

FEB 21 2000

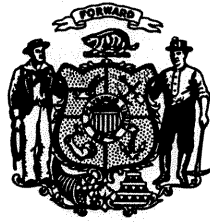
LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
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(608) 266-1304

One E. Main St., Ste. 401
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Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-024

AN ORDER to amend DWD 290.155, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

02-02-00 RECEIVED BY LEGISLATIVE COUNCIL.

02-18-00 REPORT SENT TO AGENCY.

RNS:DF:jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

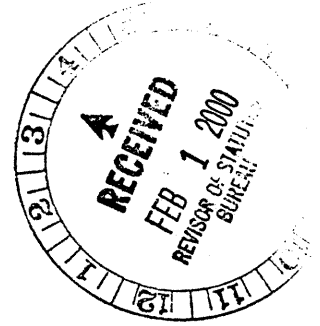
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



State of Wisconsin
Department of Workforce Development



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that pursuant to ss. 66.293(5) and 103.49(3g), Stats., the Department of Workforce Development proposes to hold a public hearing to consider the amendment of s. DWD 290.155, relating to the **Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects.**

Hearing Information

February 28, 2000
Monday
1:30 p.m.

MADISON
G.E.F. 1 Building, Room 400X
201 E. Washington Avenue

Interested persons are invited to appear at the hearings and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

An accessible entrance to the building is available via a ramp from the corner of Washington Avenue and Webster Street to the Webster Street door. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

The Wisconsin Department of Workforce Development proposes an order to amend s. DWD 290.155, relating to the **Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects.**

Authority for rule: secs. 66.293(5) and 103.49(3g), Stats.

Statutes interpreted: secs. 66.293(5) and 103.49(3g), Stats.

The state prevailing wage laws require that when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under secs. 66.293(5) and 103.49(3g), Stats., and the current s. DWD 290.155, the state prevailing wage rate laws do not apply to any "single-trade public works project" (a project involving the employment of only one trade) whose estimated cost is below \$33,000, and it does not apply to any "multi-trade public works project" whose estimated cost is below \$164,000.

Under secs. 66.293(5) and 103.49(3g), Stats., and DWD 290.15, the Department is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The proposed rule changes the thresholds to \$34,000 for single-trade projects and \$168,000 for multi-trade projects based on a 2.3% increase in the construction cost index between December 1998 and December 1999.

Rule Text

SECTION 1. DWD 290.155 is amended to read:

DWD 290.155 This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below ~~\$33,000~~ \$34,000, and any multi-trade public works project for which the estimated cost of completion is below ~~\$164,000~~ \$168,000.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Fiscal Impact

Under the proposed rule, a state or local government with a public works project that costs more than \$33,000 but less than \$34,000 for a single-trade project or more than \$164,000 but less than \$168,000 for a multi-trade project will not be covered by the prevailing wage requirement.

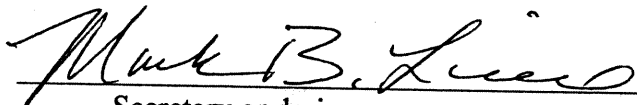
Contact Information

For substantive questions concerning the proposed rule, call Patricia Hewitt, Construction Wage Standards Section Chief, at (608) 266-6469.

Written Comments

Written comments on the proposed rules received at the following address no later than **March 3, 2000**, will be given the same consideration as testimony presented at the hearing.

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403


Secretary or designee

2-1-00
Date

State of Wisconsin

Department of Workforce Development

Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

The Wisconsin Department of Workforce Development proposes an order to amend DWD 290.155, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

Analysis

Authority for rule: Secs. 66.293(5) and 103.49(3g), Stats.

Statutes interpreted: Secs. 66.293(5) and 103.49(3g), Stats.

The state prevailing wage laws require that, when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under secs. 66.293(5) and 103.49(3g), Stats., and the current s. DWD 290.155 the state prevailing wage rate laws do not apply to any "single-trade public works project" (a project involving the employment of only one trade) whose estimated cost is below \$33,000, and it does not apply to any "multi-trade public works project" whose estimated cost is below \$164,000.

Under secs. 66.293(5) and 103.49(3g), Stats., and DWD 290.15, the Department is required to adjust the dollar amounts of the thresholds each year, in proportion to any change in construction costs since the thresholds were last determined. The proposed rule changes the thresholds to \$34,000 for single-trade projects and \$168,000 for multi-trade projects, based on a 2.3% increase in the construction cost index between December 1998 and December 1999.

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SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.

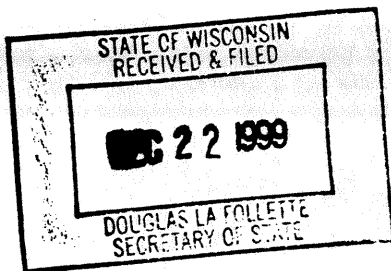
Rules Certificate

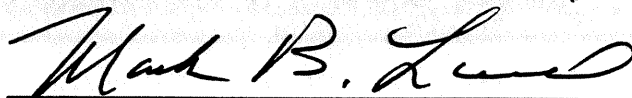
STATE OF WISCONSIN)
) SS
DEPARTMENT OF WORKFORCE DEVELOPMENT)

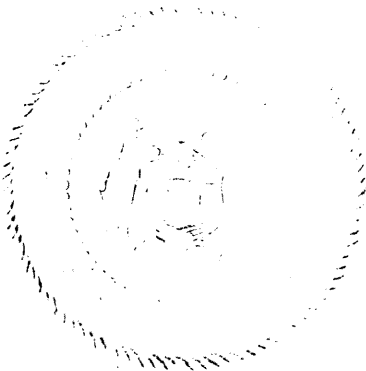
I, Linda Stewart, Secretary of the Department of Workforce Development, and custodian of the official records, certify that the annexed rules, relating to , were duly approved and adopted by this department on December 21, 1999.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the of the Department of Workforce Development at 201 E. Washington Avenue in the city of Madison, this 21st day of December 1999.




Secretary or designee



Order Adopting Rules

Pursuant to authority vested in the Department of Workforce Development by sections 66.293(5) and 103.49(3g), Stats., the Department of Workforce Development amends rules of Wisconsin Administrative Code section DWD 290.155 relating to the Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects.

The attached rules shall take effect on January 1, 2000, pursuant to section 227.24, Stats.

Adopted at Madison, Wisconsin this

date: December 21, 1999.

Department of Workforce Development

Mark B. L...
Secretary or designee

**State of Wisconsin
Department of Workforce Development**

EMERGENCY RULE

**Annual Adjustment of Thresholds for Application of the Prevailing
Wage Rates for State or Local Public Works Projects**

The Wisconsin Department of Workforce Development proposes an order to amend DWD 290.155, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on state or local public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was by emergency rule in January 1999 based on construction costs in December 1998. The Department uses the construction cost index in the December issue of the *Engineering News-Record*, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.3% increase in construction costs over the previous year. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$33,000 to \$34,000 for single-trade projects and from \$164,000 to \$168,000 for multi-trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six months, until the conclusion of the permanent rule-making process. Between January 1, 2000, and July 1, 2000, a single-trade project with a minimum estimated project cost of more than \$33,000 but less than \$34,000 or a multi-trade project with an estimated cost of more than \$164,000 but less than \$168,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be

changed by the permanent rule-making process. The Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

Analysis

Authority for rule: secs. 66.293(5) and 103.49(3g), Stats.

Statutes interpreted: secs. 66.293(5) and 103.49(3g), Stats.

The state prevailing wage laws require that, when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under secs. 66.293(5) and 103.49(3g), Stats., and the current s. DWD 290.155 the state prevailing wage rate laws do not apply to any "single-trade public works project" (a project involving the employment of only one trade) whose estimated cost is below \$33,000, and it does not apply to any "multi-trade public works project" whose estimated cost is below \$164,000.

Under secs. 66.293(5) and 103.49(3g), Stats., and DWD 290.15, the Department is required to adjust the dollar amounts of the thresholds each year, in proportion to any change in construction costs since the thresholds were last determined. The proposed rule changes the thresholds to \$34,000 for single-trade projects and \$168,000 for multi-trade projects, based on a 2.3% increase in the construction cost index between December 1998 and December 1999.

Rule Text

SECTION 1. DWD 290.155 is amended to read:

DWD 290.155 This chapter does not apply to any single-trade public works project for which the estimated cost of completion is below ~~\$33,000~~ \$34,000, and any multi-trade public works project for which the estimated cost of completion is below ~~\$164,000~~ \$168,000.

SECTION 2. EFFECTIVE DATE. This rule shall take effect on January 1, 2000, as provided in s. 227.24(1)(d), Stats.

(End)

LRB or Bill No./Adm. Rule No.
DWD 290.155

Amendment No. if Applicable

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R03/97)

Subject

Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Increase Existing Revenues
- Decrease Existing Appropriation
- Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive
 - Mandatory
- 2. Decrease Costs
 - Permissive
 - Mandatory

- 3. Increase Revenues
 - Permissive
 - Mandatory
- 4. Decrease Revenues
 - Permissive
 - Mandatory

5. Types of Local Governmental Units Affected:

- Towns
- Villages
- Cities
- Counties
- Others _____
- School Districts
- WTCS Districts

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Currently a public project that costs more than \$33,000 for a single-trade project or \$164,000 for a multi-trade project must obtain a prevailing wage rate determination from DWD and pay wages at those rates. This rule raises the thresholds to \$34,000 and \$168,000 to reflect the increase in construction costs since December 1998. Under this rule, a state or local government with a public works project that costs less than \$34,000 for a single-trade project or less than \$168,000 for a multi-trade project will not be covered by the prevailing wage requirement.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)
DWD/Elaine Pridgen

Authorized Signature/Telephone No.

Edward J. Gonsky
266-9427

Date

12/21/99

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
DWD 290.155

Amendment No.

Subject

Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
\$0

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$0	\$0-
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$0	\$ 0-

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$0

see narrative

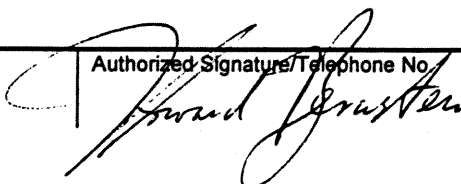
NET CHANGE IN REVENUES

\$0

\$0

Agency/Prepared by: (Name & Phone No.)
DWD/Elaine Pridgen

Authorized Signature/Telephone No.

 266-9427

Date
12/21/99

APR 19 2000

Tommy G. Thompson
Governor

Linda Stewart
Secretary



**OFFICE OF THE
SECRETARY**

201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

State of Wisconsin

Department of Workforce Development

April 18, 2000

President of the Senate
220 South, State Capitol
Madison, Wisconsin 53702

Speaker of the Assembly
211 West, State Capitol
Madison, Wisconsin 53702

Notice of Administrative Rules in Final Draft Form

Clearinghouse rule number: 00-24

Rule number: s. DWD 290.155

Relating to: Annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects

Dear Senator Risser and Representative Jensen:

I have enclosed proposed rules in final draft form and a rule report as required by s. 227.19(3), Stats., for referral to the appropriate legislative standing committees. If you have any questions regarding this matter, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda Stewart".

Linda Stewart, Ph.D.
Secretary

Tommy G. Thompson
Governor

Linda Stewart
Secretary



State of Wisconsin

Department of Workforce Development

**OFFICE OF THE
SECRETARY**

201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707-7946
Telephone: (608) 266-7552
Fax: (608) 266-1784
<http://www.dwd.state.wi.us/>

Rule Analysis for Legislative Review

Proposed rule affecting s. DWD 290.155 relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects (CR 00-24)

Need for rules

Pursuant to ss. 66.293(5) and 103.49 (3g), Stats., and the current s. DWD 290.155, the state prevailing wage rate laws do not apply to any single-trade public works project with an estimated cost below \$33,000 or any multi-trade public works project with an estimated cost below \$164,000. DWD is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The proposed rule increases the thresholds to \$34,000 for single-trade projects and \$168,000 for multi-trade projects based on a 2.3% increase in the construction cost index between December 1998 and December 1999.

Public hearing

There were no public comments.

Legislative Council staff recommendations

There were no Legislative Council staff recommendations.

Final regulatory flexibility analysis

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

Department contacts

Patricia Hewitt, Section Chief
Construction Wage Standards Section
266-6469

Elaine Pridgen
Administrative Rules Coordinator
267-9403

State of Wisconsin Department of Workforce Development

Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

The Wisconsin Department of Workforce Development proposes an order to amend DWD 290.155, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

Analysis

Authority for rule: Secs. 66.293(5) and 103.49(3g), Stats.

Statutes interpreted: Secs. 66.293(5) and 103.49(3g), Stats.

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SECTION 2. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED
SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
DWD 290.155

Amendment No.

Subject
Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
0

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$0	\$0 -
(FTE Position Changes)		0 (FTE)	(- FTE)
State Operations - Other Costs		0	0
Local Assistance		0	0
Aids to Individuals or Organizations		0	0
TOTAL State Costs by Category		\$0	\$ -
B. State Costs by Source of Funds			
GPR		\$0	\$0-
FED		0	0
PRO/PRS		0	0
SEG/SEG-S		0	0
III. State Revenues -			
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$0	\$0-

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$0

\$0

NET CHANGE IN REVENUES

\$0

\$0

Agency/Prepared by: (Name & Phone No.)
DWD/ Elaine Pridden 267-9403

Authorized Signature (Telephone No.)

Edward J. ... 266-9427

Date 2/2/00

LRB or Bill No./Adm. Rule No.
DWD 290.155

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R03/97)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Annual Adjustment of Thresholds for Application of the Prevailing Wage Rates for State or Local Public Works Projects

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Under the proposed rule, a state or local government with a public works project that costs more than \$33,000 but less than \$34,000 for a single-trade project or more than \$164,000 but less than \$168,000 for a multi-trade project will not be covered by the prevailing wage requirement.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Elaine Pridgen 267-9403

Authorized Signature/Telephone No.

Howard Pridgen 266-9427

Date

2/2/00