F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	1/29/18		
SPONSOR	Scott/Townsend/Rehm	**LAST UPDATED**		**HB**	213
SHORT TITLE	Repeal Public Works Minimum Wage Act			**SB**	
				ANALYST	Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		($20-$22 million)	($20-$22 million)	($40-$44 million)	Recurring	GF,STB, SSTB, Local GOB, SB 9, HB 33 & Other

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	**FY18**	**FY19**		
	Indeterminate, possibly negative	Indeterminate, possibly negative	Recurring	Personal Income Taxes
	Indeterminate	Indeterminate	Recurring	Corporate Income Taxes

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	900.0	900.0	900.0	2,700.0	Recurring for WSD	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 20

SOURCES OF INFORMATION
LFC Files

<u>Responses Received From</u>
Workforce Solutions Department (WSD)
Administrative Office of the Courts (AOC)
Department of Transportation (DOT)
Public School Facilities Authority (PSFA)

SUMMARY

House Bill 213 (HB 213) proposes a delayed repeal of the Public Works Minimum Wage Act, NMSA 1978, §13-4-10 through 13-4-17 (2009) (the "Act"), so that prevailing minimum wages for work on public works projects would not apply to contracts entered after the enactment date, July 1, 2018. The Workforce Solutions Department (WSD) is the agency responsible for establishing applicable minimum wage rates under the Act and is responsible for implementation of the HB 213.

Through the repeal of the Act, HB 213 also eliminates the requirement for contractors and subcontractors to be registered with WSD prior to responding to a request for proposal or submitting a bid for a public works project valued greater than $60,000. The associated fee for registration is also eliminated, as is the Labor Enforcement Fund, maintained in the State Treasury and allocated to WSD.

WSD reports HB 213 would not impact existing contracts or those contracts that have already been bid that are outstanding pursuant to the Public Works Minimum Wage Act at the time of enactment of this act.

FISCAL IMPLICATIONS

WSD stated eliminating the Public Works Minimum Wage Act would mean that any construction project that the state or any political subdivision of the state is a party to would not be subject to prevailing wage and fringe benefits rates determined by collective bargaining agreements. Rather the procurement process would be defined by the state entity, likely competitive bidding to all interested parties. WSD believes this has the potential to save the state millions of dollars by allowing the competitive bid process to function as it does in the private sector.

An effect of eliminating the Public Works Minimum Wage Act to the Labor Relations Division of WSD is it would eliminate one funding stream to the operation of the Labor Relations Division. Contractors wishing to bid on a Public Works contract and whose portion exceeds $60,000 are required to register with the division at a cost of $400 biannually. In fiscal year 2016 the Labor Relations Division received $345,506 in contractor registrations.

WSD also questions if HB 213 would this bill impact the Public Works Apprentice and Training Act. Currently, contractors that do not participate in an approved apprenticeship and training program are required to make contributions to the public works apprentice and training fund for all employee hours completed on public works general building, residential and heavy engineering projects. In fiscal year 2016, the division collected $985,133 in apprenticeship contributions of which 85 percent is distributed directly to the apprenticeship programs. These contributions are made in the same amount as apprentice and training contributions required pursuant to wage rate determinations made by the division pursuant to the Public Works

Minimum Wage Act policy manual. HB 213 doesn't specify whether the Labor Relations Division would issue any kind of project decision on public works projects that would include an apprenticeship contribution or if that administrative function would stop.

NMDOT estimates that HB 213 will have a direct impact to the cost of highway and related infrastructure construction projects beginning with FY19, based on the bill's proposed enactment date. HB 213 is likely to reduce public works wage rates on NMDOT public works projects by 30 percent based on average construction project labor costs incorporating DWS implementation of prevailing wages under the Act. (See below.) As applied to the NMDOT construction program, this results in a 3.25 percent decrease in program costs. Based on the 2017-2018 active construction program, HB 213 will result in a decrease of $20 to $22 million to the ongoing cost of highway construction, beginning FY19.

Public School Facilities Authority (PSFA) reported it is difficult to quantify the fiscal implication of repealing the wage rate requirements, however it can be assumed to be a significant reduction in project labor costs for Public School Capital Outlay Council (PSCOC) awarded projects. If HB 213 is enacted, public works projects under this bill could see a considerable reduction in wages and fringe benefits costs. Based upon a 2002 report on actual evidence of a similar bill in Ohio, the cost of school projects was a decrease on average between 5 percent and 10 percent.

PSFA also reported the Interagency Committee on School Construction reported in April 2016 that Maryland has experienced an increase in costs between 11 percent and 14 percent due to prevailing wage requirements.

Previous analysis of wage effects stated unquantifiable, but possible negative, impacts to personal income taxes (PIT) may result from a reduction in wages levels. Any decline may partially be offset by higher employment levels due to lower wage jobs. However, the effective PIT rate decreases as the income level of person decreases, so the net effect may possibly be a negative PIT revenue impact. For example, one person making $25 thousand annually will contribute more than double the PIT revenues than two people each making $12.5 thousand would contribute. In FY16, PIT contributed $1.3 billion, or 23.2 percent of recurring revenues, to the general fund.

Unquantifiable impacts to corporate income taxes (CIT) may also result due to more capital projects. In FY16, CIT contributed $118.5 million, or 2.1 percent, to the general fund.

SIGNIFICANT ISSUES

The Labor Relations Division of WSD has six management analysts, nine state investigators, three secretary administrators, two managers and one division director that spend 30-100 percent of their time working public works activities. HB 213 would reduce or eliminate many of the work duties and the funding stream(s) that pay a significant portion of the department's salaries. WSD reported a portion of the staff would either need to be laid off or retrained to support other division responsibilities. If they are retained the division would require a larger general fund appropriation to help offset the loss of revenue mentioned above in Fiscal Implications.

The operating budget impact above is to retain the current employees at their current salaries plus thirty five percent for benefits and overhead to equal $2.7 million for a three year period.

NMDOT reported currently, to the extent the applicable wage rates established by WSD are higher than applicable federal minimum wage rates established through the Davis Bacon Act, 40 USC §3142 (2006), NMDOT incorporates the state's prevailing minimum wage rates on its public works contracts. NMDOT estimates the current DWS rates to be approximately 30 percent higher than the established federal rates. HB 213 repeals application of state prevailing wage rates. In the absence of state prevailing wage rates, federal prevailing wage rates will continue to apply to NMDOT public works projects. Implementation of HB 213, as applicable to NMDOT public works projects, is anticipated to decrease labor costs on public works projects by eliminating the higher state rates.

PERFORMANCE IMPLICATIONS

The Labor Relations Division of WSD would continue to investigate wage and hour claims, promote child labor laws and promote apprenticeship technical assistance/compliance to our programs. All new public works activities would cease July 1, 2018 if HB 213 is implemented.

PSFA reported a decrease in construction costs could increase the number of awards made by the PSCOC to bring schools to the statewide adequacy standards and assist in the improvement of the overall K12 public school facilities conditions throughout the state.

RELATIONSHIP

House Bill 20 proposes three changes to the Public Works Minimum Wage Act. First, HB 20 exempts projects and contracts for public roads, public highways and educational institutions from the Public Works Minimum Wage Act. Next, HB 20 replaces the current method of determining prevailing wage and fringe benefit rates. Currently, Section 13-4-11(B) NMSA 1978 provides that these rates be set at the same rates used in collective bargaining agreements between labor organizations and employers. Under HB 20, the Workforce Solutions Department (WSD) would determine these rates based on information obtained through a continuing, statewide field survey of wage and benefit rates, as well as voluntary submissions of information from contractors, labor organizations, public officers and other interested persons. Finally, HB 20 caps prevailing wage and fringe benefit rates at the rates applicable to projects covered by the federal Davis-Bacon 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

WSD reported 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.

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