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H.B. 146
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Riedel and Manchester

Local Impact Statement Procedure Required: No

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Highlights

- By providing certain exemptions from Ohio's prevailing wage laws, the bill may reduce the number of public improvement projects requiring prevailing wage determination and oversight, thereby potentially reducing labor hours and costs within the Division of Industrial Compliance at the Ohio Department of Commerce (COM). The Division is supported by various fees deposited into the Industrial Compliance Fund (Fund 5560). LBO does not have an estimate of the magnitude of the potential cost savings.
- Some political subdivisions could similarly experience a decrease in administrative costs to the extent they choose to undertake construction projects that do not require prevailing wage-related recordkeeping.
- The bill may apply downward pressure on the cost of construction projects sponsored by governmental entities exempted by the bill, possibly reducing costs on such projects. Entities exempted include political subdivisions, special districts, and state institutions of higher education.

Detailed Analysis

The bill eases prevailing wage labor restrictions imposed in R.C. Chapter 4115, administered by the Bureau of Wage and Hour Administration, within the Ohio Department of Commerce (COM). In particular, the bill provides an exemption from Ohio's prevailing wage law (PWL) for a number of specified project categories, and modifies the statutory definition of which remaining projects would be subject to the law. For the subset of project categories identified, the bill removes the wage floor established by Ohio's PWL and applies downward pressure on the labor costs associated with those projects. This fiscal note first describes current PWL, and then describes the bill's provisions in more detail, before discussing the fiscal effects of the bill.

Prevailing wage law

Ohio law mandates that, for construction qualifying as prevailing wage projects, COM coordinate with industry participants to determine the prevailing rates of wages for mechanics and laborers in the same locality where the work is being performed. The prevailing wage is determined by this survey, and through the outcomes of collective bargaining agreements or similar understandings between employers and labor organizations, and is calculated as the sum of the following:

1. The basic hourly rate of pay in the same locality;
2. Contributions made by contractors or subcontractors to a third party pursuant to a fund, plan, or program;
3. Reasonable costs to the contractor or subcontractor for other fringe benefits, such as insurance (medical or emergency, life, disability, or accident), unemployment compensation, or apprenticeship and training program costs.

H.B. 146 overview

The bill provides a general exemption from prevailing wage law for construction projects financed by the Ohio Public Works Commission (OPWC), and for projects undertaken by political subdivisions, special districts, and by state institutions of higher education. Though this does not prevent such entities from undertaking projects that pay prevailing wages, the bill does prevent Ohio's PWL from being applied to specified projects that are currently exempt from the PWL. Among the entities exempted by the bill from PWL requirements are major construction, repair, and maintenance projects such as:

- Port authority projects;
- Certain soil and water conservation projects and erosion control structures;
- Transportation improvement district (TID) projects;
- All projects funded by loan proceeds provided by the Ohio Water Development Authority;
- Projects undertaken by Lake Facilities Authorities;
- Projects undertaken by a county Convention Facilities Authority;
- Projects undertaken by an Airport Development District;
- Construction of sports facilities.

In addition, the bill increases the dollar threshold required for prevailing wages to be required for contractors and subcontractors of new public improvement projects; this threshold was previously \$250,000 and is increased to \$500,000 under the bill. The dollar value thresholds for other construction projects, such as reconstruction, renovation, or road projects, is unchanged under the bill.

Fiscal effects: state government

Administrative costs

The bill reduces the need for certain types of labor within the Bureau of Wage and Hour Administration within COM's Division of Industrial Compliance. The Bureau oversees Ohio's

prevailing wage law by making wage-rate determinations, conducting investigations of prevailing wage complaints, and enforcing fines and other criminal and civil actions when violations have occurred. Under the bill, there may be a significant reduction in work for the Bureau, and thus likely savings on labor spending, the extent to which depends on the level of reduction in the Division's workflow. The Bureau's activities are supported by the Industrial Compliance Fund (Fund 5560), which receives revenue from various fees.

Construction costs

Allowing state institutions of higher education to elect whether to apply prevailing wage law may apply downward pressure on the cost of public projects by potentially reducing labor costs for such projects. Prevailing wages in practice tend to be union wages, which are typically higher than nonunion wages in construction occupations. Prevailing wage proponents argue that union labor is better trained than nonunion labor, resulting in better quality construction and lower cost over time. A plethora of statistics and analyses are available on the economic and fiscal impact of PWLs. Study results tend to, in the admission of the authors, be sensitive to the data sample and type of variables utilized in the estimation procedure. Thus, the combination of academic and industry studies has found conflicting results.

Tax revenue

The bill potentially has indirect effects on both personal income tax (PIT) and commercial activity tax (CAT) revenue. PIT receipts may be affected by changes in construction industry payroll, and by changes in the profits of pass-through entity (PTE) owners of construction companies. PTEs include sole proprietorships, partnerships, S-corporations, and limited liability companies (LLCs). Businesses in the construction industry are subject to Ohio's CAT, which is levied on gross receipts. The conflicting research results regarding construction costs referred to above correspondingly make it impossible to predict the direction of the indirect effects on tax revenue.

Michigan's repeal of prevailing wage law in 2018

In June 2018, the Michigan Legislature passed Public Act 171, ending the state's long history of requiring prevailing wages to be paid on public construction projects.¹ Rescission of the prevailing wage law in Michigan does allow for a case study in the effects of such laws in a state similar to Ohio in economy, demography, and culture. However, the law change is too recent to draw reliable conclusions about the effects of the change on Michigan's public finances or the state's construction industry participants. It is possible that the repeal will serve as a natural experiment allowing economists to make more reliable predictions in the future about the effects of PWL on constructions costs.

Fiscal effects: political subdivisions

Current law requires all public projects subject to the PWL to designate a prevailing wage coordinator. The coordinator inspects each contractor's/subcontractor's payroll to ensure compliance with prevailing wage provisions, as well as timely and full payment of worker wages.

¹ Act 166 of 1965, Michigan's prevailing wage statute, required prevailing wages be paid to most levels of laborers employed on all public construction contracts.

Political subdivisions are allowed to have a permanent employee fulfill this position. Under the bill, expenditures by political subdivisions or special districts may decrease if these government units decide to not apply the prevailing wage on public improvement projects, thus eliminating either positions or payroll hours required of prevailing wage coordinator positions.

Effects on construction costs and tax revenue for political subdivisions mirror those explained above for the state, i.e., research does not allow for a reliable prediction of the effects of PWL on costs or revenue.