



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 190

130th General Assembly  
(As Introduced)

**Reps.** Hood, J. Adams, Rosenberger, Brenner, Thompson, Becker, Young, Wachtmann, Lynch, Maag, Boose, Retherford, Roegner, Damschroder, Hottinger, Buchy

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## BILL SUMMARY

- Exempts a political subdivision, special district, or state institution of higher education from the requirements of the Prevailing Wage Law, unless the political subdivision, special district, or state institution of higher education elects to be subject to those requirements.
- Exempts a political subdivision, special district, or state institution of higher education from electing to apply those requirements to specified projects that are currently exempt from the Prevailing Wage Law.
- Increases the current statutory monetary threshold for determining when the Prevailing Wage Law applies to a vertical public improvement from \$200,000 to \$3.5 million for construction and from \$60,000 to \$3.5 million for reconstruction.
- Requires the thresholds to be adjusted biennially by the Director of Commerce as under continuing law with respect to horizontal improvements.

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## CONTENT AND OPERATION

### Election to apply prevailing wage requirements

The bill allows a political subdivision, special district, or state institution of higher education to elect to be subject to Ohio's Prevailing Wage Law<sup>1</sup> with respect to a public improvement project. Currently, unless an exception applies, the prevailing wage, as calculated under continuing law, must be paid to workers on a public improvement undertaken by or on behalf of any of these entities if the total cost of the

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<sup>1</sup> R.C. 4115.03 to 4115.21 and 4115.99.

public improvement exceeds a statutory threshold (see "**Prevailing wage thresholds**," below).<sup>2</sup>

With one exception, under the bill a political subdivision, special district, or state institution of higher education is no longer considered a public authority under the Prevailing Wage Law unless the political subdivision, special district, or state institution of higher education elects to be subject to the Law. The one exception is with respect to debarment of contractors; under the bill, as under current law, a political subdivision, special district, or state institution of higher education cannot award a contract for a public improvement to any contractor, subcontractor, or officer of a contractor or subcontractor during the time that the contractor's, subcontractor's, or officer's name appears on the list maintained by the Secretary of State of contractors and subcontractors who have committed specified violations of the Law.<sup>3</sup>

### **Specific elections**

Under the bill, a political subdivision, a special district, including a special improvement district, or a state institution of higher education may elect to apply the Prevailing Wage Law to any of the following projects, under which current law requires the appropriate entity to apply that Law:

- A contract financed in whole or in part under the Aid to Local Governments Law;
- The construction, improvement, furnishing, and equipping of a correctional facility to be leased pursuant to the Board of County Commissioners – Powers Law;
- Any contract for the acquisition, construction, or equipping of a port authority educational and cultural facility entered into, assigned, or assumed pursuant to continuing law;
- Any contract for the acquisition, construction, or equipping of a sports facility entered into, assigned, or assumed pursuant to continuing law;
- Construction services for a port authority educational and cultural performing arts facility;

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<sup>2</sup> R.C. 4115.03(A) and 4115.04, with conforming changes in R.C. 4115.06 and 4115.09.

<sup>3</sup> R.C. 4115.03(A) and 4115.133.



- Construction of a sports facility under the Board of County Commissioners – Powers Law;
- A facility constructed under the Convention Facilities Law;
- Projects of a special improvement district;
- Disconnections, reconnections, relocations, combined sewer overflow prevention, or sewer back-up prevention required under the Sewer Districts and County Sewers Law and performed by a county;
- Projects undertaken with funding provided under the Water Development Authority Law (see **COMMENT**).<sup>4</sup>

### **Prohibited elections**

The bill maintains the current law prohibition against a public authority applying prevailing wage requirements to a public improvement that is undertaken by, or under contract for, a board of education of any school district or the governing board of any educational service center. Additionally, the bill prohibits a political subdivision or special district from applying the Prevailing Wage Law to any of the following, all of which are currently exempt from the Law:

- Certain projects undertaken by a soil and water conservation district or pursuant to a petition filed under the Single County Ditches Law, the Joint County Ditches Law, or the Interstate County Ditches Law;
- The construction of an erosion control structure under continuing law;
- Projects undertaken by a transportation improvement district.<sup>5</sup>

### **Prevailing wage thresholds**

The bill increases the current statutory monetary threshold for determining when the Prevailing Wage Law applies to vertical public improvements (those other than roads, sewers, ditches, and other related works – "horizontal" public improvements), from \$200,000 to \$3.5 million for construction of a vertical public improvement, and from \$60,000 to \$3.5 million for reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a vertical public improvement. These thresholds

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<sup>4</sup> R.C. 4115.04(C), 164.07, 307.022, 307.671, 307.673, 307.674, 307.696, 351.06, 1710.02, 6117.012, and 6121.061.

<sup>5</sup> R.C. 4115.04(D), 1506.44, 4115.03(C), and 5540.03.



are to be adjusted biennially by the Director of Commerce as under continuing law with respect to horizontal public improvements.

The bill eliminates the current law requirement that the threshold for vertical public improvements be increased to \$250,000 for new construction beginning September 29, 2013, and increased to \$75,000 for reconstruction beginning September 29, 2013.

By increasing the thresholds under the Prevailing Wage Law, the bill also increases the threshold used to determine when certain requirements under the law governing the lease, easement, license, or sale in connection with a correctional facility without competitive bidding apply.<sup>6</sup>

## Definitions

The bill defines the following terms for purposes of the Prevailing Wage Law:

"Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

"State institution of higher education" means the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University, the Northeast Ohio Medical University, a community college, state community college, university branch, or technical college.<sup>7</sup>

## Overview – Ohio's Prevailing Wage Law

Ohio's Prevailing Wage Law requires that any public authority wishing to engage in construction of a public improvement ensure that the workers employed on the project are paid the "prevailing rate of wages." The prevailing wage is the sum of the basic hourly rate of pay, contributions by a contractor or subcontractor to a fund, plan, or program, and the costs to the contractor or subcontractor in providing various fringe benefits (unless the benefits are required under federal, state, or local law).

Currently, the requirement to pay the prevailing wage applies to any officer, board, or commission of the state, any political subdivision, and any institution

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<sup>6</sup> R.C. 4115.03(B) and 307.022, with conforming changes in R.C. 4115.034 and 4115.10.

<sup>7</sup> R.C. 4115.03(H) and (I), by reference to R.C. 9.23 and 3345.011, not in the bill.



supported in whole or in part by public funds that exceeds specified statutory thresholds (see "**Prevailing wage thresholds**," above) and if the construction or renovation is performed by other than full-time employees of the political subdivision of the governmental public authority who are not in the classified service of the public authority.

The Law is administered by the Department of Commerce and by individual "prevailing wage coordinators" whom a public authority must appoint for each project. The Law further imposes various record-keeping and procedural requirements upon public authorities.

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## COMMENT

Due to a drafting error, the bill purports to allow a political subdivision, special district, or state institution of higher education to elect whether to apply to a public improvement undertaken by, or under contract for, a lake facilities authority. However, "lake facilities authorities" do not exist in Ohio law.

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## HISTORY

ACTION	DATE
Introduced	06-04-13

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