

SENATE BILL 290

P2
SB 368/12 – FIN

3lr0859
CF HB 1098

By: **Senators Stone and Manno**
Introduced and read first time: January 23, 2013
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 6, 2013

CHAPTER _____

1 AN ACT concerning

2 ~~Procurement Prevailing Wage Applicability~~
3 Task Force to Study the Applicability of the Maryland Prevailing Wage Law

4 FOR the purpose of ~~altering a certain limitation on the applicability of the Prevailing~~
5 ~~Wage Law to the construction of a public work by revising a certain definition;~~
6 establishing a Task Force to Study the Applicability of the Maryland Prevailing
7 Wage Law; providing for the membership and cochairs of the Task Force;
8 requiring the Department of Legislative Services, with assistance from the
9 Department of Labor, Licensing, and Regulation, to staff the Task Force;
10 providing that a member of the Task Force may not receive certain
11 compensation but is entitled to certain reimbursement; providing for the duties
12 of the Task Force; requiring the Task Force to report certain findings and
13 recommendations, on or before a certain date, to the Governor and certain
14 committees of the General Assembly; providing for the termination of this Act;
15 and generally relating to the applicability of the Prevailing Wage Law.

16 ~~BY repealing and reenacting, with amendments,~~
17 ~~Article State Finance and Procurement~~
18 ~~Section 17-201~~
19 ~~Annotated Code of Maryland~~
20 ~~(2009 Replacement Volume and 2012 Supplement)~~

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That ~~the Laws of Maryland read as follows:~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Article State Finance and Procurement~~

2 ~~17-201.~~

3 ~~(a) In this subtitle, unless the context indicates otherwise, the following~~
4 ~~words have the meanings indicated.~~

5 ~~(b) "Apprentice" means an individual who:~~

6 ~~(1) is at least 16 years old;~~

7 ~~(2) has signed with an employer or employer's agent, an association of~~
8 ~~employers, an organization of employees, or a joint committee from both, an~~
9 ~~agreement including a statement of:~~

10 ~~(i) the trade, craft, or occupation that the individual is learning;~~
11 ~~and~~

12 ~~(ii) the beginning and ending dates of the apprenticeship; and~~

13 ~~(3) is registered in a program of the Council or the Bureau of~~
14 ~~Apprenticeship and Training of the United States Department of Labor.~~

15 ~~(c) "Commissioner" means:~~

16 ~~(1) the Commissioner of Labor and Industry;~~

17 ~~(2) the Deputy Commissioner of Labor and Industry; or~~

18 ~~(3) an authorized representative of the Commissioner.~~

19 ~~(d) "Construction" includes all:~~

20 ~~(1) building;~~

21 ~~(2) reconstructing;~~

22 ~~(3) improving;~~

23 ~~(4) enlarging;~~

24 ~~(5) painting and decorating;~~

25 ~~(6) altering;~~

26 ~~(7) maintaining; and~~

1 ~~(8) repairing.~~

2 ~~(e) “Council” means the Apprenticeship and Training Council.~~

3 ~~(f) (1) “Employee” means an apprentice or worker employed by a~~
4 ~~contractor or subcontractor under a public work contract.~~

5 ~~(2) “Employee” does not include an individual employed by a public~~
6 ~~body.~~

7 ~~(g) (1) “Locality” means the county in which the work is to be performed.~~

8 ~~(2) If the public work is located within 2 or more counties, the locality~~
9 ~~includes all counties in which the public work is located.~~

10 ~~(h) “Prevailing wage rate” means the hourly rate of wages paid in the locality~~
11 ~~as determined by the Commissioner under § 17-208 of this subtitle.~~

12 ~~(i) (1) “Public body” means:~~

13 ~~(i) the State;~~

14 ~~(ii) except as provided in paragraph (2)(i) of this subsection, a~~
15 ~~unit of the State government or instrumentality of the State;~~

16 ~~(iii) any political subdivision, agency, person, or entity with~~
17 ~~respect to the construction of any public work for which [50%] 25% or more of the~~
18 ~~money used for construction is State money; and~~

19 ~~(iv) notwithstanding paragraph (2)(i) of this subsection, a~~
20 ~~political subdivision if its governing body:~~

21 ~~1. provides by ordinance or resolution that the political~~
22 ~~subdivision is covered by this subtitle; and~~

23 ~~2. gives written notice of that ordinance or resolution to~~
24 ~~the Commissioner.~~

25 ~~(2) “Public body” does not include:~~

26 ~~(i) a unit of the State government or instrumentality of the~~
27 ~~State funded wholly from a source other than the State; or~~

28 ~~(ii) any political subdivision, agency, person, or entity with~~
29 ~~respect to the construction of any public work for which less than [50%] 25% of the~~
30 ~~money used for construction is State money.~~

1 ~~(j) (1) Subject to paragraph (2) of this subsection, “public work” means a~~
 2 ~~structure or work, including a bridge, building, ditch, road, alley, waterwork, or~~
 3 ~~sewage disposal plant, that:~~

4 ~~(i) is constructed for public use or benefit; or~~

5 ~~(ii) is paid for wholly or partly by public money.~~

6 ~~(2) “Public work” does not include, unless let to contract, a structure or~~
 7 ~~work whose construction is performed by a public service company under order of the~~
 8 ~~Public Service Commission or other public authority regardless of:~~

9 ~~(i) public supervision or direction; or~~

10 ~~(ii) payment wholly or partly from public money.~~

11 ~~(k) “Public work contract” means a contract for construction of a public work.~~

12 ~~(l) “Worker” means a laborer or mechanic.~~

13 (a) There is a Task Force to Study the Applicability of the Maryland
 14 Prevailing Wage Law.

15 (b) The Task Force consists of the following members:

16 (1) two members of the Senate of Maryland, one of whom shall be a
 17 member of the minority party, appointed by the President of the Senate;

18 (2) two members of the House of Delegates, one of whom shall be a
 19 member of the minority party, appointed by the Speaker of the House;

20 (3) the Secretary of Labor, Licensing, and Regulation;

21 (4) the Secretary of General Services;

22 (5) the Executive Director of the Public School Construction Program;

23 (6) the following members appointed by the President of the Senate
 24 and the Speaker of the House:

25 (i) one member of the AFL-CIO;

26 (ii) one member of the Washington, DC Building and
 27 Construction Trades Council;

28 (iii) one member of the Associated Builders and Contractors;

1 (iv) one member from the Maryland Association of Counties;

2 (v) one member from the Maryland Association of Boards of
3 Education; and

4 (vi) one member representing a local school system that solicits
5 bids for school construction at the 50% threshold under the Prevailing Wage Law.

6 (c) The Task Force shall be the be cochaired by the members from the Senate
7 of Maryland and the House of Delegates.

8 (d) The Department of Legislative Services, with assistance from the
9 Department of Labor, Licensing, and Regulation, shall staff the Task Force.

10 (e) A member of the Task Force:

11 (1) may not receive compensation as a member of the Task Force; but

12 (2) is entitled to reimbursement for expenses under the Standard
13 State Travel Regulations, as provided in the State budget.

14 (f) The Task Force shall:

15 (1) examine the current Prevailing Wage Law and how it applies to
16 school construction projects, including:

17 (i) the current process as it relates to the Interagency
18 Committee on School Construction procedures;

19 (ii) the determination of whether a project is bid as a prevailing
20 wage or nonprevailing wage project;

21 (iii) how the current prevailing wage thresholds apply and affect
22 bids for school construction projects; and

23 (iv) whether there are differences in the application of the
24 Prevailing Wage Law based on project size and cost;

25 (2) analyze and examine school construction contracts bid as
26 prevailing wage and nonprevailing wage contracts to determine the effect the
27 following requirements may have on contract costs, including:

28 (i) overhead costs associated with complying with the
29 Prevailing Wage Law;

30 (ii) other related contractor overhead costs that may apply;

1 (iii) fringe benefits provided to workers;

2 (iv) licensing requirements;

3 (v) reporting requirements; and

4 (vi) union requirements that may affect staffing levels;

5 (3) analyze and examine prevailing wage and nonprevailing wage
6 construction projects through the duration of the project to determine if project quality
7 varies by contract type, accounting for the following:

8 (i) local school system–driven modifications;

9 (ii) unforeseen condition modifications; and

10 (iii) defective workmanship;

11 (4) study how local prevailing wage laws compare to the Maryland
12 Prevailing Wage Law; and

13 (5) review:

14 (i) other state prevailing wage laws;

15 (ii) other studies on the effect of prevailing wage laws on
16 construction costs, community well–being, worker wages and income tax revenues,
17 and State and local budgets; and

18 (iii) any other matter that relates to the scope and application of
19 the Maryland Prevailing Wage Law.

20 (g) On or before December 31, 2013, the Task Force shall report its findings
21 and recommendations relating to the effect of the Maryland Prevailing Wage Law on
22 school construction to the Governor and, in accordance with § 2–1246 of the State
23 Government Article, the Senate Finance Committee and the House Economic Matters
24 Committee.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 July 1, 2013. It shall remain effective for a period of 1 year and, at the end of June 30,
27 2014, with no further action required by the General Assembly, this Act shall be
28 abrogated and of no further force and effect.