

Senate Bill 259

Date: February 10, 2022
Committee: Senate Finance
Bill Title: Procurement - Prevailing Wage - Applicability
RE: **Letter of Information**

Maryland law requires contractors to pay their employees a prevailing wage for construction work performed on certain state-funded construction projects. The Division of Labor & Industry's Prevailing Wage enforcement unit establishes the applicable wage rates through an annual survey and applies and enforces those rates on jobs begun during the following year. SB0259 would expand the prevailing wage law and apply it to services provided under a mechanical systems service contract with a value in excess of \$2,500 that is part of a public work contract. To that end, after construction is completed, a service provider that performs work on any of the mechanical systems specified in the law would have to pay a prevailing wage rate to their employees. This type of work is often performed by different employees than the initial construction and would involve wage rates that are not part of the current surveyed list of construction jobs. These service contract employees are typically the best trained, most experienced employees of the contractor, and so are already earning high wages.

In fiscal 2021, the Prevailing Wage unit monitored compliance on 941 projects. This proposal would expand the scope to any project with a mechanical systems service contract, which could include an indeterminate number of existing buildings that may or may not have even been subject to the prevailing wage law previously. A typical school, for example, could also have five or more service contracts that would be needed for as long as the building is operational, which could significantly increase the number of covered contracts.

Compliance monitoring would be challenging. Because many of these service contracts are "on call", the Department would have no way to know when work is being performed on a covered building. Since the total number of projects the Department covers would significantly increase and grow every year, the number of staff needed would exponentially increase the size of the Prevailing Wage unit, adding significantly to the General Fund cost of the Department.

Additionally, rates would be set when the contract is signed, so a contract that lasts multiple years would lock in a historical prevailing wage rate for the life of the contract. Wage rates are set by a voluntary survey, where the average rate is determined by less than five submissions, in effect establishing a wage rate based upon only a handful of survey responses that apply for the duration that the mechanical contract is in effect.

It is anticipated that this proposal would increase costs to both local governments and small businesses that would take these service contracts.