


Government of the District of Columbia  
Office of the Chief Financial Officer



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi  
Chief Financial Officer 

**DATE:** October 4, 2010

**SUBJECT:** Fiscal Impact Statement – “District Resident Employment and Trade Stimulus Amendment Act of 2010”

**REFERENCE:** Bill Number 18-650, as introduced

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**Conclusion**

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. The proposed legislation would have a negative impact of approximately \$16.8 million in FY 2011 and approximately \$67.1 million over the FY 2011 through FY 2014 budget and financial plan.

**Background**

The proposed legislation would amend the First Source Employment Act of 1984<sup>1</sup> to require that the Chief Procurement Officer and each District Contracting Officer include in any government-assisted or government subsidized construction project over \$200,000 provisions that:

1. The following hours by trade would be performed by DC residents:
  - 25% of journey worker<sup>2</sup> hours
  - 50% of apprenticeship hours
  - 60% of skilled laborer hours
  - 70% of unskilled laborer hours

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<sup>1</sup> Effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*).

<sup>2</sup> Also known as journeyman. This refers to a worker (tradesman) who has completed a specified training program as an apprentice.

2. Two union-related agreements would be in place: 1) Project Labor Agreement;<sup>3</sup> and 2) Labor Peace Agreement.<sup>4</sup>
3. The District's regulations concerning the registration of apprenticeship programs and agreements, and the resolution of disputes under the Apprenticeship Council would be satisfied. However, it also would require that a certified apprentice program in existence for a minimum of 3 years continue to provide employment to the apprentice after the project's end, even if the apprentice hadn't successfully completed the program.
4. Contractors must submit to the Department of Employment Services (DOES) a monthly contract compliance report containing a detailed account of the hours worked and by whom.

The proposed legislation would also require DOES to maintain the reported information, as well as contact details of each project's general contractor and subcontractors, in a publicly accessible online database. Lastly, it would exempt Certified Business Enterprises<sup>5</sup> from these requirements.

### **Financial Plan Impact**

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. The proposed legislation has two key effects that would impose additional costs of approximately \$16.8 million in the FY 2011 and \$67 million in the FY 2011 through FY 2014 budget and financial plan on government-assisted and government-subsidized construction projects over \$200,000.

#### ***1. Impact on Construction Projects Procured by the District of Columbia***

The proposed legislation would require construction projects over \$200,000 to have Project Labor Agreements (PLA) and Labor Peace Agreements in place. The PLA requirement would likely result in a larger proportion of contracts being served under collective bargaining agreements, which would lead to higher labor costs.<sup>6</sup> With the available information, the OCFO estimates that

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<sup>3</sup> A Project Labor Agreement (PLA) is a pre-hire collective bargaining agreement that is project-specific, covers all the crafts on a project, and lasts only as long as the project. A PLA standardizes work schedules, apprentice-journey level ratios, hours, payment arrangements, and other terms and conditions. It provides a uniform contract expiration date so that the project is not affected by the expiration of various local union agreements while the PLA is in effect, guarantees there are no-strikes and no-lockouts during the project, and provides alternative dispute resolution procedures for a range of issues. For non-federal PLAs, bidding cannot be restricted to union contractors. However, all successful bidders must become signatories to the PLA but are not necessary bound thereby to other jurisdiction-based agreements.

<sup>4</sup> A written agreement between the employer and the labor organization that contains, at a minimum, a provision prohibiting the labor organization and its members from engaging in any picketing, work stoppage, boycott, or other economic interference with the employer's operations in which the District has a proprietary interest, for the duration of the project.

<sup>5</sup> There are 6 types of Certified Business Enterprises under DC law: 1) local (located in DC and has at least 50% of employees, assets, owners or sales in DC); 2) small; 3) disadvantaged; 4) resident-owned; 5) longtime resident; and 6) local with principal offices located in an enterprise zone.

<sup>6</sup> The aggregate estimates of the premium paid to unionized labor vary from 13 percent to 22 percent, but construction wage premiums are generally around 30 percent to 34 percent. For our estimates, we used a range of 8.1 percent—the lowest documented premium level in the District—and 15 percent for projects under \$5 million. For projects over \$5 million, we used a wage premium of 2 percent to 4 percent. This is

contracting costs could increase by 2.4 percent to 4.7 percent for construction projects, excluding schools.<sup>7</sup> School projects are contracted and managed differently—project management is generally done by the Office of Public Education Facilities Modernization (OPEFM). The OCFO estimates that construction costs to OPEFM could increase by 1.9 percent to 3.6 percent.<sup>8</sup> The fiscal impact statement uses the midpoints of the aforementioned ranges. As a result, construction costs are expected to increase by \$16.7 million annually for all construction projects procured by the District.<sup>9</sup>

## 2. *Impact on the Department of Employment Services*

The proposed legislation would require that construction projects employ DC residents to fill at least 25 percent of journey worker hours, 50 percent of apprenticeship hours, 60 percent of skilled laborer hours, and 70 percent of unskilled laborer hours. Under the current First Source Employment Agreement program, all government-assisted and government-subsidized projects must source at least 51 percent of their labor hours with District residents and DOES serves as the key implementation agency. The proposed legislation would impose differentiated local hiring requirements and new reporting requirements for certain construction projects; thus it would expand DOES's role for approximately 300 government-assisted projects. And unlike First Source Employment Agreements which contain a best efforts standard, the proposed legislation would require a contractor to meet the District resident hiring standards even if there are insufficient numbers of District residents with the skills necessary to fill the positions in the labor market.

In order for DOES to implement, oversee, and enforce the residential hiring provisions of the proposed legislation, they would require additional resources to hire 1 FTE as a Manpower Development Specialist. The Manpower Development Specialist would be responsible for coordinating and collecting information from construction contractors and leading the effort with Employer Services, Workforce Development, and the Office of Apprenticeships to track and place residents to meet the PLA hiring standards.

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because larger projects could already have some organized labor in place and PLA's are not expected to have as large cost effects. The final estimate is the midpoint of our range estimates. For details on the wage premiums, please see Brent Bratsberg and James F. Ragan, Jr, "Changes in the Union Wage Premium by Industry", Industrial and Labor Relations Review, Vol. 56, No. 1 (Oct., 2002), pp. 65-83, McKinley Blackburn, "Are Union Wage Differentials in the United States Falling?" Industrial Relations, Vol. 47, No. 3 (July 2008), and John Schmitt, The Unions of the States, Center for Economic Policy Research, February 2010.

<sup>7</sup> This range is estimated using FY 2008 data as the baseline audit is subject to annual fluctuations. In FY 2008, the District construction contracts over \$200,000 totaled \$390 million. We focused on approximately 250 smaller projects (under \$5 million) and 15 bigger projects (over \$5 million), as described in footnote 6. In construction projects, labor costs are typically 47 percent of total costs.

<sup>8</sup> In FY 2008, OPEFM has spent approximately \$217 million in school construction projects. The estimate is developed assuming projects under \$5 million, or about a quarter of the construction value—would face larger increases in labor costs compared to projects above \$5 million. This assumption is based on the observation that larger projects are likely to have the involvement of the organized labor, and implementation of the PLA's would not result in significant wage premiums.

<sup>9</sup> This impact could be reduced by increasing the \$200,000 threshold. For example, increasing this threshold to \$2 million will reduce the annual projected cost increases to \$12.3 million, and increasing the threshold to \$5 million will result in annual cost increases of \$8 million.

<b>Estimated Negative Fiscal Impact B18-650, District Resident Employment and Trade Stimulus Amendment Act of 2010</b>					
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>4-Year Total</b>
Increase in Construction Contract Costs for All Government Projects <sup>b</sup>	\$16,700,000	\$16,700,000	\$16,700,000	\$16,700,000	\$66,800,000
Salary and Benefits for 1 FTE Manpower Development Specialist at DOES <sup>a</sup>	\$58,771	\$58,924	\$59,076	\$59,229	\$236,001
<b>Total Negative Impact</b>	<b>\$16,758,771</b>	<b>\$16,758,924</b>	<b>\$16,759,076</b>	<b>\$16,759,229</b>	<b>\$67,036,001</b>

<sup>a</sup>DOES would hire one Manpower Development Specialist in FY 2011. Compensation is for one full-time Manpower Development Specialist\CS 9-05, including fringe benefits (19.95 percent).

<sup>b</sup>The estimate includes all available information on the District's construction contracts greater than \$200,000 including schools.

On the implementation of the differentiated local hiring requirements, it is important to note that the District already faces difficulties in meeting its First Source Agreement requirements. According to DOES, government contracts have been able to fill only 34 percent of their labor hours on average with District residents, compared to the required 51 percent. In order to meet the proposed PLA requirements, government-assisted construction projects would have to hire approximately 750 to 900 additional District residents annually.<sup>10</sup> This is equivalent to an 18 to 22 percent increase in hiring of construction workers who are District residents.<sup>11</sup> By imposing differentiated hiring requirements, the proposed legislation may increase the "hiring gap" particularly among skilled labor and unskilled laborers, for which local hiring requirements would be raised to 60 and 70 percent of total labor hours respectively.

#### **Additional Note on Projects Receiving DC Government Subsidies**

The proposed legislation would also impose the same hiring and labor organization requirements on all government-subsidized projects over \$200,000. This would not have a negative fiscal impact on projects with government subsidies. The District's main tools of economic development subsidies are either linked to the value of the real property (through real property tax abatements, Tax Increment Financing (TIF) and Payment in Lieu of Taxes (PILOT)) or the value of the construction materials (through sales tax abatements). Thus, any potential increase in the cost of labor would not directly affect the value of the abatements offered by the District.

However, the general policy justification for economic development projects is that tax abatements and government subsidies are needed for such projects because of relatively higher costs of these

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<sup>10</sup> This estimate carries heavy caveats: It assumes that government-assisted construction projects are approximately \$400 million annually (2007 Economic Census) and average construction wage is \$23 per hour (Bureau of Labor Statistics, May 2009 State Occupational Employment and Wage Estimates). It also assumes projects last 35 to 45 weeks on average and District residents are hired for full project duration at 40 hours per week. The estimate uses 34 percent baseline local hiring.

<sup>11</sup> Alternatively, approximately 180 to 225 new District resident-workers would have to be hired quarterly. According to the 2007 Economic Census, the District's quarterly construction worker employment is approximately 5,000. The local government construction projects account for about 20 percent of all construction projects in the District. Using the same ratio, we estimate that quarterly hiring is at about 1,000 construction workers for government-assisted projects.

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projects (compared to projected returns) lead to funding gaps. As a result, the proposed legislation could counter these efforts to the extent it would increase construction costs.