

## ARGUMENTS AGAINST SB 182/HB 358

Promoting Anti-Competitive & Costly Government-Mandated Project Labor Agreements on Virginia's State and Local Construction Projects

### LEGISLATIVE BACKGROUND

What Virginia Residents Need to Know

As of March 7, 2020, the Virginia General Assembly has sent bills introduced by Sen. Majority Leader Dick Saslaw ([SB 182](#)) and Del. Alphonso Lopez ([HB 358](#)) to Gov. Ralph Northam's desk that would allow state and local governments to mandate project labor agreements on taxpayer-funded construction projects.

- This legislation would rescind a [2012 Virginia law](#) requiring taxpayer-funded public works construction contracts procured by state agencies to use a competitive bidding process allowing all qualified businesses to compete to win state contracts, regardless of whether contractors are willing to sign [project labor agreements](#), or PLAs, with construction unions as a government-mandated requirement of performing taxpayer-funded projects.
- Nothing in [existing statute](https://law.lis.virginia.gov/vacode/2.2-4321.2/) (<https://law.lis.virginia.gov/vacode/2.2-4321.2/>) prevents firms from voluntarily entering into PLAs. The statute is clear that the government is neutral when it comes to PLAs and cannot "require or prohibit" their voluntary use by contractors. For example, PLAs were negotiated with unions outside of the government's competitive bidding process on both phases of the Silver Line and the Hot Lanes 395/95 project in Northern Virginia. However, governments did not disrupt the competitive bidding process by mandating PLAs. They were procured with free enterprise and fair and open competition, and many subcontractors opted not to sign PLAs, allowing all of these projects to be built with a mix of union and nonunion firms and labor in a cooperative manner.
- **Gov. Northam has until April 11 to veto or amend these bills.**

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## **ABOUT GOVERNMENT-MANDATED PLAS**

If passed by Governor Northam and other officials, these bills will harm our community.

### **Anti-Competitive**

When mandated by governments, PLAs discourage quality nonunion contractors and subcontractors—which employ [97.8% of Virginia's construction industry](#)—from competing to build projects funded by taxpayer dollars.

Government-mandated PLAs require nonunion contractors to follow union work rules and hire most or all workers on a jobsite from specified union halls and union apprenticeship programs instead of journeyman and apprentices already employed by their company. That [limits the pool of bidders](#), since nonunion contractors and even some union contractors don't want to abandon their existing employees and quality-control practices—key components of a safe and productive workplace—for strangers from union halls governed by unfamiliar rules.

### **Increased Costs**

Studies on the effect of government-mandated PLAs in [California](#), [Connecticut](#), [New York](#), [Massachusetts](#), [New Jersey](#) and [Ohio](#) found PLAs increase the cost of school construction by 12% to 20%. Virginia simply cannot afford such waste with so many infrastructure, hospital and school construction needs.

### **Harms Virginia's Small Businesses, SWAM Contractors & Employees**

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.

### **Hurts 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 a [batch of bills](#) requiring [anti-competitive and costly prevailing wage regulations 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.

### **Wage & Benefits Theft**

Workers employed in Virginia's construction industry could experience wage theft due to government-mandated PLAs as [nonunion workers \(and some union workers\) lose an estimated 20% of wages and benefits](#) earned on a PLA project unless they accept union representation, join a specific union, pay membership dues and meet the union benefits plan's vesting requirements. Many workers would be forced to pay into [union pension programs](#), and many of those [are in poor financial shape](#).

### **Reduced Economic Investment**

State and local governments mandating PLAs 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.

## OTHER STATES SUPPORT FAIR & OPEN COMPETITION

By Eliminating Government-Mandated PLAs

A [total of 25 states](#), including Kentucky, North Carolina, Tennessee and West Virginia, outlaw government-mandated PLAs on public works projects, thereby ensuring fair and open competition on taxpayer-funded construction projects so the public can get the best possible construction project at the best possible price.

### Pay to Play

Why are some Democrats pushing these costly, anti-competitive measures? 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 the Virginia's new leadership to stifle competition from local and qualified businesses.

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## TAKE ACTION & STAND UP FOR VIRGINIA

Ask Governor Northam to Veto These Harmful Bills

- 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 investing in schools, affordable housing and infrastructure to keep Virginia economically competitive, *which is why he must veto or amend [SB 182/HB 358](#) by the April 11 veto deadline.*
- Visit [BuildVALocal.com](http://BuildVALocal.com) to sign the petition and write Gov. Northam and Virginia lawmakers and ask them to veto these bills.

