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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 78  
133rd General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Riedel and Manchester

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### Summary

- Exempts a political subdivision, special district, or state institution of higher education from the requirements of the Prevailing Wage Law, unless the political subdivision, special district, or state institution of higher education elects to be subject to those requirements.
- Prohibits a political subdivision, special district, or state institution of higher education from electing to apply those requirements to specified projects that are currently exempt from the Prevailing Wage Law.
- Increases the current statutory monetary threshold for determining when the Prevailing Wage Law applies to a new vertical public improvement from \$250,000 to \$500,000.

### Detailed Analysis

#### Election to apply prevailing wage requirements

The bill allows a political subdivision, special district, or state institution of higher education to elect to be subject to Ohio's Prevailing Wage Law<sup>1</sup> with respect to a public improvement project. Currently, unless an exception applies, the prevailing wage, as calculated under continuing law, must be paid to workers on a public improvement undertaken by or on behalf of any of these entities if the total cost of the public improvement exceeds a statutory threshold (see "**Prevailing wage thresholds**," below).<sup>2</sup> Some examples of current law projects expressly subject to the Prevailing Wage Law include the following:

- A contract financed in whole or in part under the Aid to Local Governments Law;

<sup>1</sup> R.C. 4115.03 to 4115.21 and 4115.99.

<sup>2</sup> R.C. 4115.03(A) and 4115.04, with conforming changes throughout the bill.

- Acquisition of and construction services for a port authority educational and cultural performing arts facility;
- Projects of a special improvement district;
- Projects undertaken with funding provided under the Water Development Authority Law.<sup>3</sup>

## Prohibited elections

The bill maintains the current law prohibition against a public authority applying prevailing wage requirements to a public improvement that is undertaken by, or under contract for, a school district board of education or educational service center governing board. Additionally, the bill prohibits a political subdivision or special district from applying the Prevailing Wage Law to any of the following, all of which are currently exempt from the Law:

- Certain projects undertaken by a soil and water conservation district or pursuant to a petition filed under the Single County Ditches Law, the Joint County Ditches Law, or the Interstate County Ditches Law;
- The construction of an erosion control structure under continuing law;
- Projects undertaken by a transportation improvement district.<sup>4</sup>

## Prevailing wage thresholds

The bill increases the current statutory monetary threshold for determining when the Prevailing Wage Law applies to the construction of new vertical public improvements (public improvements other than roads, sewers, ditches, and other related works – “horizontal” public improvements), from \$250,000 to \$500,000. Thus, under the bill, a state officer, board, or commission is not required to pay the prevailing wage on the construction of a new vertical public improvement unless the cost of the construction exceeds \$500,000.

The bill retains the current law threshold of \$75,000 for the reconstruction or improvement of existing vertical public improvements. It also maintains a requirement that the Director of Commerce biennially adjust the threshold cost for new horizontal public improvements and reconstruction or improvement of existing horizontal public improvements. After the most recent adjustment on January 1, 2018, those thresholds are \$91,150 for the construction of a new horizontal public improvement and \$27,309 for the reconstruction or improvement of an existing horizontal public improvement.<sup>5</sup>

## Definitions

The bill defines the following terms for purposes of the Prevailing Wage Law:

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<sup>3</sup> R.C. 164.07, 307.674, 1710.02, and 6121.061.

<sup>4</sup> R.C. 4115.04(D), 1506.44, 4115.03(C), and 5540.03.

<sup>5</sup> R.C. 4115.03(B) and Department of Commerce – Division of Industrial Compliance, Prevailing Wage Threshold Levels Important Notice, available at [https://www.com.ohio.gov/documents/dico\\_prevailingwagethresholds.pdf](https://www.com.ohio.gov/documents/dico_prevailingwagethresholds.pdf).

“Political subdivision” means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

“State institution of higher education” means the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University, the Northeast Ohio Medical University, a community college, state community college, university branch, or technical college.<sup>6</sup>

## Overview – Ohio's Prevailing Wage Law

Ohio's Prevailing Wage Law requires that any public authority wishing to engage in construction of a public improvement ensure that the workers employed on the project are paid the “prevailing rate of wages.” The prevailing wage is the sum of the basic hourly rate of pay, contributions by a contractor or subcontractor to a fund, plan, or program, and the costs to the contractor or subcontractor in providing various fringe benefits (unless the benefits are required under federal, state, or local law).

Currently, the requirement to pay the prevailing wage applies to any officer, board, or commission of the state, any political subdivision, and any institution supported in whole or in part by public funds that exceeds specified statutory thresholds (see “**Prevailing wage thresholds**,” above). The Law is administered by the Department of Commerce and by individual “prevailing wage coordinators” whom a public authority must appoint for each project. The Law further imposes various record-keeping and procedural requirements on public authorities.

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## History

| Action     | Date     |
|------------|----------|
| Introduced | 02-14-19 |

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<sup>6</sup> R.C. 4115.03(H) and (I), by reference to R.C. 9.23 and 3345.011, not in the bill.