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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 663  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Hood and Dean

Paul Luzzi, Attorney

### SUMMARY

- Repeals the Prevailing Wage Law.

### DETAILED ANALYSIS

#### Repeal of the Prevailing Wage Law

The bill repeals the Prevailing Wage Law.<sup>1</sup>

#### Background – the Prevailing Wage Law

The 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,” unless the project or authority is exempt from the Law. 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). In general, the Law applies only when a public authority spends public funds to construct a public improvement.<sup>2</sup> A “public authority” is any Ohio officer, board, or commission, or any Ohio political subdivision, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor. An institution that is supported in whole or in part by public funds is a public authority under the Prevailing Wage

<sup>1</sup> R.C. 4115.03 to 4115.21 and 4115.99, repealed, with conforming changes in R.C. 121.083, 123.281, 164.07, 176.011, 176.05 (repealed), 307.022, 307.671, 307.673, 307.674, 307.696, 351.06, 353.03, 1311.25, 1506.44, 1509.071, 1710.02, 5540.03, 6117.012, and 6121.061 (repealed).

<sup>2</sup> *Northwestern Ohio Bldg. & Constr. Trades Council v. Ottawa County Improvement Corporation*, 122 Ohio St.3d 283, 2009-Ohio-2957, at ¶ 1.

Law. The Law applies to the institution's expenditures that are made in whole or in part from public funds.<sup>3</sup>

Construction to which the Prevailing Wage Law applies includes any new construction, reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement, the cost of which is fairly estimated to exceed the statutory threshold. Construction performed by full-time employees who have completed their probationary periods in the classified service of a public authority is not construction to which the Law applies.

For construction and reconstruction related to roads and bridges ("horizontal" improvements), the thresholds are adjusted biennially by the Director of Commerce.<sup>4</sup> The current thresholds for horizontal projects are \$93,292 for new construction and \$27,950 for other construction. The threshold for all other new construction ("vertical" improvements) is \$250,000 and the threshold for reconstruction is \$75,000. A public authority cannot subdivide a project to circumvent the threshold amounts unless the project is comprised of components that are conceptually separate and unrelated to each other or encompass independent and unrelated needs of the public authority.<sup>5</sup>

A public improvement on which construction by a public authority would trigger application of the Prevailing Wage Law includes both of the following:

1. All buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority or a person who constructs a structure for a public authority pursuant to a contract with the public authority;
2. When the public authority rents or leases a newly constructed structure within six months after completion of construction, all work performed on the structure to suit it for occupancy by a public authority.<sup>6</sup>

The Prevailing Wage 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 upon public authorities.

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<sup>3</sup> R.C. 4115.03(A), repealed.

<sup>4</sup> R.C. 4115.03(B), repealed.

<sup>5</sup> R.C. 4115.03(B), 4115.033, and 4115.034, repealed; Department of Commerce – Division of Industrial Compliance, Prevailing Wage Threshold Levels, available [here](#).

<sup>6</sup> R.C. 4115.03(C), repealed.

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## HISTORY

Action	Date
Introduced	05-19-20

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