

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 319 Session of 2019

INTRODUCED BY RYAN, GROVE, HICKERNELL, IRVIN, MENTZER,
B. MILLER, ROAE AND ZIMMERMAN, FEBRUARY 1, 2019

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 1, 2019

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 repealing related provisions of the Public School Code of
9 1949.

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

12 Section 1. Section 2(4) of the act of August 15, 1961
13 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage
14 Act, is amended and the section is amended by adding clauses to
15 read:

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

17 * * *

18 (4) "Public body" means the Commonwealth of Pennsylvania,
19 any of its political subdivisions, excluding a school district,
20 or an authority, agency or instrumentality established by one or
21 more school districts, unless it satisfies section 13.1 or 13.2,

1 any authority created by the General Assembly of the
2 Commonwealth of Pennsylvania and any instrumentality or agency
3 of the Commonwealth of Pennsylvania.

4 * * *

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

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

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

14 Section 13.1. Referendum for Prevailing Wage Rates.--(a) To
15 opt back in to the payment of minimum prevailing wage rates for
16 public work projects by a school district, or an authority,
17 agency or instrumentality established by one or more school
18 districts, that is otherwise exempt from the requirements of
19 this act, the county election officials shall cause the
20 referendum question in subsection (b) to be submitted to the
21 electorate in each county at the general election in 2020 to
22 determine whether the voters in each county favor the payment of
23 minimum prevailing wage rates on public work projects situated
24 in that county and undertaken by a school district, or an
25 authority, agency or instrumentality established by one or more
26 school districts, in that county as provided for under this act.
27 (b) The referendum question submitted to the electorate in
28 each county at the general election in November 2020 shall be
29 the following:

30 Do you favor any and all public work projects undertaken in

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

6 (c) No later than thirty days after the effective date of
7 this section, the Department of State shall notify the election
8 officials of each county that a referendum question shall be
9 scheduled for the general election in 2020. The Secretary of the
10 Commonwealth shall certify the referendum question required
11 under this section to the county boards of elections no later
12 than ninety days prior to the November 2020 election. The
13 referendum shall be conducted in accordance with the act of June
14 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
15 Code."

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

22 (1) The reason for the referendum.

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

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

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

29 (5) The definition of prevailing minimum wage rates and an
30 explanation of how, when and by whom the rates are established

1 for the relevant county.

2 (6) The definition of public work.

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

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

27 (g) If the referendum question is not approved by a majority
28 vote of the electors voting on the question in a county, then a
29 school district, or authority, agency or instrumentality
30 established by one or more school districts, shall not be

1 required to comply with the provisions of this act, including
2 the payment of minimum prevailing wage rates for public work
3 projects commenced after the effective date of this section, and
4 a school district, or authority, agency or instrumentality
5 established by one or more school districts, in the county shall
6 remain exempt from the requirements of this section until the
7 time that a subsequent referendum is approved and effective
8 under section 13.2. Nothing in this subsection shall be
9 construed to prohibit a school district from initiating new
10 construction projects.

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

19 Section 13.2. Subsequent Public Referenda.--(a) In a
20 county, a subsequent public referendum may be held at the
21 general election in November of even-numbered years, but not
22 more than once every ten years, to determine the will of the
23 county electors with respect to the payment of minimum
24 prevailing wage rates on public work projects constructed by a
25 school district, or an authority, agency or instrumentality
26 established by one or more school districts, within the
27 geographic limits of the county under the provisions of this
28 act. The first subsequent public referendum may be conducted no
29 earlier than the November 2030 election.

30 (b) The county board of elections shall cause a subsequent

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

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

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

27 (d) The election officials of each county shall, in
28 consultation with the school districts adopting the resolution,
29 draft a nonlegal interpretative statement which shall accompany
30 the referendum question in accordance with the act of June 3,

1 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
2 Code." The nonlegal interpretative statement shall inform the
3 voters of:

4 (1) The reason for the referendum.

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

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

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

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

14 (6) The definition of public work.

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

21 (f) Approval of a subsequent county referendum shall be by
22 majority vote of the electors voting on the question in the
23 county. If the referendum question is approved, then beginning
24 January 1 immediately following the date of the approval of a
25 subsequent county referendum permitted under subsection (a), and
26 until the time that a subsequent referendum is disapproved by
27 the county electorate, a public work project situated in that
28 county commenced by a school district, or an authority, agency
29 or instrumentality established by one or more school districts,
30 shall be constructed in compliance with the provisions of this

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

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

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

25 (b) Nothing in this section shall be construed to prohibit
26 the use of public funds for dissemination of factual information
27 relative to a referendum or a subsequent referendum.

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

1 Section 3. Repeals are as follows:

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

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

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