

Class A counties Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/16

SPONSOR Townsend/Scott **LAST UPDATED** _____ **HB** 110

SHORT TITLE Public Works Minimum Wage Application **SB** _____

ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	(\$20 million possible reduction in costs)	(\$20 million possible reduction in costs)	(\$20 million possible reduction in costs)		Recurring	GF,STB, SSTB, Local GOB, SB 9, HB 33 & Other

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 200

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Workforce Solutions Department (WSD)
- Department of Transportation (NMDOT)
- Department of Finance and Administration (DFA)
- General Services Department (GSD)
- Administrative Office of the Courts (AOC)
- Attorney General’s Office (AGO)

SUMMARY

House Bill 110 proposes amendments to the Public Works Minimum Wage Act, NMSA 13-4-11 (2009) (“PMMWA”), so that prevailing minimum wage and fringe benefit rates for work on public works projects would only apply to projects located in Class A counties with a value greater than \$60.0 thousand. Currently there are five Class A counties: Bernalillo, Dona Ana, San Juan, Sandoval and Santa Fe. The bill limits application of prevailing wages to the designated counties and eliminates application of prevailing wages to projects located in areas outside those county jurisdictions.

FISCAL IMPLICATIONS

HB 110 proposes to exempt projects and contracts outside of Class A counties from the Public Works Minimum Wage Act.

WSD issues wage rate decisions for all projects subject to the Public Works Minimum Wage Act. In FY14, WSD issued wage decision for 1,822 public works projects covering \$1.9 billion. In FY15, WSD issued wage decisions for 1,878 public works projects covering \$1.8 billion total costs. The exemption proposed in HB 110 would have resulted in 837 projects, amounting to approximately \$1.0 billion, which would not have been subject to the prevailing wage in FY14. The exemption would have applied to approximately 46 percent of all New Mexico public works projects. In FY15 923 projects would have been exempted under the terms of HB 110, amounting to approximately \$942.7 million, which would not have been subject to the prevailing wage. Thus, in FY15, the exemption would have applied to approximately 49 percent of projects.

NMDOT estimates the full implementation of the 2009 version of the Public Works Minimum Wage Act will have a direct impact to the cost of highway and infrastructure construction projects. However, the agency was unable to separate impacts to individual counties based on the nature of the Statewide Transportation Improvement Plan. There is an overall increase in state wage rates of 30 percent based on average construction project labor costs, resulting in an overall increase of 3.25 percent to the entire program. Based on the 2015-16 active construction program, implementing the 2009 version of the Act will result in an increase of \$20 to \$22 million to the ongoing cost of highway construction. By limiting the Act to Class A counties, NMDOT believes this bill may reduce this impact.

Fiscal assumptions of additional operating budget impact represent a conservative estimate and could increase as other public works projects are evaluated.

SIGNIFICANT ISSUES

In 2015, the Labor Relations Division Director announced prevailing wage and fringe benefit rates that significantly increased from the previous years. The increase in rates was the result of the State Supreme Court's ruling that rates be set at the same rates as those set forth in collective bargaining agreements. The Director's past practice was to conduct a field survey that was inclusive of not only collective bargaining agreements, but also other voluntary submissions of information such as hours worked and rates paid for particular classifications of workers. WSD reports the inability to consider information outside of collective bargaining agreements meant that the actual market for wages and fringe benefit rates were underrepresented, impacting the agency's ability to ascertain a true prevailing wage.

WSD also notes that the Federal Davis-Bacon and Related Acts mandate prevailing wage and fringe benefit rates for projects involving Federal funds. The agency believes this bill would not interfere with or undermine the Federal Davis-Bacon and Related Acts. Moreover, HB 200 proposes to treat Davis-Bacon rates as the maximum rates on projects subject to New Mexico's Public Works Minimum Wage Act.

DFA notes there may be a prevailing wage issue if a laborer in Class A county is contracted to work outside of the Class A county. This may raise the question of whether the prevailing wage would be that of the Class A county or the prevailing wage of the county in which the work is

being performed.

RELATIONSHIP

HB 200 proposes to make three changes to the method for calculating the prevailing minimum wage and fringe benefit rates to be paid on public works projects subject to the Public Works Minimum Wage Act. First, HB 200 calls for the Director of the Labor Relations Division of the Department of Workforce Solutions to conduct a continuing field survey and to accept voluntary submissions of information from interested parties. Based on the field survey, the Director would set the wage and fringe benefit rate for a particular classification as the weighted average of the hours reported for that classification or the classification most similar. Second, HB 200 caps prevailing wage and fringe benefit rates at the rates of the Federal Davis-Bacon Act. Third, HB 200 exempts projects and contracts for public roads and educational institutions from the Public Works Minimum Wage Act.

OTHER SUBSTANTIVE ISSUES

The federal Davis-Bacon Act requires that 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.

Eighteen States do not have prevailing wage laws. These States are Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, and Virginia.

KK/jo