

Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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H.878 - AN ACT RELATING TO PREVAILING WAGES

This analysis reflects the bill as proposed by the House Committee on Corrections and Institutions

Bill Summary: This bill requires wages for construction workers on all State construction projects authorized or funded in whole or in part by a capital construction act to be paid at the prevailing wage level as determined by the federal Davis-Bacon Act.

Summary of Fiscal Impacts:

This analysis reflects revisions to the estimates produced on March 25, 2014.

The estimated total cost of this legislation is \$1,920,000 to \$3,360,000 annually, resulting from an 8% increase in total project costs.

Analyzing the impact of this legislation requires a number of assumptions that are detailed below. The Joint Fiscal Office relied on information provided by the Department of Labor (DOL) and the Department of Buildings and General Services (BGS) to conduct this analysis. Due to time constraints, the Joint Fiscal Office has not verified the accuracy of the information provided by these entities.

Average annual capital bill project authorizations	\$60,000,000 - \$70,000,000	Estimated future issuance. Current issuance is \$80 million.
Share of projects subject to prevailing wage	40% - 60%	BGS review ranges from 33% to 66%
Estimated labor share of total value	32%	REMI model estimate based on project type distribution from BGS
Davis-Bacon Act wage impact estimate	25%	DOL estimated difference between VT prevailing wage and Davis-Bacon wage
Range of estimated annual impact	\$1,920,000 to \$3,360,000 (8.0% increase in total project costs)	

Data Sources and Considerations

A number of assumptions, made by various sources, were used in this analysis. Below is a list issues to consider when evaluating the estimated cost of this legislation.

1. The Capital Debt Affordability Advisory Committee (CDAAC) has projected annual issuances of approximately \$80 million per year between FY2016 and FY2024.¹ BGS and the Office of the State Treasurer maintain that this figure is likely to be adjusted downward, and CDAAC discusses the potential for lower issuances in light of peer group benchmarks, so a somewhat

¹ CDAAC FY2013 report: <http://www.vermonttreasurer.gov/sites/treasurer/files/pdf/bonds/DebtAffordability2013.pdf>

lower range has been estimated. If the annual amount of debt issued differs from these amounts, the estimated cost of this legislation would change.

2. BGS revised the estimated percentage of projects that would be subject to the prevailing wage requirement of this legislation by re-examining previous capital bills for State fiscal years 2009 through 2015. The results ranged from 33% to 66% per bill. This analysis is reflected in the attached document. The Joint Fiscal Office used a range from 40% to 60%. This range is a downward revision from previous estimates and results from the revisions to the BGS estimates. It is likely that funding used for education grants may become available for construction projects in the future, which would increase the amount of funding subject to prevailing wage requirements. However, the cumulative value of projects that would be subject to this legislation may be overstated because the FY2014-FY2015 capital bill made significant construction authorizations associated with recovery from the flood events of 2011 (Tropical Storm Irene, etc.).
3. The prevailing wage requirements apply only to payment of wages to construction workers. The total value of a contract includes not only construction labor, but also other labor and capital costs. Therefore, it is necessary to estimate the share of total project authorizations that reflect only the cost of construction labor. Furthermore, projects can vary greatly in the degree to which labor contributes to total cost. For each capital bill from State fiscal years 2009 through 2015, BGS categorized each project as either capital-intensive projects or labor-intensive projects (only for projects subject to the prevailing wage requirement). Economic modeling software (the REMI model) was used to estimate the share of labor associated with each category. This work was used as the basis for the 32% labor share figure. Earlier estimates reflected the perspective of a single contractor on the State health laboratory project and testimony to the House Committee on General, Housing and Military Affairs, with the highest estimate being 50% of the total contract cost.²
4. DOL estimated the wage change resulting from a move to the Davis-Bacon Act compensation level (25%).³ DOL relied on data from a single “representative” BGS project (construction on the new health laboratory) over a one month period. Sixteen occupations and “over 13,000 worker hours” are contained in the data file, so there is a high volume of information. The Joint Fiscal Office has not accessed or reviewed the data underlying DOL’s estimate. Information from this contractor serves as an example, but may or may not be representative of all State construction contracts. Furthermore, the payroll information provided to DOL did not include or indicate the presence of benefits paid by the employer. If such payments exist, they would reduce the estimated difference in compensation levels, thereby reducing the total cost estimate.

² See Estimate #2 from DOL testimony:

<http://www2.leg.state.vt.us/CommitteeDocs/House%20General/Bills/H.878/H.432/Witness%20Testimony/3-12-2014~Matt%20Hill~H.432~Labor%20Cost%20Calculation.pdf>

³ See Labor Cost Only from DOL testimony:

<http://www2.leg.state.vt.us/CommitteeDocs/House%20General/Bills/H.878/H.432/Witness%20Testimony/3-12-2014~Matt%20Hill~H.432~Labor%20Cost%20Calculation.pdf>

BGS analysis of capital bill appropriations subject to prevailing wage - revised 4/2/14

Department of Buildings and General Services analysis of capital bill appropriations subject to prevailing wage

Appropriations estimated not to be applicable current law	Capital Bill Act 200 Fiscal Year 2009	Capital Bill Act 43 * Fiscal Year 2010	Capital Bill Act 161 FY 2011	Capital Bill Act 40 FY 12 & FY 13	Capital Bill Act 51 FY'14 & FY15***
	\$ 58,786,585.00	\$ 109,325,821.00	\$ 76,180,000.00	\$ 158,027,602.00	\$ 173,231,370.00
Personal Service Contracts, Reuse, Security Enhancements, Supplemental Funds, Staff Cost, Feasibility Studies, MM performed by BGS, 30% MM, Judiciary, State Colleges, uvm	\$ 1,633,462.00	\$ 4,224,452.00	\$ 4,160,785.00	\$ 13,032,292.00	\$ 12,114,762.00
Othophotographic Mapping; IT; Telecom	\$ 100,000.00	\$ 1,820,000.00	\$ 6,056,280.00	\$ 15,534,139.00	\$ 220,000.00
AHS-security; facility conditions assessment; master plans; transitional housing	\$ 244,000.00	\$ 930,000.00	\$ 300,000.00	\$ 602,555.00	\$ 300,000.00
ACCD-MM; Underwater Preserves; Historic Markers Cedar Creek; Lois McClure Grants	\$ 460,000.00	\$ 65,000.00	\$ 565,000.00	\$ 205,000.00	\$ 690,000.00
Education Grants States Obligation	\$ 1,080,000.00	\$ 1,000,000.00	\$ 1,080,000.00	\$ 2,925,000.00	\$ 3,150,000.00
ANR	\$ 10,056,750.00	\$ 10,343,555.00	\$ 7,000,000.00	\$ 14,850,000.00	\$ 17,116,080.00
Land Purchase, Fire Safety Equipment Crime Victm, military	\$ 10,815,000.00	\$ 43,617,000.00	\$ 11,208,860.00	\$ 24,463,853.00	\$ 21,654,282.00
Agriculture	\$ 573,000.00	\$ 850,000.00	\$ 145,000.00	\$ 245,000.00	\$ 900,000.00
VPT	\$ 2,500,000.00	\$ 1,975,000.00	\$ 1,700,000.00	\$ 2,250,000.00	\$ 1,350,000.00
Dry Hydrant	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 600,000.00	\$ 405,750.00
Interactive Technologies	\$ 100,000.00	\$ 100,000.00	\$ 100,000.00	\$ 200,000.00	\$ 200,000.00
Vermont Investment Program	\$ 250,070.00	\$ 308,000.00	\$ 290,085.00	\$ 598,483.00	\$ 376,000.00
Vermont Housing Debt Elimination	\$ -	\$ 7,600,000.00	\$ 5,000,000.00	\$ 4,000,000.00	
Transfer Transportation/VCEDF	\$ 5,200,000.00		\$ 150,000.00		
	\$ 33,512,282.00	\$ 73,333,007.00	\$ 40,256,010.00	\$ 79,506,322.00	\$ 58,476,874.00
Estimated Amount Eligible Prevailing Wage	\$ 25,274,303.00	\$ 35,992,814.00	\$ 35,923,990.00	\$ 78,521,280.00	\$ 114,754,496.00
	43%	33%	47%	50%	66%
Average	47.80%				

<u>State Contracts:</u>	2009		2010		2011		2012-2013		2014-2015	
Category One	\$ 14,064,676.00	56%	\$ 20,832,821.00	58%	\$ 18,573,340.00	52%	\$ 56,535,320.00	72%	\$ 90,100,000.00	79%
Category Two	\$ 11,183,806.00	44%	\$ 14,629,993.00	41%	\$ 16,558,009.00	46%	\$ 22,370,960.00	28%	\$ 24,654,496.00	21%

Revised April 2, 2014 WLM - Working Document

*ARRA Funds \$20M

***Funding for Storm Irene - Debt Affod. \$150M

H.878 Analysis - Supplemental Materials

Examples of Prevailing Wage Estimates

The Joint Fiscal Office was asked to look at experience in other states. Time constraints did not permit a thorough or representative sampling of the vast amount of research (conducted by a myriad of entities, both state and non-state). The following highlights are provided simply to illustrate the divergent findings.

- Pennsylvania - County Commissioners Association of Pennsylvania testimony
 - 10% to 15% estimated increase in project costs due to prevailing wage legislation.
 - Prevailing Wage calculations are typically based on urban wages and overstate the prevailing wage for rural areas.
 - Case Study: Project received bids both WITH and WITHOUT prevailing wage:
 - 18% increase for mold remediation/restoration project.
- Ohio - Ohio Legislative Service Commission
 - 5 year study of exempting school construction from prevailing wage law.
 - 10.7% overall savings from exemption, but notes that this isn't necessarily all due to prevailing wage exemption (range: 1.2% to 19.9%).
 - Case Study: Contractors required to submit bids WITH and WITHOUT prevailing wage requirement.
 - 5.8% average savings without prevailing wage (range 2.4% to 8.5%).
 - Survey: Contractors asked to estimate impact of prevailing wage requirement
 - 7.24% average savings without prevailing wage (range: 5.09% to 9.04%).
 - Rural areas showed higher average savings (8.02%) than urban areas (6.85%).
 - Conclusion "*savings are more likely to range between five and ten percent instead of between 30 and 60 percent.*"
 - Case Study: One construction firm before/after prevailing wage exemption.
 - 10.7% average savings without prevailing wage.
- Maryland - Maryland Department of Legislative Services (fiscal note)
 - 2% to 5% savings "based on inconsistent and inconclusive research findings" and "data limitations create difficulty for researchers on both sides of the issue."
 - Case Study: Local school systems occasionally solicit side-by-side bids with and without prevailing wages to help them decide whether they want to accept the full State match (and, thus, be subject to the prevailing wage).
 - 7.2% average savings for Carroll County (range: 3.2% to 8%).
 - 13.8% for Frederick County.
 - Notes that other studies find little to no cost increase in contract costs.
 - Assumes labor represents 20% to 30% of construction costs.
- Colorado - Colorado Legislative Council Staff (fiscal note)
 - Projects a reduction in the number of projects (absent additional funding) in the amount of \$4.5 million (not identified as a percentage) for each 1% increase in labor costs.

Options for Further Analysis

- Expand BGS contract analysis to include a contracts representative of both new construction and major maintenance projects to identify differences in labor costs of each project type.
- Require bid respondents to report the percentage of the total bid amount attributable to labor costs (including benefits).
- Commission a meta-analysis of the substantial volume of research on the impact of prevailing wage.
- Analyze all state construction contracts to determine whether they would be subject to and this legislation.
- Reevaluate the estimate of this legislation's impact on wages, with a focus on the extent to which contractors offer benefits that count toward meeting the Davis-Bacon compensation level, as well as benefits that do not count toward meeting the Davis-Bacon compensation level.
- Identify opportunities to solicit bids for a project at both prevailing wage and non-prevailing wage levels to determine how contractors adjust both financial and nonfinancial bid components, including determination of whether or not the wage requirement changes the identity of the winning bid.