HB 997

Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 997 (Delegate Valderrama)

Government, Labor, and Elections

State Finance and Procurement - Prevailing Wage Rate - Calculation

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This bill prohibits the Commissioner of Labor and Industry from surveying and using wage data of employees directly employed by an investor-owned gas company, investor-owned electric company, or a combination investor-owned gas and electric company in determining a prevailing wage rate. On receipt of a petition for review of a determination of a prevailing wage rate determined to be using the prohibited wage data, the commissioner must vacate the prevailing wage rate and recalculate the rate as required under law. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: None. Any change to prevailing wage rates that may result from the bill is expected to be negligible and have no discernible effect on the costs of public work projects. The Maryland Department of Labor can implement the bill with existing budgeted resources. No effect on revenues.

Local Effect: None. The bill is not expected to have a discernible effect on the cost of local public work projects. No effect on revenues.

Small Business Effect: Minimal.

Analysis

Current Law: For an overview of the State's prevailing wage law, please see the **Appendix – Maryland's Prevailing Wage Law**.

Applicability of Prevailing Wage for Investor-owned Gas and Electric Companies

"Investor-owned gas company" means a gas company that is not a municipal gas utility or a gas cooperative.

Eligible public work projects are subject to prevailing wage law in the State, but a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority is not considered a public work regardless of (1) public supervision or direction or (2) payment wholly or partly from public money.

However, an investor-owned gas company, electric company, or combination gas and electric company must require a contractor or subcontractor to pay its employees at least the prevailing wage rate determined by the commissioner for projects involving the construction, reconstruction, installation, demolition, restoration, or alteration of any underground gas or electric infrastructure of the company, and any related traffic control activities.

Review of a Determination of Prevailing Wage

A determination of a prevailing wage rate is subject to review when a public body publishes a call for bids or proposals in which the determination is used for the first time following its issuance. Within 10 days after a public body publishes any call for bids or proposals, a petition for review of a determination or a prevailing wage may be submitted to the commissioner by (1) the public body; (2) a prospective bidder or offeror; (3) a representative of a group of employers engaged in the type of construction for which the prevailing wage rate was determined; or (4) a representative of a classification of worker for which the prevailing wage rate was determined.

Within 20 days after a petition is submitted, the commissioner must conduct an investigation and hold a public hearing to review the petition. At the hearing, the Commissioner must introduce as evidence the investigation conducted and the other facts that formed the basis of the commissioner's original determination, and any interested party may introduce other evidence material to the issue. Within 10 days after the conclusion of a review hearing, the commissioner must send to the public body and each interested party a determination of the prevailing wage rate. This determination is final and is the rate applicable in the locality for the remainder of the one-year period for which it was issued.

On receipt of a copy of a petition to review a wage rate, a public body must extend the closing date for bids or proposals until five days after the commissioner publishes the final determination.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 675 (Senator A. Washington) - Finance.

Information Source(s): Department of General Services; Maryland Department of Labor; Public Service Commission; Department of Legislative Services

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jg/mcr

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Appendix – Maryland's Prevailing Wage Law

Contractors and subcontractors working on eligible public works projects in Maryland, including mechanical service contractors that are part of public works projects, must pay their employees the prevailing wage rate. "Public works" are structures or works, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that are constructed for public use or benefit or paid for entirely or in part by public money.

Eligible public works projects are:

- those carried out by the State;
- any public work for which at least 25% of the money used for construction is State money;
- specified projects in tax increment financing districts if the local governing body approves of the application of prevailing wages; and
- construction projects by investor-owned gas and/or electric companies involving any underground gas or electric infrastructure.

Applicability in Maryland

Generally, any public works contract valued at less than $250,000 is not required to pay prevailing wages. However, the prevailing wage law was amended in 2022 to include mechanical service contracts valued at more than $2,500. Mechanical service contracts are defined as contracts for (1) heating, ventilation, and air conditioning, including duct work; (2) refrigeration systems; (3) plumbing systems, as specified; (4) electrical systems, as specified; and (5) elevator systems, as specified.

The State prevailing wage rate also does not apply to (1) any part of a public works contract funded with federal funds for which the contractor must pay the prevailing wage rate determined by the federal government; (2) specified construction projects carried out by public service companies under order of the Public Service Commission (except the underground projects mentioned above); or (3) local House or Senate initiatives that receive State funds in the capital budget.

Prevailing wages are wages paid to at least 50% of workers in a given locality who perform the same or similar work on projects that resemble the proposed public works project. If fewer than 50% of workers in a job category earn the same wage, the prevailing wage is the rate paid to at least 40% of those workers. If fewer than 40% receive the same wage rate, the prevailing wage is calculated using a weighted average of local pay rates. The State Commissioner of Labor and Industry is responsible for determining prevailing wages for each public works project and job category based on annual wage surveys, in which contractors and subcontractors working on both public works and private construction projects may participate.

The University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland, and the Maryland Stadium Authority (MSA) are all exempt from the prevailing wage law. However, USM and MSU advise that they voluntarily comply with prevailing wage requirements for contracts that exceed the $250,000 threshold. MSA largely administers its own prevailing wage program, using wage rates borrowed from the commissioner's annual wage survey.

Enforcement

The commissioner has the authority to enforce contractors' compliance with the prevailing wage law, including issuing a stop work order if the commissioner makes an initial determination that a contractor or subcontractor may have violated the prevailing wage requirements. Contractors found to have violated the prevailing wage law must pay restitution to the employees and liquidated damages to the public body in the amount of $20 a day for each worker who is paid less than the prevailing wage, or $250 per worker per day if the employer knew or reasonably should have known of the obligation to pay the prevailing wage. If an employer fails to comply with an order by the commissioner to pay restitution, either the commissioner or an employee may sue the employer to recover the difference between the prevailing wage and paid wage. The court may order the employer to pay double or triple damages if it finds that the employer withheld wages or fringe benefits willfully and knowingly or with deliberate ignorance or reckless disregard for the law.

The Governor must include at least $385,000 in the budget each year for the Prevailing Wage Unit within the Maryland Department of Labor (MD Labor).

The number of prevailing wage projects rose dramatically following the Great Recession and has remained high each year since. MD Labor recently developed and unveiled a new pay log system, which provides more accurate tracking of prevailing wage projects than its previous database. Using the new system, MD Labor advises that, during fiscal 2025, its Prevailing Wage Unit monitored 889 projects, up from the 816 projects in fiscal 2024 and 757 projects in fiscal 2023, and still significantly more than the 496 projects reported in fiscal 2014.

To accommodate the increase in projects, the number of prevailing wage investigators has increased, starting with doubling investigative staff in the unit from three to six in fiscal 2016. In fiscal 2024, the legislature again increased staffing for the division allowing for eight investigators in the unit. The fiscal 2025 budget provided nine new wage and hour positions for the division, eight of which were assigned to the Prevailing Wage Unit. As of January 2026, the unit has seven investigators, including two bilingual Spanish speakers, and two interpreters/interviewers bilingual Spanish speakers. Although the unit is currently down one investigator from the previous year, the division has received hiring freeze exemptions for its vacancies and is in active recruitment to return to full staffing levels.

History of the Prevailing Wage

The federal Davis-Bacon Act, originally enacted in 1931, requires contractors working on federal public works contracts valued at more than $2,000 to pay their employees the prevailing local wage for their labor class, as determined by the U.S. Secretary of Labor. The general intent of the law, and similar state and local laws, is to stabilize local wage rates by preventing unfair bidding practices and wage competition. Thirty-two states and the District of Columbia currently have prevailing wage laws; since 1979, nine states have repealed their prevailing wage laws.

Maryland adopted a prevailing wage law in 1945 (Chapter 999), but it only applied to road projects in Allegany, Garrett, and Washington counties. In 1969, the statute was amended to include State public works contracts of $500,000 or more. There have been periodic changes to the law and the definition of "prevailing wage." In 1983, the law was broadened to include public works projects in which the State funds 50% or more of the total project costs and 75% or more in the case of public schools. Chapter 208 of 2000 reduced the prevailing wage threshold for public schools from 75% to 50% of construction costs, thereby bringing school construction projects in line with prevailing wage requirements for other public works projects. Chapters 281 and 282 of 2014 further lowered the State funding threshold for school construction projects to 25% of total construction costs, thereby requiring the vast majority of public school construction projects in the State to pay the prevailing wage, subject to the $500,000 contract value threshold. Chapters 57 and 58 of 2021 lowered the State funding threshold for all public works projects (including school construction) to 25% of total construction costs and lowered the contract value threshold for payment of prevailing wages to $250,000; however, legislative bond initiatives that receive State funds in the capital budget are exempt from the requirement to pay prevailing wages. As noted above, Chapter 51 of 2022 extended the prevailing wage requirement to mechanical service contracts valued at more than $2,500.

Six Maryland jurisdictions – Allegany, Baltimore, Charles, Montgomery, and Prince George's counties and Baltimore City – have local prevailing wage laws requiring public works projects in the jurisdiction to pay prevailing wages.

Research on the Effects of Prevailing Wage on Contract Costs

The Department of Legislative Services (DLS) has reviewed research on the effect of prevailing wage laws on the cost of public works contracts and has found inconsistent and/or unreliable results. The primary challenge confronted by all prevailing wage researchers is identifying an appropriate "control group" consisting of projects of similar type, timing, and location that do not pay the prevailing wage. In most jurisdictions that require a prevailing wage, all projects of a specified type and size are subject to it, so there is no natural control group. Some researchers have compared project costs in states or localities before and after they adopted prevailing wage requirements, but their findings are clouded by the difference in time, during which construction costs changed and other factors were not consistent. Another deficiency in the research is that it almost always relies on project bid prices (*i.e.*, the anticipated cost prior to the beginning of construction) rather than actual final costs. As most construction projects experience change orders or cost overruns affecting their cost, reliance on bid prices negatively affects the validity of the findings. Therefore, research findings related to the effect of the prevailing wage on project costs are inconsistent and often inconclusive. A similar review of research conducted by MD Labor (at the time, the Department of Labor, Licensing, and Regulation) for the Task Force to Study the Applicability of the Maryland Prevailing Wage Law also concluded that "data limitations create difficulty for researchers on both sides of the issue."

Local school systems occasionally solicit side-by-side bids with and without prevailing wages to help them decide whether they want to accept the full State match (and, thus, be subject to the prevailing wage) or a lesser State match without being subject to the prevailing wage. Data provided to the Public School Construction Program by Anne Arundel, Carroll, Frederick, Howard, and Washington counties, from 2012 through 2015, shows that the cost differential between bids with and without prevailing wages for 266 individual bids submitted for 26 different school construction and renovation projects averaged 11.7%, with a range from 0% to 49%. As with other research data, these represent bid prices, not actual construction costs. An independent analysis of the Maryland side-by-side bid data concluded that factors other than prevailing wages, including bid timing and the level of competition for the bids, accounted for most of the differences between the prevailing wage and nonprevailing wage bids.

One area of the research in which there is a general consensus, and which is supported by the U.S. Bureau of Labor Statistics, is that labor costs represent between 20% and 30% of construction costs (with materials and site costs making up most of the rest). Therefore, a 10% gap between prevailing wages and market wages could theoretically increase total contract costs by about 2.5%, and a 20% gap in wages could increase total contract costs by about 6%. Given the empirical evidence that prevailing wages tend to be higher than nonprevailing wages and that labor costs are a significant portion of overall project costs, DLS believes that it is reasonable to expect that the prevailing wage requirement adds between 2% and 5% to the cost of a public works project. Given the inconsistency and inconclusiveness of the empirical research, however, actual effects may vary by project, with some projects exhibiting higher cost differences and others experiencing negligible differences.