

# Legislative Analysis



## REQUIRE PREVAILING WAGE FOR STATE CONSTRUCTION

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4007 as introduced**  
**Sponsor: Rep. Brenda Carter**  
**Committee: Labor**  
**Complete to 3-8-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4007 would create a new act that would require a policy commonly known as “prevailing wage” for *state construction projects* receiving public funding. The new act would be substantively the same as 1965 PA 166, which was repealed in 2018 (see **Background**, below). Under the new act, every contract for such a project that requires the employment of *construction mechanics* would have to include a term stating that the rates of wages and fringe benefits to be paid to each class of construction mechanics must equal or exceed the wage and benefit rates that are standard in the locality where the work is to be performed. A violation of the act would be a misdemeanor.

*State construction project* would mean any new construction, alteration, repair, installation, painting, decorating, completion, demolition, conditioning, reconditioning, or improvement of public buildings, schools, works, bridges, highways, or roads authorized by a contracting agent. It would not include projects that are subject to the jurisdiction of the Michigan Civil Service Commission.

*Construction mechanic* would mean a mechanic, laborer, worker, helper, assistant, or apprentice working on state projects. It would not include executive, administrative, professional, office, and custodial employees.

#### Prevailing wage determination

The Department of Labor and Economic Opportunity (LEO) would be required to establish wages and benefits at the rate that prevails on projects of a similar character in the relevant locality under collective bargaining agreements (CBAs) or understandings between labor organizations of construction mechanics and their employers. If no such CBAs or understandings exist, then LEO would determine the prevailing wage for that locality by using the rates and benefits that prevail in the same or most similar employment in the nearest and most similar neighboring locality in which a CBA agreement or understanding exists.

Before a *contracting agent* could advertise for bids on a state project, LEO would have to determine the prevailing rates for wages and fringe benefits for all classes of construction mechanics that would be included in the contract. A rate schedule would have to be included in the bidding forms. If a contract is not awarded or construction has not begun within 90 days of making the determination, LEO would have to redetermine the prevailing wage and fringe benefit rates.

*Contracting agent* would mean any officer, school board, state board or commission, or state institution supported by state funds that is authorized to enter into a contract for a state project or perform a state project by the direct employment of labor.

All determined wages and benefits would have to be filed with LEO and publicly accessible.

### Compliance and recording requirements

Contractors and subcontractors would be required to keep a copy of all prevailing wage and fringe benefit rates included in the contract posted in a conspicuous area at the construction site. They would also have to keep a record of the name and occupation of, and wages and benefits paid to, each construction mechanic employed in connection with the contract. This record would have to be available for inspection by the contracting agent and LEO.

If a lower rate than the prevailing wage or fringe benefit rate has been or will be paid, a contracting agent could terminate the contractor's right to proceed under that portion of the contract after providing a written notice. The agent could then complete the contract through a separate agreement with another contractor. The original contractor and any sureties would be liable for any excess costs resulting from the termination.

### Exempt contracts

Contracts with provisions requiring prevailing wage payments determined by the federal government under the federal Davis-Bacon Act or with minimum wage schedules that are the same as the prevailing wages in the relevant locality would be exempt from the act.<sup>1</sup> The act would not apply to any contracts entered or bids made before the effective date of the act.

## **BACKGROUND:**

1965 PA 166 required the use of prevailing wages for state-funded construction projects until 2018, when the Michigan legislature adopted an initiative petition repealing the act.<sup>2</sup> Supporters of the repeal argued that the 1965 law was outdated, and a repeal of prevailing wage would save taxpayer money on public works projects and increase competition for the projects. In 2021, however, Governor Whitmer announced that the Department of Technology, Management and Budget (DTMB) would resume the prevailing wage requirement for state construction contracts for projects greater than \$50,000 beginning in 2022.<sup>3</sup> The governor argued that while the law requiring prevailing wage was no longer in place, DTMB still had the authority to adopt such a policy in overseeing state contracts.

## **FISCAL IMPACT:**

A fiscal analysis is in progress.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

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<sup>1</sup> The Davis-Bacon Act requires contractors and subcontractors working on federally funded construction projects to pay locally prevailing wages: <https://www.dol.gov/agencies/whd/laws-and-regulations/laws/dbra>.

<sup>2</sup> A summary of the petition can be found [here](#).

<sup>3</sup> Information on this requirement can be found [here](#), and wage rates for DTMB-funded construction projects for each county can be found [here](#).