

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1409 Session of 2011

INTRODUCED BY MARSICO, AUMENT, BEAR, BENNINGHOFF, BLOOM, BOYD, CAUSER, CLYMER, COX, CREIGHTON, CUTLER, DENLINGER, EVERETT, FLECK, GILLESPIE, GINGRICH, GROVE, HARRIS, HELM, HICKERNELL, KAUFFMAN, F. KELLER, M. K. KELLER, LAWRENCE, METCALFE, MILLER, MOUL, PICKETT, RAPP, REICHLEY, ROAE, ROSS, SAYLOR, SCAVELLO, STEVENSON AND SWANGER, APRIL 28, 2011

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, APRIL 28, 2011

AN ACT

1 Amending the act of August 15, 1961 (P.L.987, No.442), entitled
2 "An act relating to public works contracts; providing for
3 prevailing wages; imposing duties upon the Secretary of Labor
4 and Industry; providing remedies, penalties and repealing
5 existing laws," further providing for definitions; providing
6 for referendum for prevailing wage rates, for subsequent
7 public referenda and for election interference prohibited;
8 and making related repeals.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The definition of "public body" in section 2 of
12 the act of August 15, 1961 (P.L.987, No.442), known as the
13 Pennsylvania Prevailing Wage Act, is amended and the section is
14 amended by adding definitions to read:

15 Section 2. Definitions.--As used in this act--

16 * * *

17 (4) "Public body" means the Commonwealth of Pennsylvania,
18 any of its political subdivisions, excluding a school district
19 or an authority, agency or instrumentality established by one or

more school districts unless it satisfies section 13.1 or 13.2,
any authority created by the General Assembly of the
Commonwealth of Pennsylvania and any instrumentality or agency
of the Commonwealth of Pennsylvania.

* * *

(11) "County Board" means a county board of elections.

(12) "County" means a county-level municipality within this
Commonwealth, regardless of classification. The term includes a
county which has adopted a home rule charter or optional plan of
government under the provisions of 53 Pa.C.S. Pt. III Subpt. E
(relating to home rule and optional plan government).

(13) "School district" means a school district of the first
class, first class A, second class, third class or fourth class,
including an independent school district.

Section 2. The act is amended by adding sections to read:

Section 13.1. Referendum for Prevailing Wage Rates.--(a) To
opt back in to the payment of minimum prevailing wage rates for
public works projects by a school district or an authority,
agency or instrumentality established by one or more school
districts that is otherwise exempt from the requirements of this
act, the county election officials shall cause the referendum
question in subsection (b) to be submitted to the electorate in
each county at the general election in 2015 to determine whether
the voters in each county favor the payment of minimum
prevailing wage rates on public works projects situated in that
county and undertaken by a school district or an authority,
agency or instrumentality established by one or more school
districts in that county as provided for under this act.

(b) The referendum question submitted to the electorate in
each county at the general election in November 2015 shall be

1 the following:

2 Do you favor any and all public works projects undertaken in
3 (insert county name) County by any school district and any
4 authority, agency or instrumentality established by one or
5 more school districts be constructed in accordance with the
6 prevailing minimum wage rates for workmen employed on those
7 projects as set forth in Pennsylvania's Prevailing Wage Act?

8 (c) No later than thirty days after the effective date of
9 this section, the Department of State shall notify the election
10 officials of each county that a referendum question shall be
11 scheduled for the general election in 2015. The Secretary of the
12 Commonwealth shall certify the referendum question required
13 under this section to the county boards of elections no later
14 than ninety days prior to the November 2015 election. The
15 referendum shall be conducted in accordance with the act of June
16 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
17 Code."

18 (d) The Department of State shall draft a nonlegal
19 interpretative statement which shall accompany the referendum
20 question in each county in accordance with section 201.1 of the
21 "Pennsylvania Election Code." The nonlegal interpretative
22 statement shall be posted at each election site in the county
23 and inform the voters of:

24 (1) The reason for the referendum.

25 (2) The consequence of the referendum being disapproved by
26 the electorate.

27 (3) The consequence of the referendum being approved by the
28 electorate.

29 (4) The type of public work projects impacted by the
30 referendum.

1 (5) The definition of prevailing minimum wage rates and an
2 explanation of how, when and by whom the rates are established
3 for the relevant county.

4 (6) The definition of public works.

5 (e) County election officials shall certify the results of
6 the county's referendum required under this section to the
7 Secretary of the Commonwealth in accordance with Article XIV of
8 the "Pennsylvania Election Code." The Department of State shall
9 notify the school district and the department of the results of
10 the required referendum as soon as is practicable.

11 (f) Approval of the county referendum required under this
12 section shall be by majority vote of the electors voting on the
13 question in the county. Where the referendum question under this
14 subsection is approved, then beginning January 1 immediately
15 following the date of the approval of the referendum required
16 under subsection (a) and until the time that a subsequent
17 referendum is disapproved by the county electorate in accordance
18 with section 13.2, a public works projects situated in that
19 county commenced by a school district or an authority, agency or
20 instrumentality established by one or more school districts
21 after the approval of the referendum shall be constructed in
22 compliance with the provisions of this act including paying
23 minimum prevailing wage rates. Public works projects by a school
24 district or an authority, agency or instrumentality established
25 by one or more school districts in which a design or
26 construction contract has been executed before January 1
27 following the approval of the referendum shall continue to be
28 exempt from the requirements of this act.

29 (g) If the referendum question is not approved by a majority
30 vote of the electors voting on the question in a county, then a

school district or authority, agency or instrumentality
established by one or more school districts shall not be
required to comply with a provision of this act including the
payment of minimum prevailing wage rates for public works
projects commenced after the effective date of this section and
a school district or authority, agency or instrumentality
established by one or more school districts in the county shall
remain exempt from this section's requirements until the time
that a subsequent referendum is approved and effective under
section 13.2. Nothing in this subsection shall be construed to
prohibit a school district from initiating new construction
projects.

(h) In instances where a school district is located in more
than one county, the referendum result shall apply solely to the
public works projects constructed by a school district in the
geographic territory of the county where the public works
project is located. The referendum results in one county shall
not apply to public works projects constructed in a different
county by a school district whose geographic territory is split
by county boundaries.

Section 13.2. Subsequent Public Referenda.--(a) In a
county, a subsequent public referendum may be held at the
general election in November of odd-numbered years, but not more
than once every ten years, to determine the will of the county
electors with respect to the payment of minimum prevailing wage
rates on public works projects constructed by a school district
or an authority, agency or instrumentality established by one or
more school districts within the geographic limits of the county
under the provisions of this act. The first subsequent public
referendum may be conducted no earlier than the November 2025

1 election.

2 (b) The county board of elections shall cause a subsequent
3 referendum question on paying minimum prevailing wage rates for
4 public works projects constructed by a school district or an
5 authority, agency or instrumentality established by one or more
6 school districts to be placed on the ballot whenever a majority
7 of the governing bodies of the school districts in that county
8 adopts, by a majority vote, a resolution urging the county board
9 of elections to place the subsequent referendum question on the
10 ballot. A governing board of a school district adopting a
11 resolution shall cause a certified copy of the resolution to be
12 promptly submitted to the county board of elections in which a
13 school district is situated no earlier than twelve months, but
14 no later than one hundred eighty days prior to the November
15 election in which it seeks the referendum question to be
16 authorized. If a school district is located in more than one
17 county, the governing body shall deliver a certified copy to the
18 county board of elections for each county where the school
19 district is located.

20 (c) The form of the referendum question to be submitted to
21 the electors of the county at a subsequent referendum shall be
22 the following:

23 Do you favor any and all public works projects undertaken in
24 (insert county name) County by any school districts and any
25 authority, agency or instrumentality established by one or
26 more school districts be constructed in accordance with the
27 prevailing minimum wage rates for workmen employed on those
28 projects as set forth in Pennsylvania's Prevailing Wage Act?

29 (d) The election officials of each county shall, in
30 consultation with the school districts adopting the resolution,

draft a nonlegal interpretative statement which shall accompany the referendum question in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." The nonlegal interpretative statement shall inform the voters of:

(1) The reason for the referendum.

(2) The consequence of the referendum being disapproved by the electorate.

(3) The consequence of the referendum being approved by the electorate.

(4) The type of public work projects impacted by the referendum.

(5) The definition of prevailing minimum wage rates and an explanation of how, when and by whom the rates are established for the relevant county.

(6) The definition of public works.

(e) The election officials of a county shall certify the results of a subsequent referendum required under this section to the Department of State in accordance with Article XIV of the "Pennsylvania Election Code." The Department of State shall notify the school district and the department of the results of the subsequent public referendum as soon as practicable.

(f) Approval of a subsequent county referendum shall be by majority vote of the electors voting on the question in the county. If the referendum question is approved, then beginning January 1 immediately following the date of the approval of a subsequent county referendum permitted under subsection (a) and until the time that a subsequent referendum is disapproved by the county electorate, a public works project situated in that county commenced by a school district or an authority, agency or

instrumentality established by one or more school districts
shall be constructed in compliance with the provisions of this
act including paying minimum prevailing wage rates. Public works
projects by a school district or an authority, agency or
instrumentality established by one or more school districts in
which a design or construction contract has been executed before
January 1 following the subsequent referendum approval shall
continue to be exempt from the requirements of this act.

(g) If a subsequent referendum question is not approved by a
majority vote of the electors voting on the question in a
county, then beginning January 1 immediately following the date
of the disapproval of the subsequent referendum permitted under
subsection (a), a school district or authority, agency or
instrumentality established by one or more school districts
shall not be required to comply with a provision of this act
including the payment of minimum prevailing wage rates for a
public works projects commenced in the county and until the time
that a subsequent referendum is approved and effective under
this section. Nothing in this subsection shall be construed to
prohibit a school district from commencing new public works
projects constructed in a different county by a school district
whose territory is split by county boundaries.

Section 13.3. Election Interference Prohibited.--(a) Public
funds shall not be used to urge an elector to vote for or
against a referendum or a subsequent referendum or be
appropriated for political or campaign purposes.

(b) Nothing in this section shall be construed to prohibit
the use of public funds for dissemination of factual information
relative to a referendum or a subsequent referendum on an
election ballot.

1 (c) As used in this subsection, the term "public funds"
2 means funds appropriated by the General Assembly or by a
3 political subdivision.

4 Section 3. Repeals are as follows:

5 (1) The General Assembly declares that the repeal under
6 paragraph (2) is necessary to effectuate this act.

7 (2) Section 752 of the act of March 10, 1949 (P.L. 30,
8 No. 14), known as the Public School Code of 1949, is
9 repealed.

10 Section 4. This act shall take effect in 60 days.