Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 190 of the 130th G.A. **Date**: June 12, 2013

Status: As Introduced **Sponsor**: Rep. Hood

Local Impact Statement Procedure Required: No

Contents: Revises the Prevailing Wage Law

State Fiscal Highlights

- **State-funded public improvements**. Exempting construction projects undertaken by state institutions of higher education and raising the dollar thresholds that determine whether prevailing wage requirements apply on state projects might reduce the overall amount spent on public improvement construction from the GRF and bond funds. However, it may be that any potential savings on a given project are put toward project expansion or new projects instead.
- **Department of Commerce – Bureau of Wage and Hour Administration**. The bill would likely result in a significant reduction in the number of public improvement projects subject to Ohio's Prevailing Wage Law. This in turn would reduce the need for state oversight provided by the Bureau of Wage and Hour Administration within the Department of Commerce. The Bureau is housed within the Division of Industrial Compliance, and along with several other regulatory entities, is supported by various fees deposited into the Industrial Compliance Operating Fund (Fund 5560).

Local Fiscal Highlights

- **Public improvements funded by political subdivisions**. Removing prevailing wage requirements may reduce the amounts spent on construction by political subdivisions. However, savings on a given project may be spent on project expansion or new projects, so the total amounts spent may not change. The expenditure decrease (or savings) would be attributable to lower labor costs associated with public improvement contracts. In addition, expenditures may decrease as a result of political subdivisions eliminating prevailing wage coordinator positions.

Detailed Fiscal Analysis

Background

Ohio's Prevailing Wage Law requires that any public authority wishing to engage in the construction of a public improvement ensure that the workers employed on the project are paid the "prevailing rate of wages." 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. According to the U.S. Department of Labor, 32 states have prevailing wage laws, although each set of laws is uniquely constructed.

Overview of House Bill 190

The bill has two main provisions that result in fiscal effects to the state and political subdivisions. The first of these is a provision exempting political subdivisions, special districts, and state institutions of higher education from the requirements of the Prevailing Wage Law. The second is a provision that increases the statutory threshold for determining when the law applies to a vertical improvement project from $200,000 to $3.5 million for construction and from $60,000 to $3.5 million for reconstruction. Taken together, the probable outcome if H.B. 190 were to become law is a decrease in the number of public improvement projects subject to the Prevailing Wage Law. Nevertheless, given the large variety of conclusions in the literature regarding prevailing wage requirements and their impact on public construction costs, there is insufficient evidence for LSC to state definitively what the direct fiscal effects of the bill on the state or political subdivisions might be.

State projects

On the state level, according to information from the Facilities Construction Commission, 91 current state projects that the Commission oversees (excluding projects for institutions of higher education) are subject to the Prevailing Wage Law. These projects account for $340.9 million in aggregate project costs. If the higher prevailing wage thresholds under H.B. 190 were in place before these projects were bid or contracted, then prevailing wage requirements would apply to 32 projects totaling $274.1 million in aggregate project costs.

Oversight of the Prevailing Wage Law

Department of Commerce

The Bureau of Wage and Hour Administration within the Department of Commerce's Division of Industrial Compliance is responsible for overseeing prevailing wage requirements and investigating complaints. Under this bill, activity surrounding these functions would most likely decline because of the significant decline in projects falling under the Prevailing Wage Law. As such, the Division of Industrial Compliance could realize a reduction in expenditures from the Industrial Compliance Operating Fund (Fund 5560). The Department allocated approximately $1.4 million for FY 2013 to support the Bureau's activities, which also include oversight of minimum wage and requirements that apply to the employment of minors. In addition, fewer legal actions relating to the Prevailing Wage Law may be initiated. In this case, state court costs may decrease.

Local government prevailing wage monitoring

Currently, for every public improvement project that meets the criteria established under the Prevailing Wage Law, the contracting public authority must designate a prevailing wage coordinator. This person is responsible for monitoring compliance by each contractor or subcontractor. They also maintain records for public inspection and report firms that are delinquent in filing a certified copy of their payroll. In addition to the possible fiscal effects listed below, expenditures by political subdivisions may decrease as a result of these government units eliminating the currently required prevailing wage coordinator positions.

Possible indirect effects

There is a broad divergence of professional and academic research findings on the topic of the prevailing wage. Much of this research attempts to assess the impact of the prevailing wage on labor costs, employment levels, tax revenues and expenditures, and other construction project costs. For example, assume that a political subdivision realizes a $10,000 savings in total labor costs (and total costs) for a public building renovation project. The government entity could decide to use the savings to enlarge the scope of the renovation or devote the savings to an entirely new project, complete other projects, or enhance the planned renovation beyond what was originally considered. There are other less direct but foreseeable potential impacts on state and local income and sales tax collections. The section below summarizes the conclusions from some of the more recent studies on the topic of the prevailing wage. Overall, the wide range of conclusions drawn from these studies illustrates how difficult it can be to assess the impact of exempting certain public construction projects from the prevailing wage or raising applicable project costs thresholds.

Survey of relevant literature

Numerous studies, articles, and books concerning the Prevailing Wage Law and unions have been written. The state of Maryland, in a 1989 study conducted by the states Department of Fiscal Services, concluded that the state's prevailing wage law increased labor costs by 5% to 15%. A report issued by the Ohio Legislative Service Commission in 2002 concerning the effects of S.B. 102 of the 122nd General Assembly, which sought to exempt school construction projects from the Prevailing Wage Law, noted studies that indicated the Prevailing Wage Law increased school construction costs between 0.6% and 7%.

Other papers have reached different conclusions. A 2012 study conducted on San Francisco Bay area projects by Jaewhan Kim, Chang Kuo-Liang, and Peter Philips found that prevailing wage laws have no statistically significant effect on bidding contractors' estimates of the value of the project.[1] In a study completed by the University of Utah in 1995 after that state repealed its prevailing wage law, it was concluded that the repeal had negative impacts, including a reduction in wages in the construction industry, an increase on construction cost overruns, and other deleterious effects.[2] In 2004, researchers at the University of Missouri – Kansas City found that a repeal of the prevailing wage in Missouri would lower wages for all construction workers, reduce sales tax revenues, reduce corporate income taxes, increase occupational injuries, and lower productivity of the construction workforce.[3]

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[1] Kim, J., Kuo-Liang, C. and Philips, P. (2012), "The Effect of Prevailing Wage Regulations on Contractor Bid Participation and Behavior: A Comparison of Palo Alto, California with Four Nearby Prevailing Wage Municipalities." *Industrial Relations: A Journal of Economy and Society*, 51: 874-891.

[2] Philips, Peter, Garth Mangum, Norm Waitzman, and Anne Yeagle, "Losing Ground: Lessons from the Repeal of Nine Little Davis-Bacon Act." Working Paper, Economics Department, University of Utah, 1995.

[3] Kelsay, Michael, Randall Wray, and Kelly Pinkham, "The Adverse Economic Impact from the Repeal of the Prevailing Wage Law in Missouri." Working paper, Department of Economics, University of Missouri, 2004.