

# Promoting Anti-competitive & Costly Prevailing Wage Requirements On Virginia's State & Local Construction Projects

## Legislative Background

As of March 7, 2020, the Virginia General Assembly has sent bills introduced by Sen. Majority Leader Dick Saslaw ([SB 8](#)) and Del. Jennifer Carroll Foy ([HB 833](#)) to Gov. Ralph Northam's desk that would require the state to mandate prevailing wage requirements on state construction contracts exceeding \$250,000 and allow local governments to mandate prevailing wage regulations on local taxpayer-funded construction projects like schools, affordable housing, healthcare facilities, and transportation and infrastructure improvements.



## Key Points

- Prevailing wage requirements on state and local public works projects will stifle competition, harm Virginia's construction industry, decrease investment in Virginia's schools and infrastructure, and prevent taxpayers from getting the best product at the best possible price.
- State and local prevailing wage requirements will result in the construction of fewer schools, affordable housing units, hospitals, wastewater facilities, transportation hubs, roads and bridges financed by taxpayers.
- Studies have found prevailing wage requirements increase construction costs by between 9.9% and 25%, resulting in reduced construction industry job creation and inefficient investment in infrastructure.
- Prevailing wage requirements serve as a regulatory barrier for Virginia's small, minority and disadvantaged contractors to compete for taxpayer-funded construction projects.
- Why are some Democrats pushing this costly, anti-competitive legislation? It isn't a coincidence that [46 construction unions gave a total of \\$1.68 million in direct contributions to Democratic political campaigns during Virginia's 2018-2019 cycle](#), according to campaign filings compiled by the [Virginia Public Access Project](#), a nonprofit that monitors campaign contributions by special interest groups. Almost [60% of these political contributions](#) came from out-of-state construction unions with a vested interest in getting Virginia's new Democratic Party leadership to stifle competition from local and qualified businesses.

## About Prevailing Wage Laws

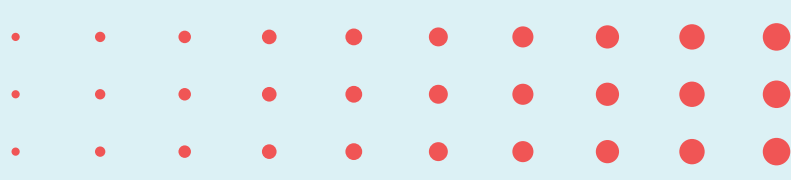
Instead of allowing contractors to pay their skilled construction workforce based on merit, experience and productivity via the free market's nimble laws of supply and demand, these bills mandate that contractors pay nonmarket wages and benefits at rates determined by the U.S. Department of Labor via the 1930s-era Davis-Bacon Act.

Unfortunately, the U.S. Government Accountability Office concluded that U.S. DOL's wage determination process is unscientific and fundamentally flawed, because it typically sets rates that are anything but prevailing, local, timely or accurate.

In fact, the GAO and the DOL's Office of Inspector General have reported that the DOL's dubious wage determination process relies on inaccurate survey data and suffers from potential survey bias. The GAO found the DOL's flawed approach mandates union wage rates more than 63% of the time, even though just 12.6% of the U.S. construction workforce belongs to a union.

## NEIGHBORING STATES SUPPORT MARKET-BASED WAGES.

Because of the anti-competitive and inflationary impact of prevailing wage requirements, 23 states—including neighboring West Virginia, Kentucky and North Carolina—have no prevailing wage laws, and a total of nine states have repealed or significantly reformed (Tennessee) their laws since 2015, resulting in savings, increased contractor competition and additional investment in infrastructure. In fact, the last state to implement a new prevailing wage law was 47 years ago when Minnesota passed a prevailing wage law in 1973.



## Prevailing Wage Laws Increase Construction Costs.

New York's prevailing wage law inflates the cost of publicly funded construction projects by an estimated 13% to 25%, according to a 2017 report released by the Empire Center for Public Policy.

In 2016, the New York Independent Budget Office released a report that estimated prevailing wage requirements would cost the city an additional \$4.2 billion, increasing affordable housing construction costs by 23%, or \$80,000 per unit.

Studies on the negative cost impact of the Davis-Bacon Act—which requires U.S. DOL-determined prevailing wage rates to be paid to all construction workers on federal and federally assisted construction projects exceeding \$2,000—have reached similar conclusions about the inflationary impact of prevailing wages mandates on public works projects.

A 2008 study by the Beacon Hill Institute estimates Davis-Bacon Act regulations inflate construction costs by 9.9% and costs taxpayers an additional \$8.6 billion per year.

These bills will decrease competition on taxpayer-funded construction contracts by local firms, drive up costs between 9.9% and 25% and result in less investment in schools, affordable housing, hospitals, roads and bridges.

### **REDUCED ECONOMIC INVESTMENT.**

State and local governments mandating prevailing wage requirements on state and local projects will increase construction costs and decrease the value of infrastructure investment by state and local governments. Overall, this will lead to fewer construction projects and fewer construction industry jobs created and/or additional state and local tax hikes to pay for construction needs.

## Prevailing Wage Laws Harm Virginia's Construction Industry.

When mandated by governments, prevailing wage requirements discourage quality nonunion contractors and subcontractors—which employ 97.8% of Virginia's construction industry—from competing to build projects funded by taxpayer dollars.

### **HARMS VIRGINIA'S SMALL BUSINESSES, SWAM CONTRACTORS, & EMPLOYEES.**

Businesses not signatory to unions will have a difficult time complying with the inefficiencies, work rules, red tape and paperwork associated with prevailing wage regulations.

If these measures become law, large companies and their unionized workforce from Maryland, Washington, D.C. and other states would have an unfair advantage and disrupt the local market at the expense of the Commonwealth's small businesses and skilled construction workforce. In addition, Virginia's small, women- and minority-owned businesses will be harmed, because they are predominately nonunion and will be discouraged from competing for projects subject to these special-interest schemes.

### **HARMS VIRGINIA WORKERS & BUSINESSES.**

It is no surprise that construction unions and their members—who make up just 2.2% of Virginia's private construction workforce—have made passage of these PLA mandate bills, along with other bills requiring anti-competitive and costly government-mandated project labor agreements on state and local public works projects, a top priority this legislative session. It will mean more contracts for union-signatory contractors and more jobs for union members—likely from out-of-state.

# TAKE ACTION

Ask Gov. Northam to allow all of Virginia's qualified construction workforce and businesses to compete on a level playing field to rebuild their own communities and the Commonwealth.

Gov. Northam recognizes the value of the Commonwealth efficiently investing in schools, affordable housing, hospitals and infrastructure to keep Virginia economically competitive, which is why he must veto or amend [SB 8/HB 833](#) by the April 11 veto deadline.

**Visit [BuildVALocal.com](https://BuildVALocal.com) to sign the petition and write Gov. Northam and Virginia lawmakers and ask them to veto these bills.**

