

Arguments Against

Anti-competitive and Costly Prevailing Wage Laws On Virginia's Taxpayer-funded State and Local Construction Projects

Legislative Background

What Fairfax County and Virginia Residents Need to Know

During its 2020 legislative session, the Virginia General Assembly 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 direct 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, utilities and transportation and infrastructure improvements.

On April 22, 2020, Gov. Northam signed these measures into law ([§2.2-4321.3 Code of Virginia](#)), with the effective date of May 1, 2021.

In advance of its effective date, lobbyists for out-of-area construction unions and contractors have been pressuring local lawmakers to pass prevailing wage ordinances or require prevailing wage regulations on certain local taxpayer-funded construction projects.

On March 16, 2021, the Fairfax County Board of Supervisors [discussed passing a prevailing wage ordinance at a future meeting, likely in June.](#)



Key Points

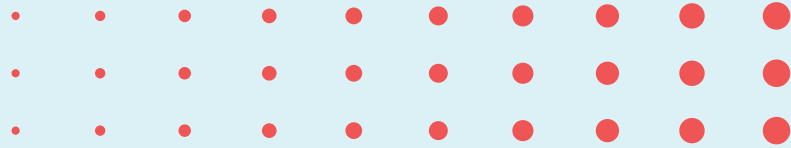
- Prevailing wage requirements on state and local public works projects will stifle competition, harm Virginia's construction industry, decrease investment in Virginia's schools and infrastructure and prevent hardworking taxpayers from getting the best product at the best possible price.
- State and local prevailing wage requirements will result in the construction of fewer schools, affordable housing units, water facilities, transportation projects, 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 state Democratic party lawmakers during Virginia's 2018-2019 election cycle, and have contributed \\$1.177 million to state Democrats so far this cycle](#), according to campaign filings compiled by the [Virginia Public Access Project](#), a nonprofit that monitors campaign contributions by special interest groups. Almost [76% of this cycle's political contributions](#) and [60% from the last cycle](#) came from out-of-state construction unions with a vested interest in getting Virginia's lawmakers 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 DOL OIG found the DOL's flawed approach mandates union wage rates more than 48% of the time, even though just 12.6% of the U.S. construction workforce belongs to a union. In Fairfax County, [union rates prevail on 43% of DOL wage determinations for the construction of buildings, even though just 2.5% of Virginia'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 [nine states have repealed or significantly reformed 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 Minnesota, 48 years ago.



Prevailing Wage Laws Increase Construction Costs.

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

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.

Virginia's state and local prevailing wage regulations will decrease competition on taxpayer-funded construction contracts by local firms, drive up costs by between 9.9% and 25% and result in less investment in schools, affordable housing, utilities, transportation projects, roads and bridges.

REDUCED INVESTMENT IN INFRASTRUCTURE.

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.

Prevailing wage requirements discourage quality nonunion contractors and subcontractors—which employ [97.5% 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 this measure becomes 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 CONSTRUCTION WORKERS & BUSINESSES.

It is no surprise that construction unions and their members—who make up just [2.5% of Virginia's private construction workforce](#)—have made passage of prevailing wage laws a top priority, along with other measures requiring [anti-competitive and costly government-mandated project labor agreements on state and local public works projects](#). It will mean more contracts for union-signatory contractors and more jobs for union members—likely from out of state.

TAKE ACTION

Ask the Fairfax County Board of Supervisors
to Oppose Ordinances Requiring Costly
Prevailing Wage Schemes.

Visit BuildVALocal.com/Fairfax to sign the petition

and tell the Fairfax County Board of Supervisors you oppose any ordinance that requires prevailing wage. Educate your local lawmakers about the negative impact of prevailing wage regulations in your community.

