



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

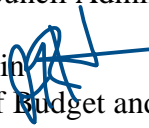
## Office of Audits and Investigations


January 11, 2023

### FISCAL AND POLICY NOTE

TO: Jennifer A. Jenkins  
Council Administrator

William M. Hunt  
Deputy Council Administrator

THRU: Josh Hamlin   
Director of Budget and Policy Analysis

FROM: Lavinia A. Baxter   
Senior Legislative Budget and Policy Analyst

RE: Policy and Fiscal Impact Statement  
CB-004-2023 Pilot Project Labor Agreement

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**CB-004-2022** (*Proposed and Presented by:* Council Members Burroughs, Blegay, Dernoga, Ivey, Olson and Oriadha)

Assigned to Government Operations and Fiscal Policy Committee

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AN ACT CONCERNING A PILOT PROJECT LABOR AGREEMENT for the purpose of establishing a pilot project labor agreement targeting Prince George's County Department of Public Works and Transportation CIP 4.66.0002 Curb and Road and Rehabilitation 2 construction projects that create entry-level positions for residents that are both necessary and desirable.

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### Fiscal Summary

#### Direct Impact:

*Expenditures:* Likely adverse fiscal impact due to increased project costs.

*Revenues:* None likely.

**Indirect Impact:**

Potentially favorable.

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**Legislative Summary:**

CB-004-2023, proposed by Council Members Burroughs, Blegay, Dernoga, Ivey, Olson and Oriadha was presented on December 9, 2023 and referred to the Government Operations and Fiscal Policy (GOFP) Committee. The Bill would establish a pilot Project Labor Agreement in the Curb and Road and Rehabilitation 2 capital project category.

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**Current Law/Background:**

This legislation proposes to create a new Subdivision 13 under Section 10A, Division 6, *Special Provisions*. Currently, there is a provision in the law recognizing Project Labor Agreements as craft labor agreement authorized under federal labor law.<sup>1</sup> In 2013, CB-039-2013, “An Act Concerning Project Labor Agreements”<sup>2</sup> was approved and enacted, allowing solicitations for construction projects by the County estimated at one million dollars to include a clause requiring inclusion of a Project Labor Agreement. The bill also called for the establishment of a Project Labor Agreement Coordinating Committee comprised of representatives of contractors, labor organizations, and appropriate County officials to oversee the development of Project Labor Agreements and assist in their administration.<sup>3</sup> To date, that Committee has not been organized.

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**Discussion/Policy Analysis:**

*Provisions of CB-004-2023*

CB-004-2023 would add a new Subtitle 10A, Division 6 Subdivision 13 introducing *Pilot Project Labor Agreement on CIP 4.66.0002*. The bill uses a *shall* clause for the following statements already outlined in Sec. 10A-158:

1. All Curb and Road Rehabilitation 2 projects shall require as part of a solicitation and contractors and subcontractors must become party to a project labor agreement.
2. A project labor agreement shall:
  - a. Contain guarantees against strikes, lockouts, and similar job disruptions
  - b. Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreements

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<sup>1</sup> [SUBDIVISION 13. - PROJECT LABOR AGREEMENTS. | Code of Ordinances | Prince George's County, MD | Municode Library](#)

<sup>2</sup> [Prince George's County Council - Reference No. CB-039-2013 \(legistar.com\)](#)

<sup>3</sup> [Prince George's County Council - Reference No. CB-039-2013 \(legistar.com\)](#)

- c. Provide other mechanisms for labor-management cooperation's on matters of mutual interest and concern, include productivity, quality of work, safety, and health; and
- d. Include any additional requirements that the Office of Central Services considers necessary to promote the County's interest.

Additionally, the Office of Central Services is required to provide the County Council with an annual report on pilot project labor agreements which will outline the number of awarded contracts and the percent of County residents hired on the projects covered. If not extended by the Council, the term of the Pilot program expires five years after its effective date.

The bill is proposed to implement project labor agreements on all DPW&T CIP Curb and Road and Rehabilitation 2 projects as a pilot project.

The goal of the bill is to:

- advance the County's interest in producing labor-management stability;
- ensure compliance with laws and regulations governing safety and health;
- further equal employment opportunity; and
- raise labor and employment standards.

Project labor agreements are legal requirements that create the framework for unionization of government contracts. Also known as Community Workforce Agreements, these contracts are pre-hire collective bargaining agreements with one or more labor organizations.<sup>4</sup> The arguments supporting PLAs are that they protect taxpayer investments, provide equity and resiliency and expand access to careers for women and people of color. This is done by determining wage rates and benefits for all employees on the project to contract signing. They are used on both public and private projects and are tailored to meet the provisions of both parties and prevent work stoppages and for the length of the project. Employees for the projects are hired through union *hiring halls*.

Existing research on PLAs has largely been performed by researchers with ties to unions or developers making rendering biased results. According to a study done by the University of Southern California, only two studies have been conducted by non-partisan organizations, the New Jersey Department of Labor and the General Accounting Office which both found PLAs associated with a 20% project cost increase.<sup>5</sup>

In February 2022, President Biden signed an Executive order requiring federally funded Project Labor Agreements on projects over \$35 million dollars.<sup>6</sup> Opponents of PLAs argue that these

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<sup>4</sup> Fred B. Kotler, J.D., *Project Labor Agreements in New York State: In the Public Interest*, Cornell University ILR School, 2009

<sup>5</sup> Jason M. Ward, *The Effects of Project Labor Agreements on the Production of Affordable Housing*, RAND Corporation, 2021 p. 13

<sup>6</sup> Executive Order on Use of Project Labor Agreements for Federal Construction Projects | The White House  
FACT SHEET: President Biden Signs Executive Order to Boost Quality of Federal Construction Projects | The White House

agreements steer contracts and artificially reduce fair and open competition for 87.4 % of companies whose workers do not choose to join a union. Additionally, depending on the size and scope of projects, these agreements increase costs between 12-20 percent. Non-union companies will have to hire from hiring halls and pay union level jobs.<sup>7</sup> Currently, about 24 states have laws restricting government-mandated PLAs on local construction projects. Only two studies have been conducted that were not performed by unions or developers.

In Maryland, the construction workforce is largely non-unionized. In 2020, a bill was introduced by then Baltimore Council President Brandon Scott to require unions and contractors to establish agreements ahead of any contract valued at \$25 million or long-term capital projects at multiple locations valued at more than \$15 million. The Maryland Minority Contractors Association joined with Associated Builders and Contractors to oppose the bill and it did not pass.<sup>8</sup>

Maryland already has a Prevailing Wage provision which regulates the hours of labor, rates of pay, and conditions of employment, obligations of employers and subcontracts for public work in Maryland. In Montgomery County, the County requires a contractor to pay an employee the basic hourly wage as determined by the Commissioner of Labor and Industry for projects \$500,000 or greater, but this is not required on school construction projects.<sup>9</sup>

The Curb and Road Rehabilitation 2 construction project category provides the largest ongoing funded CIP category for DPW&T. In FY 2023, \$32,488 million is budgeted in this category. Under the Curb and Road Rehabilitation program, the County oversees streets, curbs and sidewalks, making safety improvements, installing new sidewalks, constructing sidewalks ramps in accordance with the Americans with Disabilities Act, landscaping, improving traffic calming, making revitalization improvements and installing guardrails Countywide.

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<sup>7</sup> [Infrastructure Law Becomes a Biden Union Giveaway - WSJ](#)  
[Fair and Open Competition on Taxpayer-Funded Federal and Federally Assisted Construction Projects | ABC Academy & GA Articles](#)

<sup>8</sup> <https://www.baltimoresun.com/politics/bs-md-ci-project-labor-agreement-bill-protest-20200309-lftfe3spgbfp3i4y6ukk4cspom-story.html>

<sup>9</sup> [https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220322/20220322\\_13.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2022/20220322/20220322_13.pdf)

The following questions were posed to both the Departments of Public Works and Transportation and Central Services. The Committee may wish to explore these inquiries to better assess the impact of CB-004-2023:

- What is the added impact of PLAs for completion of Curb and Rehabilitation Projects?
- As of FY 2022, how many PLA projects has the County participated in? What were the successes and challenges with these projects?
- Do County based MBE's have to be union signatories in order to participate?
- What are the projected impacts (positive and negative) with using PLAs for Curb and Road Rehabilitation program in terms of completion times and cost to the County.
- It has been suggested that the cost to contractors to participate in PLAs will rise due to the requirements they will be subjected to including increased compensation. Is there any County data or example that confirms that view?
- Out of the County's cadre of certified MBE's how many are likely able to participate in the Curb and Road Rehabilitation program if the pilot program moves forward?
- What is the projected economic impact to the County with MBE participation?
- Currently, how many contractors participate in the Curb and Road Rehab program?
- What is the average contract award for the Curb and Road Rehab program?
- How many of those contractors are MBEs?
- What is the average time from award to construction that current contract awardees take to complete a project?
- Are there any metrics outside of the proposed bill that the Agencies will use to determine this pilot a success?

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### **Fiscal Impact:**

#### *Direct Impact*

Enactment and approval of CB-004-2023 is likely to have a adverse fiscal impact on the County. Due to increased project costs associated with contractor compliance with new program requirement, projects in this CIP category of projects may increase.

#### *Indirect Impact*

With enactment of CB-004-2023 the County may realize increased indirect revenue associated with spending on Curb and Road Rehabilitation projects by local contractors doing business in the County. However, it is possible that some County-based small businesses may be placed at a competitive disadvantage on subject projects as a result of the requirement. Additional favorable indirect revenue impacts may be realized in the form of tax revenue resulting from improved wages for County residents working on the projects.

*Appropriated in the Current Fiscal Year Budget*

No.

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**Effective Date of Proposed Legislation:**

The proposed Act will take effect forty-five (45) calendar days after it becomes law.

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