

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 200a

52nd Legislature, 2nd Session, 2016

Tracking Number: .203080.2

Short Title: Public Works Prevailing Wage & Projects

Sponsor(s): Representatives Nora Espinoza and William “Bill” R. Rehm

Analyst: Robin Shaya

Date: February 2, 2016

AS AMENDED

The House Education Committee amendment:

- **alters the title of the bill to include the word “Highways”; and**
- **includes contracts and projects from public highways as defined in Section 67-2-1 NMSA 1978; in the exemptions from the provisions of the Public Works Minimum Wage Act.**

Bill Summary:

HB 200 amends the *Public Works Minimum Wage Act* to remove contracts and projects for public roads and educational institutions from the provisions of the act.

Fiscal Impact:

HB 200 does not contain an appropriation. The Public School Facilities Authority (PSFA) staff notes the total fiscal impact of these changes is not currently known, but they estimate that up to \$17.0 million could have been saved from projects funded by the Public School Capital Outlay Council (PSCOC) in FY16 if wage rates were based on field surveys rather than collective bargaining agreements.

At a Glance:

- Decreases in public school construction costs could increase the number of awards made by the PSCOC.
- Fewer than 10 percent of the New Mexico labor force is unionized, and as a result, field surveys might more accurately reflect the actual prevailing wage.
- Linking the state’s prevailing wage to field surveys rather than collective bargaining agreements could decrease the competitiveness of employers subject to collective bargaining when seeking public project contracts.

Detailed Bill Provisions:

The bill proposes the following three changes to New Mexico’s system of setting prevailing wage rates for construction workers on certain public works projects:

- exempts public roads projects and projects at educational institutions from the wage provisions of the *Public Works Minimum Wage Act*;
- replaces the existing method for calculating prevailing wage rates, for public works contracts over \$60,000 based on wages in collective bargaining agreements with a method based on field surveys; and
- limiting New Mexico's prevailing wage and fringe benefits rates to not be higher than rates set pursuant to the federal prevailing wage law.

Substantive Issues:

Due to a sharp decline in natural gas and oil revenues, Public School Capital Outlay Fund (PSCOF) revenue has decreased substantially, and the enactment of HB 236, *Increase Severance Tax Permanent Fund Inflows (2015)* will further reduce SSTB capacity available for PSCOC awards in future years. Exempting public school construction projects from the *Public Works Minimum Wage Act* represents one strategy to contain construction costs under these fiscal constraints.

Labor costs also vary around the state due to regional differences in industry-specific labor demand. For instance, in the northwest and southeast portions of the state, oil and natural gas production can limit the availability of construction workers willing to work on other projects. The exemption from the *Public Works Minimum Wage Act* allows school districts and charter schools to better respond to local labor market conditions rather than being subject to a statewide prevailing wage.

The federal *Davis-Bacon Act* requires prevailing wages be paid on federally funded public works projects, such as construction, repair or alteration of public buildings, or construction of public roads or bridges. The federal law sets a minimum threshold of \$2,000, meaning if a public works contract is for an amount in excess of \$2,000, then prevailing wages must be paid. States must abide by the *Davis-Bacon Act* when federal funds are involved in public works projects within the state.