

## Michigan Adopts New Prevailing Wage Requirements for Public School Construction Projects

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February 19, 2024

Michigan's new **Prevailing Wage for State Projects Act** (the "Act") became effective on February 13, 2024, and is substantially similar to a prior statutory prevailing wage requirement which was repealed in 2018.

The Act requires construction workers, working on capital improvement projects sponsored or financed by the state, to be paid wages and fringe benefits that are commensurate with the wages and fringe benefits paid to other construction workers working in the same locality on similar contracts.

For public schools, projects sponsored or financed by the state generally include school construction, demolition or improvement projects which are:

- Subject to competitive bidding requirements under Section 1267 of the Revised School Code (MCL §380.1267); and
- Paid for in whole or in part with State School Aid or financed with bonds qualified under the School Bond Qualification and Loan Program ("Qualified Bonds").

The Act also provides two important exceptions to its applicability:

**First**, the Act exempts construction contracts entered into, as well as bids made before the effective date of the Act.

We believe that this exemption would apply to all construction contracts entered into or bids made before the effective date of the Act for construction projects sponsored or financed by the state regardless of the source of payment for the construction project.

**Second**, the Act provides an additional exemption for construction projects sponsored or financed by the state that are paid for, in whole or in part, from revenue from a millage that is authorized under the School Code and approved by the voters prior to the effective date of the Act.

We believe the intent of the above is to exempt construction projects which are bid after the effective date of the Act and financed with Qualified Bonds approved by the voters prior the effective date of the Act. This makes sense because when the state approved these Qualified Bonds, cost estimates for the bond projects included in the state qualification application, would not have assumed prevailing wage rates.

When the voters approve the issuance of Qualified Bonds, they also approve a dedicated debt millage to repay the Qualified Bonds. The revenues from this voter approved debt millage are used to pay for the financed bond projects along with the interest cost for the borrowing.

Under this exemption all construction projects financed with Qualified Bonds approved prior to the effective date of the Act, including construction projects for which the bids are received, and contracts are entered into after the effective date of the Act, are exempt from the new prevailing wage requirements.

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Please contact your Miller Canfield attorney or the authors of this alert with questions about the new prevailing wage requirements under the Act.