

Frequently Asked Questions on SB 145

What does SB 145 do?

- SB 145 exempts Kentucky public school facilities from the prevailing wage requirement under Kentucky law.
- As a result, school facility construction projects will be subject to the competitive bid process that is utilized for all purchases not subject to the prevailing wage.
- It is estimated that 21% is added to the cost of the labor portion of school construction projects that are subject to the prevailing wage.¹ The overall estimated amount that could be invested to cure the urgent needs of education in Kentucky is 10.7%. The State of Ohio exempted school facilities from their prevailing wage law and studied the effects; they concluded that 10.7% was the average amount saved on all projects as a result of the legislation.²
- A study by the 21st Century School Fund, a non-profit national group focused on education, found that the quality of our children's school has a direct impact on their education. Accordingly, saving money to replace existing obsolete schools and/or having the ability to build more and better equipped schools benefits Kentucky.
- In Kentucky, we send more than ninety thousand of our children to schools that are considered to be functionally obsolete or in some cases would be considered for condemnation.³
- This bill allows hundreds of millions of dollars to be reinvested into repairing Kentucky's schools that are in poor condition thus allowing more of our children to thrive in a safe environment that is conducive to learning.

What is Prevailing Wage?

- "Kentucky's prevailing wage law requires that construction workers on certain public construction projects must be paid at least the prevailing wage for the area in which the project is being built. Prevailing wages must be paid on all public construction projects

¹ 2001 Kentucky Legislative Research Commission, Program Review and Investigations Committee, "An Analysis of Kentucky's Prevailing Wage Laws and Procedures", page 58.

² 2002 Ohio Legislative Service Commission, "S.B. 102 Report: The Effects of the Exemption of School Projects from Ohio's Prevailing Wage Law", page 23.

³ Kentucky Department of Education's website:
<http://www.kde.state.ky.us/KDE/Administrative+Resources/Facilities/Statewide+Needs+Assessments/>

estimated to cost \$250,000 or more. Public construction includes construction projects for the state, school districts or local governments.”⁴

- In theory, the prevailing wage was intended to represent the average wages paid in a particular area. In reality, the wage routinely exceeds those average wages dramatically, the result being a much higher cost to the Commonwealth and the taxpayers.

History of the Prevailing Wage in Kentucky

- 1868-the first federal prevailing wage law was passed by Congress and enforced by President Ulysses Grant.
- 1891-Kansas passed the first state prevailing wage law.
- 1931-President Herbert Hoover signed into law the current federal prevailing wage law known as the [Davis Bacon Act](#).
- 1940-Kentucky’s first prevailing wage law was passed.
- 1982-Governor Brown introduced reform to Kentucky’s prevailing wage law.
 - Threshold increased from \$250 to \$250,000
 - Inflation adjustor added to the project floor
 - School and local government projects were exempt from the prevailing wage requirement.
- 1996-Senate Bill 226 reversed all of the 1982 reforms and school facilities are no longer exempt from the prevailing wage requirement.

How does the current law work?

- Normally, the state performs a competitive bid process where the successful bidder is chosen based on price and level of expertise. The current law for construction dictates that contractors and subcontractors be paid a wage pre-determined by the Labor Cabinet.
- The Kentucky Labor Cabinet determines the prevailing wage by:
 - The prevailing wage is determined either by the Labor Cabinet through a hearing or by the U.S. Department of Labor. Eighty-one of the counties use the prevailing wage determined by the Kentucky Department of Labor. Each of the eighty-one counties is assigned to twenty localities which can be no larger than a senatorial district.⁵

⁴ 2001 Kentucky Legislative Research Commission, Program Review and Investigations Committee, “An Analysis of Kentucky’s Prevailing Wage Laws and Procedures”, page ix.

⁵ 2001 Kentucky Legislative Research Commission, Program Review and Investigations Committee, “An Analysis of Kentucky’s Prevailing Wage Laws and Procedures”, pages 6-10.

- The rate is then set by a simple majority of submitted wages by localities. The data is collected from groups such as contractors and union locals.
- If **no simple majority exists, a weighted average** of the wages is used. If no one attends the hearing or submits their wages by mail then the Labor Cabinet may use the prior prevailing rate set for that locality.

What projects are currently subject to the requirements of the prevailing wage?

- **KRS 337.010(e) states**, ““Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority”.

What happens if the federal government funds part of the construction project?

- KRS 337.010(e)(4) states, “If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, *those wages in each classification which are higher shall prevail.*”

What process will be used upon the passage of SB 145?

- School facility projects will go through the normal competitive bid process. Upon passage of SB 145, contractors will be free to select among “various mixes of inputs, such as labor and cost of equipment in an attempt to develop a competitive bid.”⁶

Does the current law ensure better quality work?

- No, Ohio studied the effect on quality once school facilities were exempted from the prevailing wage requirements. “Of the districts that commented on the quality of construction, 98 percent reported either no change in quality or an improvement in quality.”⁷

⁶ 2001 Kentucky Legislative Research Commission, Program Review and Investigations Committee, “An Analysis of Kentucky’s Prevailing Wage Laws and Procedures”, page xii.

⁷ 2002 Ohio Legislative Service Commission, “S.B. 102 Report: The Effects of the Exemption of School Projects from Ohio’s Prevailing Wage Law”, page 28.

- The study by the Kentucky Legislative Review Commission cited an example of a worker who was paid \$8 an hour for construction work on a privately funded project. That same worker was paid nearly three times that amount, roughly \$23 an hour for doing the same job on a public works project.

What are the estimated savings upon passage of SB 145

- The estimated savings for K-12 schools and universities is approximately \$600 million. Please see attached spreadsheets.

Who will be affected by the passage of SB 145?

- All students who attend K-12 public schools and all students who attend public universities or technical colleges. All Kentuckians benefit from more cost effective infrastructure.

Why consider SB 145 at this time?

- What better time to stretch financial resources than when school districts and the commonwealth of Kentucky are without adequate financing from normal revenue streams?
- Kentucky's relative position to other states in terms of education funding makes it important to find additional resources for education.
- The weak economy and high unemployment rate are such that the available workforce pool is more than adequate to support new construction for schools.
- It is about the children, we cannot afford to delay this important initiative.