



Prevailing Wage Ordinance Briefing

Virginia Code § 2.2-4321.3

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October 26, 2021

Prevailing Wage Rates Virginia Code § 2.2-4321.3

Follow-up to the March 16 briefing to the Legislative Committee

- Prevailing Wage Rate - the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding classes of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality in which the public facility or immovable property that is the subject of public works is located, as determined by the Commissioner of Labor and Industry on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act
- Provides authority for localities to adopt an ordinance requiring payment of prevailing wages on Public Works projects over \$250,000; draft ordinance has now been prepared
- Commonly used in Maryland and District; in Virginia primarily on federally funded projects
- Most current, large DPWES construction contractors are familiar with prevailing wage rate requirements due to work on federal contracts
- Additional administrative impact on contractors, subcontractors and County – will require County monitoring
- Potential to result in higher skilled workforce and quality improvement

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- Anticipate increase in wage rates of 0% to 15% (assumes similar to Davis-Bacon rates)
 - Wage rates not submitted for current contracts for comparison with Department of Labor and Industry (DOLI) Prevailing Rates
 - Impacts to overall project costs are difficult to determine - amount of labor varies by project
 - Labor costs fluctuate over time
 - Required trades vary by project; impacted by type of project, size of project, number of bidders, etc.
 - Montgomery County estimated an initial 10% project cost increase; Virginia Dept. of Engineering & Buildings planning for a 15% increase on state projects
- Resources required to administer Prevailing Wage Program
 - Outside specialty consultant similar to Montgomery County, MD
- Recurring staff and consultant costs for program compliance verification to be charged to projects
- Ordinance applies to construction contracts; not applicable to maintenance contracts
- Department of Human Resources reviewing comparable County labor class pay scales for consistency with DOLI wage rates

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Draft Ordinance – Key Provisions

- **Threshold** – Threshold options for requiring Prevailing Wage are shown below:

Prevailing Wage Threshold	Applicable % of DPWES Construction Contracts	Estimated Annual Cost Impact @ 10%*
\$10 million	24	\$13 million
\$5 million	40	\$15 million
\$1 million	94	\$20 million
\$250 thousand	99	\$22 million

*Based on DPWES completed construction in FY 21

- BOS retains the option to amend the ordinance to modify the threshold amount (must be over \$250,000) in the future if desired
- **Applicability** – Ordinance applies to County financed construction contracts (a contract for construction work that is awarded by the County or where County funds are used to finance all or part of the cost of the contract). For the purposes of this ordinance, construction does not include general maintenance work to County infrastructure or work performed by County forces directly.

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Summary of Other Jurisdictions-

JURISDICTION	Threshold Value
Montgomery County, MD	\$500K
Arlington County, VA	\$250K
Commonwealth of VA	\$250K
District of Columbia	\$2K
Federal Davis-Bacon	\$2K

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Program Administrative Costs (Order of Magnitude)

Establish initial program terms and contract language for Prevailing Wage Ordinance and Project Labor Agreement pilot- \$300K (FY2022 Mid Year)

Recurring cost for Compliance Verification – Consultant Support

0.1% to 0.25% of contract value for very large (over \$40M) projects

0.4% to 0.5% of contract value for smaller projects

Contract Compliance Verification at least quarterly

Cost and level of Compliance Verification effort required by County staff- TBD

Over 70 DPWES construction contracts over \$250K (October 2021)

Monthly pay applications for all contracts

Numerous subcontractors on each project subject to ordinance

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Draft Ordinance – Key Provisions

- **Prevailing Wage** – The hourly wage rate set by the Virginia Department of Labor and Industry. Contractors and subcontractors must pay each employee at a rate equal to or more than the prevailing wage in effect when the construction solicitation is published
- **Posting** – Each contractor and subcontractor must post prevailing wage rates in a prominent and easily accessible place at the work site in all required languages for the duration of the construction work
- **Payroll Records** – Contractors and subcontractors to submit certified payroll records in accordance with established administrative procedures
- **Enforcement** – If determined that wages are less than required; payment must be made for wages due plus 8% interest; will be disqualified from bidding on future contracts until full restitution; willful violation is a Class 1 misdemeanor
- **Applicability**- Ordinance proposed to apply to DPWES, FCPS FCRHA, FCDOT and FCPA
- **Effective Date** – July 1, 2022 – Applicable to projects bid for construction after 7-1-2022

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Proposed Timeline for Implementation

4th Quarter 2021	Obtain Board authorization to advertise a Public Hearing on the ordinance Procure consultant to support Prevailing Wage and PLA programs
1st Quarter 2022	BOS Action to consider Prevailing Wage Ordinance
1st to 2nd Quarter 2022	Development of Prevailing Wage and PLA program, construction contract and compliance documents
July 1, 2022	Prevailing Wage Ordinance effective date. Begin administration and compliance verification

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Next Steps for Implementation

- Board authorization to advertise a Public Hearing
- Procure consultant to support Prevailing Wage and PLA Programs
- Board consideration of the ordinance
- Continued outreach to contractors and labor groups
- Update capital project construction cost estimates to reflect prevailing wage rates
- Modify construction contract wording to reflect ordinance requirements
- Ongoing Compliance Verification Program

Prevailing Wage Rate Ordinance

Questions and Discussion-

Issuance of RFP for Consultant Support

PWO Threshold for Project Value?

Draft Ordinance?

Project Labor Agreements- Next Steps for PLA/Prevailing Wage Ordinance

CY	Q1	Q2	Q3	Q4	
2021				✓	Procure expertise and resources to support Prevailing Wage and PLA programs.
2022	✓				BOS Action to approve Prevailing Wage Ordinance
	✓	✓			Develop Prevailing Wage and PLA Programs - Construction contract and compliance documents
			✓		Prevailing Wage Ordinance effective July 1. Begin administration and compliance verification
		✓	✓	✓	Negotiate PLA Pilot Project Agreement with Labor Union Reps
2023	✓				Bid PLA Pilot Project based on PLA Agreement