

Vermont Legislative Joint Fiscal Office

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FISCAL NOTE - Revised

Date: March 23, 2015
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COMPONENT OF THE CAPITAL BILL - PREVAILING WAGES

As Proposed by the Governor's Budget

Summary

The prevailing wage language 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.

Fiscal Impact

This analysis reflects revisions to the estimates produced on March 18, 2015.

The estimated total cost of this provision is \$1,792,000 to \$4,608,000 annually, resulting from a 6.4% - 9.6% increase in affected project costs.

Analyzing the impact of this provision 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 reviewed, but not verified the accuracy of the information provided by these entities.

Average annual capital bill project authorizations	\$70,000,000 - \$80,000,000	Estimated future issuance. The average annual current issuance is between \$72 and \$78 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	20% - 30%	Estimated difference between VT prevailing wage and Davis-Bacon wage
Range of estimated annual Impact	\$1,792,000 to \$4,608,000 (6.4% - 9.6% increase in projects that will be affected)	

Data Sources and Considerations

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

1. The Capital Debt Affordability Advisory Committee (CDAAC) has projected annual issuances of approximately \$72 million per year between FY2016 and FY2025. An additional \$11 million of "unissued principal" authorization from the previous biennium

is also available, resulting in a high range estimate of \$78 million.¹ JFO estimates a \$70 - \$80 million range for the average annual capital bill project authorizations. If the annual amount of debt issued differs from these amounts, the estimated cost of this provision would change.

2. In 2014, BGS revised the estimated percentage of projects that would be subject to the prevailing wage requirement of this provision by re-examining capital bills from State fiscal years 2009 through 2015. This year they added information for State fiscal years 2016 and 2017. Over time, 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%. Note that the cumulative value of projects that would be subject to this provision 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 2017, BGS categorized each project as either capital-intensive or labor-intensive projects (only for projects subject to the prevailing wage requirement). Economic modeling software (the REMI model) was used in April 2014 to estimate the share of labor associated with each category. Those estimates were again used in this analysis and are the basis for the 32% labor share figure. The JFO makes no assumption about the quality differential of workers paid different wages. JFO also makes no assumption about the impact that prevailing wage may have on project bids.
4. Based upon materials received from DOL, JFO estimated a range for the wage change resulting from a move to the Davis-Bacon Act compensation level (20-30%). A February 2015 telephone survey conducted by Vermont's DOL identifies the presence of benefits paid by the employers under the prevailing wage. The survey found that many employers provide some form of fringe benefits, some of which may count toward meeting the Davis-Bacon compensation level.² Testimony before the House Committee on Corrections and Institutions also references a number of provided fringe benefits.³ An analysis by DOL on theoretical labor costs per project indicates a 30% estimated wage increase. Because we now have evidence that many employers are providing fringe benefits to their employees, the actual cost of installing a Davis-Bacon wage rate is likely reduced. Therefore, the JFO uses a 20-30% range. The actual figure could potentially be lower, but because data are not available on the total size of provided benefits, and the character of those benefits, the exact figure is unknown.

¹ CDACC 2014 Capital Debt Affordability Final Report:

<http://www.vermonttreasurer.gov/sites/treasurer/files/pdf/misc/CDAAC%20Debt%20Affordability%202014.pdf>

² DOL Prevailing Wage and Employer Provided Benefits, February 10, 2015.

[http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Corrections%20and%20Institutions/Capital%20Bill/Authorities/W~Annie%20Noonan~Prevailing%20Wage%20and%20Employer%20Provided%20Benefits%20\(phone%20survey\)~3-11-2015.pdf](http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Corrections%20and%20Institutions/Capital%20Bill/Authorities/W~Annie%20Noonan~Prevailing%20Wage%20and%20Employer%20Provided%20Benefits%20(phone%20survey)~3-11-2015.pdf)

³ Cathy Lamberton's Testimony: AGC Employee Benefits in Construction, March 11, 2015.

<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Corrections%20and%20Institutions/Capital%20Bill/Authorities/W~Cathy%20Lamberton~Employee%20Benefits%20in%20Construction~3-11-2015.pdf>

Prevailing Wage Analysis - Supplemental Materials

Examples of Prevailing Wage Estimates

The Joint Fiscal Office reviewed the 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 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.
 - <http://laborindustry.pasenategop.com/files/2014/03/CCAP.pdf>

- 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.
 - www.lsc.state.oh.us/research/srr149.pdf

- 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.
 - mgaleg.maryland.gov/2014RS/fnotes/bil_0008/sb1068.pdf

- Kentucky - Kentucky Legislative Research Commission (fiscal note)
 - Act exempting education building construction from prevailing wage laws.

- Projects that the removal of the prevailing wage laws would decrease construction costs of projects by roughly 7.6%
- 2014 report found that wages paid to construction workers on prevailing wage projects were 33.8% higher than on non-prevailing wage projects.
- <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CCwQFjAC&url=http%3A%2F%2Fwww.lrc.ky.gov%2Frecord%2F15rs%2F5B9%2FFN.doc&ei=1bYJVfXQCMSIsQSI3oCwBA&usg=AFQjCNHwNPx3Xse1iLiXYu4fMdb6hdqong&sig2=35Vbu1W6YjwMLq-wZZajTw&bvm=bv.88198703,d.cWc&cad=rja>

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 laws.
- Analyze all state construction contracts to determine whether they would be subject to this provision.
- Reevaluate the estimate of this provision'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.

BGS analysis of capital bill appropriations subject to prevailing wage - revised 3/18/2015

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

	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***	Governors Proposed Capital Bill FY'16 & FY'17 **
Appropriations estimated not to be applicable current law	\$ 58,786,585.00	\$ 109,325,821.00	\$ 76,180,000.00	\$ 158,027,602.00	\$ 173,231,370.00	\$156,621,556.00
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	\$ 59,432,912.00
Othophotographic Mapping; IT; Telecom	\$ 100,000.00	\$ 1,820,000.00	\$ 6,056,280.00	\$ 15,534,139.00	\$ 220,000.00	\$ 250,000.00
AHS-security; facility conditions assessment; master plans; transitional housing	\$ 244,000.00	\$ 930,000.00	\$ 300,000.00	\$ 602,555.00	\$ 300,000.00	\$ 500,000.00
ACCD-MM; Underwater Preserves; Historic Markers Cedar Creek; Lois McClure	\$ 460,000.00	\$ 65,000.00	\$ 565,000.00	\$ 205,000.00	\$ 690,000.00	\$ 688,000.00
Grants	\$ 1,080,000.00	\$ 1,000,000.00	\$ 1,080,000.00	\$ 2,925,000.00	\$ 3,150,000.00	\$ -
Education Grants States Obligation	\$ 10,056,750.00	\$ 10,343,555.00	\$ 7,000,000.00	\$ 14,850,000.00	\$ 17,116,080.00	\$ 7,057,688.00
ANR:30% FPR & FW	\$ 10,815,000.00	\$ 43,617,000.00	\$ 11,208,860.00	\$ 24,463,853.00	\$ 21,654,282.00	\$ 21,482,343.00
Land Purchase, Fire Safety Equipment, Crime Vic. Military	\$ 573,000.00	\$ 850,000.00	\$ 145,000.00	\$ 245,000.00	\$ 900,000.00	\$ 300,000.00
Agriculture	\$ 2,500,000.00	\$ 1,975,000.00	\$ 1,700,000.00	\$ 2,250,000.00	\$ 1,350,000.00	\$ 3,515,000.00
VPT	\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	\$ 600,000.00	\$ 405,750.00	\$ 375,000.00
Dry Hydrant	\$ 100,000.00	\$ 100,000.00	\$ 100,000.00	\$ 200,000.00	\$ 200,000.00	\$ 250,000.00
Interactive Technologies	\$ 250,070.00	\$ 308,000.00	\$ 290,085.00	\$ 598,483.00	\$ 376,000.00	\$ -
Vermont Investment Program	\$ -	\$ 7,600,000.00				
Vermont Housing and Conservation Board Debt Elimination			\$ 5,000,000.00	\$ 4,000,000.00		\$ 5,600,000.00
Transfer Transportation/VCEDF	\$ 5,200,000.00		\$ 150,000.00			
Vermont Veterans Home			\$ 2,000,000.00			\$ 500,000.00
Vermont Historical Society						\$ 75,000.00
- Not applicable to current law.	\$ 33,512,282.00	\$ 73,333,007.00	\$ 40,256,010.00	\$ 79,506,322.00	\$ 58,476,874.00	\$ 100,025,943.00
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	\$ 56,595,613.00
Share of Projects Subject to Prevailing Wage	43%	33%	47%	50%	66%	36%
<u>State Contracts:</u>	2009	2010	2011	2012-2013	2014-2015	2016-2017
Category One - Capital Intensive	\$ 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%	\$ 30,948,174.00 55%
Category Two - Labor Intensive	\$ 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%	\$ 25,647,439.00 45%

Revised March 18, 2015 WLM - Working Document

*ARRA Funds \$20M

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