 That the Laws of Maryland read as follows:

7 **Article – Education**

8 5–323.

9 (a) (1) In this section the following words have the meanings indicated.

10 (2) (i) “Construction” means new construction or major renovation or  
11 replacement of a public school facility.

12 (ii) “Construction” does not include system renovation projects as  
13 defined in COMAR 23.03.02.15.

14 (3) “Incentive Program” means the Public School Facility Construction  
15 Innovation Incentive Pilot Program.

16 (4) “Public school facility” means a property primarily used for educational  
17 instruction.

18 (5) “Rolling State average of public school construction costs” means the  
19 average State cost per student for public school construction projects and capital  
20 improvements over the previous 3 fiscal years.

21 (b) This section applies only in:

22 (1) Harford County;

23 (2) Prince George’s County; and

24 (3) Washington County.

25 (c) (1) There is a Public School Facility Construction Innovation Incentive  
26 Pilot Program in the State.

27 (2) The purpose of the Incentive Program is to provide incentives to  
28 encourage public school systems to pursue innovative public school facility construction  
29 projects by:

30 (i) Providing additional State funding for the projects; and

1 (ii) Exempting the projects from the statutory and regulatory  
2 requirements specified in subsection (j) of this section.

3 (3) Through the establishment of the Incentive Program, it is the intent of  
4 the General Assembly to:

5 (i) Encourage public school systems to use the Incentive Program;  
6 and

7 (ii) Accelerate public school construction and renovation by  
8 providing incentives to reduce the costs of construction and renovation.

9 (d) (1) The Interagency Commission shall implement and administer the  
10 Incentive Program as provided in this section.

11 (2) The Interagency Commission shall promote the Incentive Program.

12 (e) The Interagency Commission shall establish an application process for the  
13 Incentive Program.

14 (f) For each fiscal year, the Interagency Commission shall calculate the rolling  
15 State average of public school construction costs for elementary schools, prekindergarten  
16 through eighth grade schools, middle schools, and high schools in the State.

17 (g) If a public school facility construction project has an estimated public school  
18 construction cost that is 30% or more below the rolling State average of public school  
19 construction costs for the appropriate type of school, the Interagency Commission shall  
20 approve that project for participation in the Incentive Program.

21 (h) (1) For a public school facility construction project that is approved to  
22 participate in the Incentive Program on or before December 31, 2019, the State share of  
23 eligible costs for that project shall increase by 20% for that project.

24 (2) For a public school facility construction project that is approved to  
25 participate in the Incentive Program on or after January 1, 2020, the State share of eligible  
26 costs for that project shall increase by 10% for that project.

27 (i) If the actual public school construction costs for a project are not 30% or more  
28 below the rolling State average of public school construction costs for the appropriate type  
29 of school, the project is not eligible for the higher State share provided in subsection (h) of  
30 this section for the State share of eligible costs that exceed the requirement in subsection  
31 (g) of this section.

32 (j) Except as provided in subsection (k) of this section, § 2–303(f) of this article, §  
33 5–303 of this subtitle, and the regulations that govern the Public School Construction  
34 Program do not apply to a public school facility construction project that is approved to  
35 participate in the Incentive Program.

1 (k) A public school facility construction project that is approved to participate in  
2 the Incentive Program shall comply with:

3 (1) Except as provided in subsection (i) of this section, the State and local  
4 cost-share established for each county in regulations;

5 (2) The maximum State construction allocation for each project approved  
6 for State funding;

7 (3) The approval of project funding by the Interagency Commission;

8 (4) Smart growth requirements;

9 (5) Minority business enterprise requirements;

10 (6) **[Prevailing] SUBJECT TO SUBSECTION (L) OF THIS SECTION, IF**  
11 **50% OR MORE OF THE MONEY USED FOR THE PROJECT IS STATE MONEY,**  
12 **PREVAILING** wage requirements;

13 (7) Environmental requirements; and

14 (8) A requirement for a procurement process that includes public notice  
15 and results in the most advantageous proposal.

16 **(L) A PUBLIC SCHOOL FACILITY CONSTRUCTION PROJECT THAT IS**  
17 **REQUIRED TO COMPLY WITH PREVAILING WAGE REQUIREMENTS UNDER**  
18 **SUBSECTION (K) OF THIS SECTION SHALL USE THE REGIONAL PREVAILING WAGE**  
19 **RATES IN THE REGION AS DETERMINED UNDER § 17-208(A)(2) OF THE STATE**  
20 **FINANCE AND PROCUREMENT ARTICLE.**

21 **[(1)] (M)** If a public school system participates in the Incentive Program, nothing  
22 in this section prohibits the public school system from utilizing any other source of  
23 financing or system of bidding under current law to fund a public school facility  
24 construction project.

#### 25 **Article – State Finance and Procurement**

26 17-201.

27 (a) In this subtitle, unless the context indicates otherwise, the following words  
28 have the meanings indicated.

29 (h) “Prevailing wage rate” means the hourly rate of wages paid in:

30 **(1)** the locality as determined by the Commissioner under **[§ 17-208]**

1 § 17-208(A)(1) of this subtitle; OR

2 (2) THE REGION AS DETERMINED BY THE COMMISSIONER UNDER §  
3 17-208(A)(2) OF THIS SUBTITLE.

4 17-208.

5 (a) (1) [For] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
6 SUBSECTION, FOR each public work to which this subtitle applies, the Commissioner shall  
7 determine the prevailing wage rate for each classification of worker engaged in work of the  
8 same or a similar character IN EACH LOCALITY.

9 (2) FOR EACH PUBLIC SCHOOL FACILITY CONSTRUCTION PROJECT  
10 THAT IS APPROVED TO PARTICIPATE IN THE PUBLIC SCHOOL FACILITY  
11 CONSTRUCTION INNOVATION INCENTIVE PILOT PROGRAM AND REQUIRED TO  
12 COMPLY WITH PREVAILING WAGE REQUIREMENTS UNDER § 5-323 OF THE  
13 EDUCATION ARTICLE, THE COMMISSIONER SHALL DETERMINE REGIONAL  
14 PREVAILING WAGE RATES FOR EACH CLASSIFICATION OF WORKER ENGAGED IN  
15 WORK OF THE SAME OR A SIMILAR CHARACTER IN THE FOLLOWING REGIONS:

16 (I) THE EASTERN REGION, WHICH IS COMPOSED OF CAROLINE  
17 COUNTY, DORCHESTER COUNTY, KENT COUNTY, SOMERSET COUNTY, TALBOT  
18 COUNTY, QUEEN ANNE'S COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY;

19 (II) THE D.C. METRO REGION, WHICH IS COMPOSED OF ANNE  
20 ARUNDEL COUNTY, HOWARD COUNTY, MONTGOMERY COUNTY, AND PRINCE  
21 GEORGE'S COUNTY;

22 (III) THE NORTHERN REGION, WHICH IS COMPOSED OF  
23 BALTIMORE CITY, BALTIMORE COUNTY, CARROLL COUNTY, CECIL COUNTY,  
24 FREDERICK COUNTY, AND HARFORD COUNTY;

25 (IV) THE SOUTHERN REGION, WHICH IS COMPOSED OF CALVERT  
26 COUNTY, CHARLES COUNTY, AND ST. MARY'S COUNTY; AND

27 (V) THE WESTERN REGION, WHICH IS COMPOSED OF ALLEGANY  
28 COUNTY, GARRETT COUNTY, AND WASHINGTON COUNTY.

29 (3) IN SETTING REGIONAL PREVAILING WAGE RATES UNDER  
30 PARAGRAPH (2) OF THIS SUBSECTION, THE COMMISSIONER SHALL COLLECT AND  
31 CONSIDER WAGE RATE INFORMATION FROM EACH LOCALITY IN THE REGION.

32 [(2)] (4) The Commissioner shall determine the prevailing wage rates for  
33 both straight time and overtime.



1 **IS SETTING A REGIONAL RATE UNDER SUBSECTION (A)(2) OF THIS SECTION, IN THE**  
2 **REGION**, the Commissioner shall determine the prevailing wage rate based on the nearest  
3 locality **OR REGION** within the State that most closely approximates that locality **OR**  
4 **REGION** in:

- 5 (i) population;
- 6 (ii) degree of industrialization; and
- 7 (iii) skill of work force.

8 (d) The calculation of the rate paid in the locality, **OR, IF THE COMMISSIONER**  
9 **IS SETTING A REGIONAL RATE UNDER SUBSECTION (A)(2) OF THIS SECTION, IN THE**  
10 **REGION**, shall include the basic hourly rate of pay and either:

11 (1) if a contractor is not required by law to provide fringe benefits, the  
12 hourly rate of contribution irrevocably made by a contractor or subcontractor to a third  
13 person under a fund, plan, or program that provides:

- 14 (i) medical, surgical, or hospital care;
- 15 (ii) retirement, disability, or death benefits, including a profit  
16 sharing plan that provides benefits on retirement;
- 17 (iii) unemployment, life, or accident insurance or compensation;
- 18 (iv) insurance or compensation for injury or illness resulting from  
19 occupational activity;
- 20 (v) vacation and holiday pay;
- 21 (vi) subsidies to defray costs of apprenticeship or other similar  
22 programs; or
- 23 (vii) other bona fide fringe benefits; or

24 (2) the hourly rate of costs to the contractor or subcontractor that  
25 reasonably may be anticipated in providing the fringe benefits specified in item (1) of this  
26 subsection under an enforceable commitment to carry out a financially responsible plan or  
27 program that is communicated in writing to the workers.

28 (e) An apprentice under a public work contract shall be paid at least the  
29 percentage, set by the Council, of the prevailing wage rate for a mechanic in the trade in  
30 which the apprentice is employed.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 October 1, 2019.