



## HOUSE COMMITTEE ON APPROPRIATIONS

### FISCAL NOTE

HOUSE BILL NO. 665

PRINTERS NO. 1495 PRIME SPONSOR: Marsico

#### COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
County Funds	\$0	(\$1,000,000 to \$2,000,000)
Motor License Fund	\$0	(\$8,000,000)
Municipal Funds	\$0	(\$15,000,000 to \$20,000,000)

**SUMMARY:** Amends the Prevailing Wage Act to: 1) establish a specific definition for what is to be considered "maintenance work" with respect to road repairs; 2) add specific language prohibiting intentional circumvention of threshold; and 3) establish legal protection for workmen who file a complaint. This legislation would take effect in 60 days.

**ANALYSIS:** This legislation amends the Prevailing Wage Act (Act 442 of 1961) to redefine maintenance work, provide for a clear prohibition of the intentional circumvention of threshold and provide for the protection of workmen who file complaints.

**Changes to Road Maintenance Standards:** This legislation redefines "maintenance work" to clearly delineate what actions taken with respect to road repairs are included in the term. The legislation states that the term "maintenance work" shall include the following repair actions taken on roads:

1. Replacement in-kind or compliance with current PennDOT design criteria, of guiderails, curbs, pipes, line painting, and other related road equipment.
2. Repair of pavement surface by laying bituminous material up to 3 1/2 inches thick, or up to 420 pounds per square yard, on hard surface (including milling and associated shoulder work), or repair of pavement surface by patching of concrete surface (including joint spalling).
3. Widening of existing alignment without additional lanes or new shoulders.
4. Bridge cleaning, washing, resurfacing with blacktop, minor non-structural repairs or improvements, and painting except when combined with complete bridge rehabilitation.

The legislation also adds language into the act to state that combination maintenance/rehabilitation/reconstruction road projects on existing alignments where non-maintenance items exceed 15% of total project costs shall be considered subject to the act's requirements.

**Clear Prohibition on Intentional Circumvention of Threshold:** The legislation provides a clear prohibition of the intentional division of a construction project to circumvent the requirements of the Prevailing Wage Act.

**Protection of Workmen Who File Complaint:** The legislation creates a new section – 13.1 (Protection of Workmen), which establishes anti-retaliation measures for workers on a prevailing wage project. Section 13.1 prohibits contractors or subcontractors from retaliating against a workman for:

- Filing a complaint with the Secretary that he has been paid less than the Prevailing Wage rate.
- Instituting legal action to recoup monies to which he was rightfully entitled.
- Participating in an investigation, hearing, or inquiry held by the Secretary or in a court action.

The section also institutes a 180-day statute of limitations and guidelines for civil action taken by a workman for alleged violations.

**FISCAL IMPACT:** According to PennDOT, this legislation would save the Department \$8 million annually for outsourced maintenance projects under current maintenance funding.

According to the Municipal Statistics web page provided by the Department of Community and Economic Development, municipalities spent approximately \$1.52 billion in 2011 on public works projects for highways and streets. However, it remains unclear as to what percentage of the \$1.52 billion is construction and what would qualify under the new maintenance definition. It also remains unclear as to what percentage of the work is outsourced and how much is labor. Estimates suggest that prevailing wage requirements increase project costs 10% to 30% on average. Assuming that 50% of the \$1.52 billion in projects would qualify under the new maintenance definition and applying an outsource provision and a labor portion, attached is a possible scenario that could save municipalities about \$17.24 million aggregate, per year:

<b>Municipalities:</b>				
<b>Public Works- Highways and Streets Expenditures (2011)</b>	<b>Total Maintenance (Estimate of 50%)</b>	<b>Outsourced Amount (Uses 75.8% PennDOT Rate)</b>	<b>Labor Portion (Estimate of 15%)</b>	<b>Savings Under New Definition of Maintenance (Uses 20% PW Wage Increase)</b>
<b>1,516,324,684</b>	<b>758,162,342</b>	<b>574,687,055</b>	<b>86,203,058</b>	<b>17,240,612</b>

According to the Municipal Statistics web page provided by the Department of Community and Economic Development, counties spent approximately \$120 million in 2009 on public works projects for bridges and streets. However, it remains unclear as to what percentage of the \$120 million is construction and what would qualify under the new maintenance definition. It also remains unclear as to what percentage of the work is outsourced and how much is labor. Estimates suggest that prevailing wage requirements increase project costs 10% to 30% on average. Assuming that 50% of the \$120 million in projects would qualify under the new maintenance definition and applying an outsource provision and a labor portion, attached is a possible scenario that could save municipalities about \$1.4 million aggregate, per year:

<b>Counties:</b>				
<b>Public Works- Highways and Streets Expenditures (2009)</b>	<b>Total Maintenance (Estimate of 50%)</b>	<b>Outsourced Amount (Uses 75.8% PennDOT Rate)</b>	<b>Labor Portion (Estimate of 15%)</b>	<b>Savings Under New Definition of Maintenance (Uses 20% PW Wage Increase)</b>
<b>119,736,244</b>	<b>59,868,122</b>	<b>45,380,036</b>	<b>6,807,005</b>	<b>1,361,401</b>

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**DATE:** June 29, 2012

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*