Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Sub. S. B. 102 (with accepted amendments)** DATE: **May 14, 1997**

STATUS: **In House Finance and Appropriations** SPONSOR: **Sen. Dix**

LOCAL IMPACT STATEMENT REQUIRED: **Yes — Corrected after initial review**

CONTENTS: **Creates the Ohio School Facilities Commission, transfers responsibility for the Classroom Facilities Assistance program from the State Board of Education to the Commission, and exempts contruction undertaken by school districts from prevailing wage laws.**

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
School Building Assistance Provisions			
School Districts Facilities Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Significant increase*	Potential increase of $1.3 billion to take care of school facility needs of first decile of districts according to adjusted valuation per pupil (subject to future appropriations)
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	$39.3 million increase (for debt service)
School Facilities Bond Service Fund			
Revenues	- 0 -	-0-	Potential annual loss of $1.8 million (½ mill levy that will be retained by certain school districts)
Expenditures	- 0 -	- 0 -	- 0 -
Prevailing Wage Provisions			
General Revenue Fund			
Revenues	- 0 -	Potential loss	Potential loss
Expenditures	- 0 -	$75,000 increase plus potential indeterminate decrease	$75,000 increase plus potential indeterminate decrease

* Appropriation of $300 million

School Building Assistance Provisions

- The cost of school facility needs for the first decile of districts (approximately 60) in the state according to adjusted valuation per pupil is estimated at approximately $1.3 billion. A total of $1.1 billion would come from the state and another $180 million is estimated to come from local sources.

- The one-half mill that districts previously paid to the state to pay back a portion of the state loan, would be retained by districts below the statewide median according to adjusted median income, to be used to pay for maintenance of the new facilities. This will result in a loss (estimated at $1.8 million) to the School Facilities Bond Service Fund. However, under the bill, the proceeds of the ½ mill are required to be used for maintenance of the new facilities, which will protect the state's investment.

- The bill appropriates $300 million in FY 1998. Debt service on the bonds is estimated at $39.3 million annually for the ten years.

Prevailing Wage Provisions

- Some savings to the state GRF would occur, since state dollars are used to fund school district and educational center public improvement projects; however the amount of savings is unknown. The savings could reduce GRF expenditures for school district and educational center projects, or projects originally left unfunded may now receive funding.

- Since this bill would exempt primary and secondary school building construction projects from the prevailing wage law, prevailing wage administration under the Bureau of Employment Services (BES) may be affected. The BES, which operates the Division of Prevailing Wage, could realize a drop in expenditures if fewer regulatory activities are needed. However, the BES expects to add staff to this division under the 1997-1999 biennial operating budget. The net effect of these two opposing factors is unknown at this time. However, specifically as a result of this bill, expenditures for the Division of Prevailing Wage could decrease, but it is not known by what amount.

- Revenues, through tax collections, may decrease. This could occur if the money saved from the drop in expenditures is spent on non-taxable goods or invested. It could also occur if repeal of the prevailing wage law shifts a portion of taxable income from higher wage rate employees to lower wage rate employees. Any increases in employment, however, would tend to moderate or counter any potential revenue loss. Finally, the distribution of tax receipts between the state and its political subdivisions may change, affecting the potential for a loss of revenue. (See "Tax Effects" for more information.)

- The bill requires the Legislative Budget Office (LBO) to monitor and conduct a study of the effects of exempting school district and educational center construction/renovation projects from the Prevailing Wage Law. The study would examine several aspects of the exemption including its impact on school construction quality, its effect on construction employee wages and the amount of money saved. The study is required to be completed within five years of the effective date of this bill. The LBO estimates that conducting this study will cost $75,000 per year. One additional full-time employee and one additional intern will be needed. Survey costs will also likely be incurred.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
School Building Assistance Provisions			
School Districts in the 1st through 10th Percentiles According to Adjusted Valuation Per Pupil			
Revenues	- 0 -	- 0 -	Potential gain of $1.3 billion - $1.1 billion from the state (subject to future appropriations) and $180 million from local sources
Expenditures	- 0 -	- 0 -	Potential $1.3 billion increase
½ Mill Requirement for Districts in the 1st through 10th Percentiles			
Revenues	- 0 -	- 0 -	Gain of $1.8 mllion annually for 23 years
Expenditures	- 0 -	- 0 -	$1.8 million increase
"Big Eight" School Districts			
Revenues	- 0 -	$100 million gain	- 0 -
Expenditures	- 0 -	$100 million gain	- 0 -
Prevailing Wage Provisions			
School districts			
Revenues	- 0 -	-0-	-0-
Expenditures	- 0 -	$11.1 to $23.8 million decrease plus indeterminate decrease	$11.1 to $23.8 million decrease plus indeterminate decrease
Counties, municipalities, and transit authorities			
Revenues	-0-	Potential loss	Potential loss
Expenditures	-0-	-0-	-0-

School Building Assistance Provisions

- Districts in the first through 10th percentiles according to adjusted valuation per pupil (approximately 60 districts) could receive revenues totaling approximately $1.3 billion in upcoming years for school building projects. The estimated local share for these districts is $180 million. Thus, the portion coming from the state is estimated to be approximately $1.1 billion.

- Districts below the statewide median according to adjusted median valuation would retain the ½ mill districts are required to levy (in addition to the above "local share") to participate in the school building program, and are required to use the proceeds of the levy for maintenance on the school facility project. A ½ mill levy in all 60 districts in the 1st through 10th percentiles is estimated to generate $1.8 million per year.

- The "big eight" school districts would receive a total of $100 million for major renovations and repairs of school facilities. The funds would be distributed on a per pupil basis.

Prevailing Wage Provisions

- School districts or educational centers that engage in public improvement projects covered by the prevailing wage law will experience a $11.1 to $23.8 million reduction in expenditures in fiscal year 1998 and annually beyond. This expenditure decrease (or savings) would be attributable to lower labor costs associated with public improvement projects. This estimate also depends upon the future level of construction/renovation spending. More money spent will translate into potentially greater labor savings -- a reduction in project costs.

- The indeterminate expenditure decrease represents lower costs to school districts and educational centers resulting from the elimination of prevailing wage coordinator positions. Also, contracts entered into by a school board of education must meet a residency requirement or receive a waiver. The contracts that apply fall under sections 3318.01 to 3318.32 and 3318.35 of the Revised Code. Specifically, 80% of the employees that perform work under a contract indicated above would have to be residents of Ohio. The Ohio School Facilities Commission will prescribe rules that allow contractors to waive the residency requirement. The bill states that waivers would only be granted if there are not enough qualified or interested residents of this state in the area where work on the contract is being performed. Because the bill gives the School Facilities Commission discretion to determine the rules that contractors will need to request a waiver, it is unclear what effect this will have on school districts. However, school districts will likely incur costs by having to review contractor waiver requests. Depending upon the number and frequency of waiver requests, as well as, the type of rules prescribed by the School Facilities Commissions, this could result in increased costs for school districts.

- Local tax revenues may decrease minimally. This could occur if the money saved from the drop in expenditures is spent on non-taxable goods or invested. It could also occur if repeal of the prevailing wage law shifts a portion of taxable income from higher wage rate employees to lower wage rate employees. Any increases in employment, however, would tend to moderate or counter any potential revenue loss. In addition, the distribution of tax receipts between the state and its political subdivisions may change, affecting the potential for a loss of revenue. Units of government affected would be municipalities and school districts for income taxes, and counties and transit authorities for sales taxes. State income and sales tax revenue distributed through the Local Government Fund, Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund are provided to counties, municipalities and townships. (See "Tax Effects" for more information.)

Detailed Fiscal Analysis

School Building Assistance Program – Background

Program in the 1960s, 1970s, and 1980s

The school building assistance program was initiated in 1957. In the late 1950s, $20 million was appropriated to assist a total of 50 school districts. In the 1960s, a total of $61 million was appropriated to assist 57 school districts. In the 1970s, funding was sporadic and not substantial – only $2.8 million was appropriated in FY 1973. In the 1980s, there was again only one round of funding - $20 million in FY 1985.

1989 Building Assistance List ("List of 44 Districts")

In FY 1989, the Department of Education established a list of school districts eligible for state school building assistance. Many needy districts failed to apply. Eligibility was based on a formula that calculated a district's percentage of improperly housed students. Forty-four districts were found to eligible for assistance. Since 1989, various appropriations have been made to pay for the state share of project costs for the 44 districts.

The 1989 Building Assistance List was prioritized so that districts at the top of the list were given the opportunity to pass local levies (for the local share of the project) and have state funds encumbered for their projects before other district were notified that funds were available for their projects. Not all of the districts on the 1989 building assistance list received state funding because they were unable to pass required local levies to support the local share of the project. A table showing the status of the 1989 Building Assistance List is provided in Appendix A.

Am. Sub. H.B. 152 of the 120th General Assembly made major changes in the school building program. The act changed the amount of the local share that districts were responsible for, so that wealthier districts were required to pay a higher portion of total costs for building projects.

Am. H.B. 748

Am. H.B. 748 of the 121st General Assembly, the most recent capital bill, made additional changes in the school building program, including the following:

- the concept of a basic project cost;
- a requirement that the Department of Education perform periodic assessments of classroom facility needs throughout the state; and
- a priority list for state assistance based on a district's adjusted valuation per pupil.

The bill also appropriated $100 million to be used for school building projects beyond the 1989 building assistance list.

Periodic Assessment and Priority List Under the Bill

Am. H.B. 748, the capital bill of the 121st General Assembly, required the Sate Board of Education to periodically perform an assessment of class facility needs in the state to identify school districts in need of additional facilities or replacement facilities. The State Board of Education was then to conduct on-site visits to school districts identified as having classroom facility needs, to confirm previous finding and further evaluate the facilities needs of the district. The visits were to start with the districts having the lowest adjusted valuations in the state.

As established in Am. H.B. 748, and continued in this bill, priority for funding will be based on a district's adjusted valuation per pupil. However, the bill limits the first round of on-site visits (by the Ohio Facilities Commission instead of the State Board of Education) to districts in the first through fifth percentiles based on the most recent rating of school districts' adjusted valuations per pupil. The second round of visits are limited to school districts in the first through tenth percentiles. The second round of visits can only proceed after 80% of districts on which on-site visits were approved during the first round have been approved. Each succeeding round of visits is limited to the percentiles that were included in the preceding round of visits plus the next five percentiles.

Estimated Cost for the First 60 Districts and Estimated Local Share

The estimated cost for the first decile of districts (approximately 60 districts) ranked by adjusted valuation per pupil and not counting districts that received funding under the 1989 program, is approximately **$1.3 billion**. The estimate is based on the results of the 1990 survey conducted by the Department of Education, adjusted as follows: for districts in the first through 10th percentiles, the cost cited by the 1990 Department of Education survey was multiplied times 1.97, which reflects the average increase in cost based on recent on-site evaluations at seven school districts. (See discussion under Recent On-site Inspections.)

The table at the end of this fiscal note shows districts in the 1st through 10th percentiles, ranked according to the district's FY 1997 adjusted valuation per pupil. The table also shows:

a) the district's required level of indebtedness;
b) the amount ½ mill generates.

Recent On-Site Inspections

The amounts in the following table show the total amounts cited in the 1990 Ohio Public School Facility Survey for repairs, additions and rebuilding. The Department of Education began the process of on-site evaluations of districts in the first through fifth percentiles that did not receive assistance through the 1989 Building Assistance program in March and April of this year. The seven districts visited are among the 14 poorest districts based on adjusted valuation per pupil. The results of these recent on-site evaluations are startling. In most of the seven site visits conducted thus far by the Department, estimated needs have doubled, and in one case the need is nearly 2.6 times that of the amount reported in the 1990 survey. The results of the seven on-site visits conducted in March and April of 1997 are shown below.

Results of On-Site Visits Conducted in Spring, 1997

County	District	Total Cost Cited by 1990 Survey	Total Cost Estimated – Recent On-Site Evaluation	Total New Cost	Architect's Recommendations
Athens	Trimble Local	$5.8 million	$11.5 million plus $234,600 for emergency roofing	$5.7 million	Additions and renovations to existing elementary/middle school building; renovations to existing high school building
Ross	Huntington Local	$3.0 million	$ 6.5 million	$3.5 million	Additions at the elementary and high school sections of existing K-12 building; rennovations throughout facility
Pike	Eastern Local	$8.4 million	$ 21.6 million plus $251,270 for emergency roofing	$13.2 million	Replacement of two elementary and one high school with single building – junior/senior high wing and elementary wing with shared common areas
Scioto	Bloom Vernon	$7.3 million	$15.7 million	$8.4 million	Replacement of middle school and elementary school; 17,125 square foot addition on existing high school to accommodate junior high school students and elementary placed on same site for grades K – 6
Portage	Windham Ex. Village	$13.5 million	$20.7 million	$7.2 million	Replacement of existing high school and one of two elementary buildings; An addition and renovations to other elementary building; renovations to junior high building
Columbiana	Wellsville Local	$5.6 million	$12.9 million	$7.3 million	Build new high school; convert existing junior high into middle school; renovations to three existing elementary buildings
Cuyahoga	East Cleveland	$42.0 million	$79.6 million	$37.6 million	Replacement of middle school and three buildings on high school campus; additions for each of the six elementary buildings; substantial improvements to high school and the six elementary schools.
Total		$85.6 million	$168.5 million	$82.9 million	

Appropriations and Debt Service

The bill appropriates $300 million in bonds to line item CAP-737, School Building Program Assistance. The appropriation is earmarked as follows:

- $200 million to school districts that receive conditional approval from the School Facilities Commission for school building projects; up to $50 million of this amount is to be used for the Emergency School Building Repair Program.
- up to $100 million to the "big eight" school districts for major renovations and repairs of school facilities. These funds would be distributed on a per pupil basis, based on FY 1997 total average daily membership. To be eligible to receive funds, each of the big eight school districts would have to:
    - provide a 100% match;
    - develop and submit a capital renovations plan, subject to approval by the Ohio School Facilities Commission.

The following chart shows the total average daily membership of each of the "big eight" school districts, and the amount each district would receive if the entire $100 million were distributed.

Distribution of $100 Million to the "Big Eight" School Districts

COUNTY	DISTRICT	TOTAL ADM - FY 1997	AMOUNT DISTRICT WOULD RECEIVE UNDER S.B. 102
Cuyahoga	Cleveland City SD	73,659	$ 23,887,029.61
Franklin	Columbus City SD	61,900	$ 20,073,679.16
Hamilton	Cincinnati City SD	50,444	$ 16,358,589.20
Lucas	Toledo City SD	37,753	$ 12,242,998.53
Mahoning	Youngstown City SD	12,491	$ 4,050,732.25
Montgomery	Dayton City SD	26,840	$ 8,703,999.17
Stark	Canton City SD	12,920	$ 4,189,853.55
Summit	Akron City SD	32,357	$ 10,493,118.52
Total		308,364	$100,000,000.00

Emergency School Building Repair Program

The Emergency School Building Repair Program would be limited to districts receiving equity aid (currently districts with adjusted valuations per pupil less than or equal to $68,896). The Commission would have to determine the necessity of emergency repairs based on an on-site inspection of the school buildings in a school district. Moneys could only be used for the following repairs:

- heating systems;

- floors, roofs, and exterior doors;
- air ducts and other air ventilation devices;
- emergency exit or egress passageway lighting;
- fire alarm systems;
- handicapped access needs;
- sewage systems;
- water supplies;
- asbestos removal;
- any other repairs that meet the requirements of the life safety code, as interpreted by the Commission.

Debt Service

The debt service the state would have to pay on the $300 million in bonds authorized by this bill is estimated to be approximately $39.3 million each year for 10 years, based on an interest rate of 5.25 percent. The bonds would probably not be issued until FY 1999, and debt service on the bonds would probably not have to be paid until FY 1999 or later. Since previous bonds have been issued for the same purpose, the debt service on those issues is also included in the appropriations of $21,780,000 in FY 1998 and $36,030,000 in FY 1999. Information on previous issues is provided in the chart below.

BONDS ISSUED FOR SCHOOL BUILDING CONSTRUCTION		
Authorizing Legislation	**Amount of Bonds Authorized**	**Amount Actually Issued**
Am. Sub. H.B. 152 of the 120th G.A.	$68.1 million	$68.1 million
Am. Sub. H.B. 790 of the 120th G.A.	$70 million	- 0 -*
Am. H.B. 748 of the 121st G.A.	$100 million	- 0 -
S.B. 102 of the 122nd G.A.	$300 million (proposed)	N/A

*Scheduled to be issued during the week of April 28th, 1997

Ohio School Facilities Commission

The bill creates the Ohio School Facilities Commission. This new entity would administer the school building assistance program instead of the State Board of Education. The Commission would consist of five members, three voting and four nonvoting. The voting members are the Director of the Office of Budget and Management, the Director of Administrative Services, and the Superintendent of Public Instruction, or their designees. Nonvoting members are two members (of different political parties) of the Senate appointed by the President of the Senate, and two members of the House of Representatives (of different political parties), appointed by the Speaker of the House. All members would serve without compensation.

Under the bill, the Ohio School Facilities Commission would perform any function necessary to carry out the purposes of the Classroom Facilities Assistance program such as

employing staff, adopting rules for the administration of the program, and contracting with independent contractors.

The bill appropriates $2.0 million in FY 1998 and $2.4 million in FY 1999 for the operating expenses of the Commission. A preliminary draft budget obtained from the Office of Budget and Management is provided below. The figures are subject to extensive revision and are provided only as an example of a possible budget for the Commission. The compensation figures include salary and 28 percent fringe benefits costs.

Draft Budget – Ohio School Facilities Commission		
	FY 1998	**FY 1999**
Executive Director	$112,064	$118,228
Assistant Director	$ 73,444	$ 77,483
Contract Administrators (9)	$414,240	$664,047
Architecture Specialist	$ 73,444	$ 77,483
Risk Management Specialist	$77,126	$81,368
Mechanical Specialist	$77,126	$81,368
Support Staff	$105,408	$148,388
Fiscal Officer	$ 57,872	$ 61,055
Fiscal Specialist 1	$51,123	$ 53,935
Assistant Attorney General	$66,950	$70,632
Contract 1	$63,428	$66,917
Contract 2	$60,389	$63,710
Education Consultant	$69,936	$73,782
Total Payroll*	$1,302,550	$1,638,397
Building Plans	$300,000	$308,400
Site Evaluations	$ 75,000	$ 77,100
Equipment	$141,745	$145,289
Maintenance	$266,688	$273,355
TOTAL	$2,085,983	$2,442,540

* Salaries include fringe benefits

Local share requirement

Under the School Facilities program, a district's share of the basic cost of a school building project is the greater of the following:

a) an amount that increases the net bonded indebtedness of the school distict to within $5,000 of its required level of indebtedness. Depending on the district's adjusted valuation per pupil, the required level of indebtedness is as follow:

RANK ACCORDING TO DISTRICT'S VALUATION PER PUPIL	REQUIRED LEVEL OF INDEBTEDNESS
First or Poorest Quartile	5%
Second Quartile	6%
Third and Fourth Quartiles	7%

b) the district's required percent of the basic project cost. Depending on the district's adjusted valuation per pupil, the required percent of the basic project cost is as follows:

RANK ACCORDING TO DISTRICT'S VALUATION PER PUPIL	REQUIRED PERCENTAGE OF THE BASIC PROJECT COST
First Decile	0%
Second Decile	10%
Third Decile	20%
Forth Decile	30%
and so forth	and so forth
Tenth Decile	90%

Examples

Two examples are provided to show the amount of the local share districts would be required to pay. United Local School District in Columbiana County is ranked 64th in the state, placing it in the 2nd decile and the 11th percentile. The district's total assessed valuation is $70,788,750.

Example A

District	United Local School District
County	Columbiana
Total Assessed Valuation	$70,788,750
Hypothetical Cost - New Building	$10 million

Local Share

Greater of :

a) required level of indebtedness:	5% of assessed valuation	$3,539,438
b) required percentage of program cost:	10% of project costs	$1,000,000

Example B

Mohawk Local School District in Wyandot County is ranked 125th in the state, placing it in the 3rd decile and the 20th percentile. The district's total assessed valuation is $ 60,836,217.

District	Mohawk Local
County	Wyandot
Total Assessed Valuation	$60,836,217
Hypothetical Cost - New Building	$10 million

Local Share

Greater of :

a) required level of indebtedness:	5% of assessed valuation	$3,041,811
b) required percentage of program cost:	20% of project costs	$2,000,000

Change in use of ½ mill

Under the bill, districts receiving state assistance under the Classroom Facilities Assistance Program are required to levy a 1/2 mill property tax for a period not to exceed 23 years. In the past, the 1/2 mill was used to pay back the state's "loan" to the district. If the "loan" the state had provided to the district was not paid back in 23 years, the remaining portion of the loan was forgiven.

Under the bill, districts are still required to levy a 1/2 million property tax for a period not to exceed 23 years. However, if a district is at or below the statewide median in terms of its adjusted valuation per pupil, (approximately $71,500 in FY 1997) the district is allowed to keep the proceeds of the 1/2 mill and is required to use the proceeds to pay for maintenance on the classroom facility paid for under the program. If a district is above the statewide median, half of the 1/2 mill, or 1/4 mill is paid to the state and the other 1/4 mill is used for maintenance on the classroom facility project paid for under the program.

Prevailing Wage Section

This bill would repeal Ohio's prevailing wage law on school district and educational service center construction projects. The following analysis provides a brief history of prevailing wage laws, describes the reasons they were established, examines the definition of prevailing wage, highlights literature related to examining the effects of prevailing wage laws and estimates a fiscal effect from repeal of the prevailing wage law.

Brief History of Prevailing Wage Laws

The first prevailing wage law was passed in Kansas in 1891. Only a few states enacted similar legislation over the next several years. Not until federal legislation was passed in 1931 did prevailing wage laws gain prominence across the states. Ohio's prevailing wage law was passed in 1931 as well.

As of February 1995, 32 states had prevailing rate laws and 18 did not. The eighteen states are Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, South Carolina, South Dakota, Utah, Vermont, and Virginia. Of these states, nine never passed prevailing wage laws. Since 1979,

nine states have repealed their state prevailing wage laws The most recent state to repeal its prevailing wage law was Louisiana, in 1988.

Why Were Prevailing Wage Laws Established?

When the federal (and Ohio's) prevailing wage law was passed in 1931, the country was in the Great Depression. Unemployment was high and the government was concerned that employers might cut wages in order to win contracts. Especially to keep the latter concern in check, part of prevailing wage's intent was to prevent lower wage labor from outside an area where public construction occurred from entering a local market. Through this legislation, workers in the specified locality would be guaranteed to be paid the "prevailing" wage rate for public construction projects. This protected the locality from cheaper outside labor. The purpose appears to have been to promote the stability of local economies.

Another purpose of the prevailing wage law was to ensure that a firm was not able to set local wage rates. Because public projects can dominate economic activity in a locality, one or several firms may be able to garner significant market share. The argument proceeds by indicating that firms with a large market share could determine local wage rates. To maintain their dominance, the firm could demand low wage rates.

Still another case for the establishment of prevailing wage laws was the need to protect a highly cyclical construction industry. Demand for construction labor fluctuates with the business cycle. Upward swings in the economy generally lead to greater construction labor demands. Downward swings have the opposite effect. Although prevailing wage laws do not protect the construction industry from cyclical swings, it does afford construction workers a determined wage rate during the times they complete work on public projects.

Ohio's Current Prevailing Wage Law

Definition of Prevailing Wage

As defined in section 4115.03(A) of the Revised Code, any public authority that seeks to contract for the construction of a public improvement project by the direct employment of labor is governed by the prevailing wage law. Under this law, the prevailing wage rate is the collective bargaining rate of the county where a public improvement project is performed. These rates apply to public improvement projects with a minimum estimated value of $53,000 for new construction or $15,900 for renovation construction[1]. For purposes of this law, a public improvement includes buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures constructed by a public authority of the state or any of its political subdivisions.

Establishment of Wage Rates

[1] Beginning on January 1, 1996, the threshold amount will be adjusted according to the U.S. Department of Commerce, Bureau of the Census, implicit price deflator. As the price deflator changes, the threshold amount will change correspondingly. The adjustment will occur every two years and cannot deviate by more than 6% in either direction.

The Prevailing Wage/Minimum Wage Division in the Bureau of Employment Services reviews local union collective bargaining rates to calculate the prevailing wage rate for a county. These rates are established according to the individual trades in a county and their respective union. In the event that local collective bargaining rates are not known in a county, the prevailing rates in the nearest locality are used (Revised Code Section 4115.05).

Prevailing wage rates may change during the life of a contract. This will happen whenever the collective bargaining rate changes. At that time, the Prevailing Wage Division will change the prevailing wage rate (adjustments generally occur four times a year). Adjustment of the prevailing wage rate also occurs if a construction project has not begun within 90 days of the date when prevailing wage rates are established.

Enforcement of Prevailing Wage Law

For every public improvement project that meets the criteria established under the prevailing wage law, the contracting public authority must designate a prevailing wage coordinator. This person is responsible for monitoring compliance by each contractor or subcontractor. They also maintain records for public inspection and report firms that are delinquent in filing a certified copy of their payroll.

Capital Expenditures for School Districts

Based upon information from the Department of Education, capital expenditures for school districts was determined to be $422,351,513 in fiscal year 1996. This includes both state and local funds. This fiscal analysis used this figure to calculate the potential fiscal effects of this legislation. However, it is likely that this figure overstates the actual amount of capital expenditures that were performed under the Prevailing Wage Law. This is because all capital outlays were assumed to be prevailing wage projects. This may not be the case. The threshold levels for new and renovation construction will likely mean that some capital projects were under $53,000 or $15,900 respectively, and, therefore, not prevailing wage projects. Data distinguishing the size of each project is not available, making a determination of the actual prevailing wage capital expenditure figure unclear. Based upon prior research conducted by the Legislative Budget Office, it is believed that the dollar amount of public improvement projects below these thresholds is proportionally small to the total.

Research

Numerous studies, articles and books concerning the prevailing wage law and unions have been written. Several of these academic and government studies concerning prevailing wage laws were examined. Most of the studies examined the federal prevailing wage legislation -- Davis-Bacon Act[2]. Included in these studies was one conducted by the University of Pennsylvania in 1975. The study reported a 36% increase in labor costs attributable to the Davis-Bacon Act.

[2] Federal prevailing wage rates are established according to either a majority, mean or median calculation for a specified class of workers. For example, if a majority of janitors receive the same wage and benefit rate, then that rate prevails. In the case where statistical measurements from surveys are made, the Department of Labor uses either the median or the mean to determine the prevailing rate. This differs from the method prescribed in the Ohio Revised Code. The collective bargaining rate for individual trades in a locality serves as the prevailing rate in Ohio.

Similarly, a General Accounting Office (GAO) report completed in 1979 estimated a 36% increase in labor costs. Another study conducted in 1982 at Oregon State University placed the increase in labor costs from federal prevailing wage laws at 13% to 23%. One state that performed an analysis of their prevailing wage law also determined that construction costs were raised. The State of Maryland, in a 1989 study conducted by their Department of Fiscal Services, concluded that their prevailing wage law increased labor costs by 5% to 15%.

Other studies, however, have reached different conclusions. In 1990, Jeff Vincent from Indiana University found that Indiana's state prevailing wage law did not increase construction costs. A study conducted in 1983 by Werner Hirsch and Anthony Rufolo concluded that prevailing wage laws have no statistically significant effect on municipal wages.

In a study completed by the University of Utah in 1995, it was concluded that repealing state prevailing wage laws have negative impacts. Although the study reported a reduction in wages after repeal, the authors indicated that employment in the construction market increased (basically offsetting the gain received from lower wages), worker safety declined, apprenticeship program membership fell and cost overruns increased. These factors, the authors reported, combined to make the construction industry worse off after repeal of the prevailing wage law then before.

Labor Effects

Labor costs provide the basis for calculating the fiscal effects of changing the prevailing wage law. In any given construction project, labor comprises a portion of the total cost. Since prevailing wage laws deal principally with establishing the wage rates workers are paid, it logically follows that labor costs will be affected.

It is important to differentiate between "labor costs" and "union/non-union relative wage rates." In the debate over repealing the prevailing wage law on primary and secondary school construction projects, the difference between union and non-union wage rates should not serve as the basis for a fiscal analysis. Instead, the focus should be on what happens to total labor costs after repeal compared to before. The reason special attention should be placed upon this issue is because "labor costs" do not have the same meaning as "union/non-union relative wage rates." Labor costs measure the portion of total costs regardless of the individual wage rates earned by tradespersons and the number of tradespersons employed. In contrast, relative wage rates measure the difference in wage rates earned in similar trades. The latter measure, therefore, will not capture any variations in the total number of hours required to complete a public improvement project. For example, assume, all else equal, that a carpenter from Firm A is paid $20 per hour and a carpenter from Firm B $15 per hour. Also assume that it takes the Firm A carpenter 10 hours to complete a project and the Firm B carpenter 11 hours. Although the difference in Firm A and B carpenter wage rates is 25%, the difference in total labor cost when accounting for the longer period of time the Firm B carpenter takes to complete a project, is only 17.5%. Therefore, an analysis based strictly upon wage variations will not necessarily account for the actual difference in *total labor costs*.

Estimated Labor Cost Savings

Although divergent conclusions have been reached about the effects of prevailing wage laws, a reasonable assumption concerning their effect on labor costs can be made. In general,

there is agreement that prevailing wage requirements raise *total labor costs***.** However, given that the percentage increase in labor costs has varied over time, among skilled trades and between authors, an exact measure of labor cost variation is difficult to determine. For this reason, it seems appropriate to suggest a range of potential labor cost savings. To this end, repeal of the prevailing wage law is expected to lower total labor costs by 10% to 20%. Invariably, this range will not encompass all public construction projects. Some may realize total labor savings greater than 20%. Others may experience total labor savings less than 10%. This range, however, does provide a generally acceptable measure of labor savings based upon previous academic and government research in this area. Where specific disagreement lies is over the issue of whether prevailing wages incorporate pecuniary, social or economic benefits that justify establishing them as the prevailing rates. An analysis of this argument has not been made. However, provided below is a review of some of these factors that could affect the percentage of labor savings.

Factors Potentially Affecting Labor Cost Savings

First, with repeal it can be expected that some construction contracts will be awarded to firms with wage rates determined by collective bargaining. This means that repeal of the prevailing wage law will not automatically shift *all* public construction contracts to non-union firms. Union construction firms will undoubtedly still undertake public construction projects. It is likely that even with potentially higher wage rates, the total labor cost of union bids will be lower than non-union bids. This brings to the forefront another issue.

Variations in productivity are also mentioned in discussions of prevailing wage laws. Two views expect different outcomes on total project costs. On the one side, numerous authors have concluded that higher productivity in union firms is a function of more capital and better skilled workers. Union firms, they contend, are forced to utilize additional capital because high wage rates favor a larger proportion of capital. In addition, they state that this result constricts the union labor force and saturates the non-union labor force, driving down non-union labor prices. The other view favors unions as enhancing productivity. Based upon labor-defined work environments that include grievance procedures, the maintenance of a seniority system and lower job turn-over, these factors are held to raise productivity in union firms.

Another factor that could affect the degree of labor savings is cost overruns. The question has often been asked whether non-union or union firms have a greater likelihood of exceeding their cost projection. As can be expected, more than one answer has surfaced. Generally speaking, cost overruns should be considered at the time bids for a public improvement project are submitted. Information concerning a firm's history of meeting cost projections or exceeding them should exist. A public authority can be made aware of this through either direct experience (i.e., previous contract with a firm) or from other public authorities that had contracted with that firm. Although the guideline for selecting a bid is based upon the "lowest and best" factor, it can be expected that some attempt will be made to ensure adequate protection against consistent cost overruns by a firm.

Proportion of Labor Costs to Total Costs

For this analysis, the proportion of labor costs to total costs was determined to be between 26.3% and 28.2%. This figure is based upon information provided in the U.S. Census of Construction[3]. It was then weighted according to the estimated amount of prevailing wage

[3] From this report, the percent of payroll costs for construction workers to the net value of construction performed in Ohio was used.

construction completed in Ohio. The latest report is from 1992.

When dealing with prevailing wage construction projects, the 26.3% to 28.2% range reports only the percentage of direct construction costs. Because office employees perform numerous paper and reporting functions related to prevailing wage projects, their time and effort were not captured in this figure. However, even under prevailing wage projects, a significant portion of office labor costs are spent on activities other than prevailing wage. Payroll, personnel and general office management likely compromise a significant portion of office labor costs. Therefore, if all non-construction labor costs were included in determining the percentage of labor costs to the net value of construction costs, then the reported figure would exaggerate the labor picture.

Effects on Employment

With a repeal of the prevailing wage law, total labor costs are expected to decline on public improvement projects. Depending upon several factors, including what happens to the value of labor compared to capital, training and productivity, the direction of any employment change is uncertain. Employment could *increase* because firms will view labor as relatively inexpensive compared to the cost of capital. Employment could also *remain unchanged* if firms maintain their mix of capital to labor after repeal of prevailing wage rates.

Tax Effects

A reduction in labor costs generally equates to lower wage rates. However, as indicated in the section titled "Labor Effects" this may not always be the case. On first examination, a reduction in labor costs should indicate a loss of income and sales tax revenue to the state and its political subdivisions. This would occur if repeal of the prevailing wage law shifts a portion of taxable income from higher wage rate employees to lower wage rate employees. Any increases in employment, however, would tend to moderate or counter any potential revenue loss. Further, it should be assumed that repeal of the prevailing wage law will not preclude firms that employ labor at the prevailing wage rate from being awarded public improvement contracts. Naturally, the greater the number of contracts awarded at union collective bargaining rates (i.e., the former prevailing rates), the smaller the effect on income and sales tax revenue.

While absolute certainty does not exist, it is likely that public authorities engaged in prevailing wage construction will spend any money they save from repeal of the prevailing wage law. For example, assume that a school district realizes a $10,000 savings in total labor costs (and total costs) for a project that will repair a gymnasium. The school district, in turn, decides to use the savings to buy new chemistry equipment they had not planned on purchasing. Although income tax collections would fall in this case, sales tax receipts would increase[4]. Cases may also exist where net tax receipts fall.

How the "savings" will be distributed raises other concerns. Local governments, even if all savings are spent on taxable activities, may receive fewer tax revenues after repeal than when the prevailing wage law was in effect. This could happen if the source of the revenue changes. Assume for a moment that a political subdivision assesses an income tax. If a school district saves money on a project and decides to spend the savings on equipment, the political subdivision will

[4] Purchases by public entities are generally exempt from the sales tax. Any gain would result from purchases the firm that sold the equipment made.

not directly receive any income tax revenue from that purchase or that savings. Because local income tax receipts depend upon wages in the community, a transfer in spending from labor to equipment could mean fewer income tax revenues for the political subdivision. The point is, even if total income and sales tax revenue is recouped, it is likely that the public authority that collects these revenues will change.

State Effects

Some savings to the state GRF would occur, since state dollars are used to fund school district and educational center public improvement projects; however the amount of savings is unknown. The savings could reduce GRF expenditures for school district and educational center projects, or projects originally left unfunded may now receive funding.

Removing the prevailing wage requirements from school district and educational service center public improvement projects will affect the Prevailing Wage Division in the Bureau of Employment Services (BES). Presently the Division conducts investigations into prevailing wage complaints, disseminates wage rate determinations and collects back wages where violations are found. Since this bill would exempt school district and educational center construction projects from the prevailing wage law, prevailing wage administration under the Bureau of Employment Services (BES) may be affected. Expenditures for the Division could drop if fewer regulatory activities are needed. However, the BES expects to add staff to this division under the 1997-1999 biennial operating budget. This fact could offset an expected reduction in employees brought about by this bill. Expenditures for the Division of Prevailing Wage could decrease, but it is not known by what amount.

The bill requires the Legislative Budget Office (LBO) to monitor and conduct a study of the effects of exempting school district and educational center construction/renovation projects from the Prevailing Wage Law. The study would examine several aspects of the exemption including its impact on school construction quality, its effect on construction employee wages and the amount of money saved. The study is required to be completed within five years of the effective date of this bill.

The LBO estimates that conducting this study will cost $75,000 per year. One additional full-time employee and one additional intern will be needed. Survey costs will also likely be incurred.

In addition, fewer litigious actions relating to the prevailing wage law may be initiated. Under this case, state court costs will decrease.

Local Effects

For school districts, an estimated $11.1 to $23.8 million per year will be saved on public improvement projects. The lower end of this range is derived by taking 26.3 percent proportion of labor costs to total cost times $422.35 million capital expenditures times 10 percent. The upper end uses 28.2 percent times $422.35 million times 20 percent. More money spent on these projects will raise the projected savings amount.

The need for prevailing wage coordinators at school districts and state colleges and universities will no longer exist under this bill. Those public authorities that currently have a full-time prevailing wage coordinator will likely stop funding this position and realize an immediate reduction in staff costs. Other public authorities would experience a savings by not having to appoint a current staff person to the coordinator position whenever a public improvement project is initiated. The savings per local government will likely be minimal. However, on a statewide basis savings could easily approach a million dollars or more per year.

Contracts entered into by a school board of education must meet a residency requirement or receive a waiver. The contracts that apply fall under sections 3318.01 to 3318.32 and 3318.35 of the Revised Code. Specifically, 80% of the employees that perform work under a contract indicated above would have to be residents of Ohio. The Ohio School Facilities Commission will prescribe rules that allow contractors to waive the residency requirement. The bill states that waivers would only be granted if there are not enough qualified or interested residents of this state in the area where work on the contract is being performed. Because the bill gives the School Facilities Commission discretion to determine the rules that contractors will need to request a waiver, it is unclear what effect this will have on school districts. However, school districts will likely incur costs by having to review contractor waiver requests. Depending upon the number and frequency of waiver requests, as well as, the type of rules prescribed by the School Facilities Commissions, this could result in increased costs for school districts.

In addition, fewer litigious actions relating to the prevailing wage law may be initiated. Under this case, local court costs will decrease.

Conclusions of Prevailing Wage Section

This fiscal note examines the effects from repealing the prevailing wage law for school district and educational service center construction projects. Based upon academic research and public testimony, prevailing wage rates are expected to raise labor costs. Repealing the prevailing wage law, therefore, will likely lower total construction costs, saving the state and school districts money. In a market without prevailing wage requirements, these government institutions will have the ability to select contractors that potentially have lower labor costs. This will, in turn, lower total construction costs.

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