



THE PRINCE GEORGE'S COUNTY GOVERNMENT


Office of Audits and Investigations

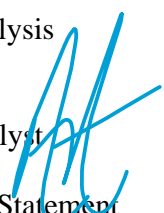
June 3, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Arian Albear 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-033-2022

CB-033-2022 (*Proposed and presented by:* Council Members Burroughs, Dernoga, Ivey, Medlock, Hawkins, and Taveras)

Assigned to the Education and Workforce Development (EWD) Committee

AN ACT CONCERNING PREVAILING WAGE EXPANSION for the purpose of expanding prevailing wage requirements to include rehabbing, resurfacing, pavement milling, routine operations and mechanical systems service contracts; adopting the State prevailing wage law regarding the contract threshold limit; amending the definition of a public works project to include projects that receive in whole or part a payment in lieu of taxes; and requiring best efforts to hire Prince George's County residents for at least 25% of the new jobs to complete the contract for construction that exceeds the prevailing wage threshold limit.

Fiscal Summary

Direct Impact

Expenditures: Increased expenditures likely.

Revenue: No additional revenue likely.

Indirect Impact

Likely positive.

Legislative Summary

CB-033-2022¹, proposed by Council Members Burroughs, Dernoga, Ivey, Medlock, Hawkins, and Taveras, was presented on May 17, 2022 and referred to the Committee of the Whole (COW).

CB-033-2022 would amend Code “Section 2-247. Definitions.” to expand the meaning of construction to include the jobs of rehabbing, resurfacing, and pavement milling, as well as jobs related to mechanical systems service contracts. Additionally, the bill adds definitions for “Mechanical Systems Service Contracts,” “Payment in Lieu of Taxes (PILOT),” and “public funds.” CB-033-2022 further expands the definition of public works to include mechanical systems service contracts with value in excess of the threshold codified in the McNamara O’Hara Service Contract Act of 1965 as well as projects that receive PILOT agreements, in any amount.

Per the U.S. Department of Labor, the McNamara-O’Hara Service Contract Act requires:

“contractors and subcontractors performing services on prime contracts in excess of \$2,500 to pay service employees in various classes no less than the wage rates and fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement.

For contracts equal to or less than \$2,500, contractors are required to pay the federal minimum wage as provided in Section 6(a)(1) of the Fair Labor Standards Act.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to SCA-covered contracts.”²

A final provision of the bill would amend “Section 2-249. Determination of prevailing wage rate.” to have the public body awarding the contract include a “best effort” requirement to hire County residents for at least 25% of the new construction jobs.

¹ [CB-033-2022](#).

² U.S. Department of Labor, [McNamara-O’Hara Service Contract Act \(SCA\)](#).

Background/Current Law

“Prevailing Wages” are the minimum wages set by government entities for certain government contracts (generally construction-related).³ These wages are considered as a totality of hourly rates together with the dollar amount of benefits.

At the federal level, the Davis-Bacon Act of 1931⁴ sets the standards for prevailing wages; for state and county contracts, it varies by jurisdictions. House Bill 467 – Providing Our Workers Education and Readiness (POWER) – Apprenticeship Act of 2017 created the State’s prevailing wage law.⁵

In Prince George’s County, prevailing wage legislation was first enacted under CB-116-1974.⁶ Section 10A-121 of the County Code requires that each invitation for bids for contracts include a requirement of prevailing wage pay for classes of employees defined by the Wage Determination Board. The Wage Determination Board of Prince George’s County is charged with establishing the prevailing wage rates for all eligible workers on a yearly basis and in negotiation with industry and labor organizations. Prevailing wages are required for all employees working on projects that use public funds, regardless of contract size. For reference, the Office of Central Services (OCS) estimates that there are approximately 45 active projects of \$500,000 or more subject to prevailing wage requirements.

The current *highway* construction prevailing wage rates can be found [here](#).
The current *building* construction prevailing wage rates can be found [here](#).

Definitions and Explanations

<u>Prevailing Wage Rate</u>	<u>Wage Determination Board</u>
<p>A combination of:</p> <ol style="list-style-type: none">1) The basic hourly rate of pay; and,2) The amount of:<ol style="list-style-type: none">a. The rate of contribution to healthcare, pension funds, life insurance, holiday pay, or any other such benefit provided by an employer; and,b. The rate of cost to employer, reasonably anticipated in providing fringe benefits. <p>Applies to 1) workers and apprentices</p>	<p>Consists of 5 members appointed by the County Executive and confirmed by the County Council:</p> <ul style="list-style-type: none">- 2 appointed from management in building and construction industry;- 2 from labor organizations representing employees in said industry;- 1 from the general public (as Chairperson of the Board). <p>Board members serve 3-year terms, with eligibility for reappointment</p>

³ Center for American Progress: [Prevailing Wages: Frequently Asked Questions](#).

⁴ The [Davis-Bacon Act of 1931](#).

⁵ Maryland [House Bill 467](#).

⁶ [CB-116-1974](#).

Resource Personnel

Leroy D. Maddox, Jr. Legislative Officer.
Brandon Cooper, Chief of Staff/Legislative Aide, District 8.

Discussion/Policy Analysis

CB-033-2022 would expand the applicability of prevailing wage laws to include additional job categories and types of contracts. Establishing prevailing wages for local contracts ensures that County contracts do not underpay workers vis-à-vis the regional average pay rate. This has the net effect of stabilizing wages for the industry and prevent disaffection with the work. In addition, posing the County as an example of an organization that provides workers with a living wage sets a precedent for private organizations which may not have the legal or fiscal impetus to pay their workers as much.

The Center for American Progress notes that prevailing wages not just improve the wages and benefits of workers; however, they also help close the racial pay gap, set industry standards for best practices, and promote quality work from a more involved workforce.⁷

On the other hand, Dunn, et al. (2005), analyzing data for California, found that prevailing wage laws increased overall construction costs in the area.⁸ The Economic Policy Institute, however, finds that costs do not increase when using a holistic approach that considers the return on investment of having better quality and social benefits among a local population. The same studies that highlight this increase in cost also mention the social benefits of higher local wages, better workplace safety, increase in government revenue, and the development of a skilled workforce for the construction industry.⁹ Therefore, while local governments may have a higher initial cost, the indirect return on investment on the contract may exceed the possible savings from paying workers a lower wage. George Akerlof, in studies for his “efficiency wage” theory, found that higher wages are directly correlated with improved productivity and effort levels on the part of employees.¹⁰ A more engaged and productive workforce would create a faster and better final product than one that has no ownership of their contract and production.

CB-033-2022 would also require that entities taking advantage of County Payment in Lieu of Taxes (PILOT) agreements pay their employees a prevailing wage rate by classifying PILOT agreements as a *type* of public work – as they use public funds in the form of forgone taxes in exchange for a purported future return on investment.

⁷ Center for American Progress, [Prevailing Wages, Frequently Asked Questions](#). December 2020.

⁸ Dunn, Sarah, John M. Quigley, and Larry A. Rosenthal. “The Effects of Prevailing Wage Requirements on the Cost of Low-Income Housing.” *Industrial and Labor Relations Review* 59, no. 1 (2005): 141–57. <https://www.jstor.org/stable/25063019>.

⁹ Economic Policy Institute, [Prevailing wages and government contracting costs](#). 2008.

¹⁰ Akerlof, George A. “Labor Contracts as Partial Gift Exchange.” *The Quarterly Journal of Economics* 97, no. 4 (1982): 543–69. <https://www.jstor.org/stable/1885099>.

Finally, the bill would require a “best effort” commitment to hire at least 25% of the workforce of a project from County residents. This requirement would provide jobs and workforce development training for locals and ensure that at least 25% of the wages paid remain within the County.

Prevailing wage laws also exist in Baltimore City, Baltimore County, Charles County, and Montgomery County. CB-033-2022 follows Maryland Senate Bill 259/House Bill 611 (although this measure was vetoed by Governor Hogan¹¹) in expanding the applicability of prevailing wages to include “mechanical systems service contracts.” Recent legislation by Montgomery County in 2022 follows the model of the State bill.¹²

Fiscal Impact

Direct Impact

Enactment of CB-033-2022 may result in an adverse fiscal impact to the County as more jobs require a prevailing wage determination if those jobs do not already default to the prevailing wage rate. In their fiscal and policy note on HB 611(2022), the Maryland Department of Legislative Services (DLS) noted that a reliable estimate of increases, if any, would be difficult to gauge for mechanical service technicians, as these professionals are already required to be licensed and insured, enabling them to earn higher wages. Their methodology does note that projects subject to prevailing wage requirements are approximately 10% higher in labor costs and between 2% and 5% higher in total costs.¹³ There may also be an increased administrative cost to the Wage Determination Board, as there would be additional determinations of prevailing wages.

As noted above, OCS has approximately 45 active projects of \$500,000 or more subject to prevailing wage. To estimate a direct fiscal impact of the bill, we would need to find the total dollar amount of projects that would be subject to the expanded prevailing wage requirements under CB-033-2022 and add the DLS estimate of 2% - 5% increase to the total project cost. The Office of Central Services may be able to provide this information to the Committee to allow for a better estimate of the fiscal impact of the bill.

Total Dollar Amount of Projects Subject to Expanded Prevailing Wage Requirements
+
2% - 5%
=
New Total Project Cost

Higher expenditures in construction projects, if any, may be partly offset by faster construction times from increased worker productivity.

¹¹ [SB 259 Veto letter](#)

¹² Montgomery County, [Bill 35-21](#).

¹³ Maryland [House Bill 611 \(2022\)](#).

Indirect Impact

Enactment of CB-033-2022 would likely have a positive impact in the County as more money will remain in the area, therefore increasing overall economic activity and income levels for residents. The County may recuperate some of the expenditures discussed above with the 25% local resident best effort requirement. As residents spend near where they live, the money would circle back into the County through increased demand for goods and services.

An Anne Arundel County study¹⁴ on prevailing wage requirements found that across the FY 2021 – 2026 capital spending plan, local prevailing wage laws led to:

1. A net increase of \$34.3 million and 400 jobs for construction trades and other workers in the county.
2. Shifting of employment on county public works projects to county residents.
 - a. Net gain of 144 county construction jobs (2.3% increase over status quo) and \$19.4 million in additional income.
3. Indirect benefits to the county in the form of 256 additional jobs and \$14.9 million in additional income for people working in the county.

Appropriated in Current Fiscal Year Budget

No.

Effective Date of Proposed Legislation

The proposed Bill shall be effective forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please email me.

¹⁴ Anne Arundel County, [The Economic and Fiscal Impacts of Enacting a Prevailing Wage Law in Anne Arundel County](#).