

Statehouse Beat: Feigned intrigue over prevailing wage subpoenas

Legislative leadership's continued insistence that the executive branch was hiding "outside labor interest" documents from the Legislature reminds me of Captain Queeg turning his ship upside down over his obsession to determine who took a quart of strawberries from the officers' pantry in "The Caine Mutiny."

The real issue here seems to be that WorkForce West Virginia accepted input – innocuous though it may be – from outside interests whose positions might be contrary to leadership's preconceived conclusions that the previous prevailing wage scale was exorbitantly high.

The subpoena and feigned intrigue over the supposedly missing documents was clearly political theater designed to discredit WorkForce West Virginia in the event that it finds that average wage rates being paid to construction workers in the state are not dramatically different from the old prevailing wage.

As Gov. Earl Ray Tomblin sagely noted, if leadership believed documents were omitted, all they had to do was ask for them, without all the dramatics of issuing a subpoena.

Certainly doesn't appear there was any attempt at stealth on the ACT Foundation's part, since the emails in question had multiple cc's. (Interesting in this electronic age, we still use the abbreviation for "carbon copy" to designate that copies of emails have been sent to multiple recipients.)

In this case, the emails in question went out to, among others, Jennifer Shand and Kent Sowards at Marshall, John Deskins at WVU, and Clinton Suggs, Mary Prim and Mike Clowser with the state Contractors Association.

(No wonder legislative leaders in their letter accompanying the subpoena had such detailed information – including the author and specifics about the contents – of the allegedly "missing" emails.)

Further, there is no "smoking gun" among the ACT Foundation's documents, which primarily consist of scholarly research and federal Bureau of Labor Statistics Commissioner Erica Groshen explaining why the BLS wage data are not suitable for calculating prevailing wage rates.

While that may have been to the consternation of legislative leadership, it is highly unlikely that was the first time the Ph.D. economists from WVU and Marshall working on the new prevailing wage rates had read such reports.

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Keep in mind, also, that when agencies are crafting rules to implement new laws, the traditional rule-making review process includes a period of time when the public is invited to comment on the proposed rules.

So it is striking that the legislative leadership was adamantly opposed to public comment on prevailing wage, to the point they asked that Workforce West Virginia not conduct a public comment period on the proposed prevailing wage calculation.

The legislation intended to roll back prevailing wage (SB361) instead uses a truncated version of rule-making review.

Instead of the normal public comment period, once the new wage rates are calculated, WorkForce is to set up a mechanism to address only “objections regarding the methodology for calculating the prevailing hourly rate of wages.”

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Meanwhile, a reader commented that if the legislative leadership can subpoena a state agency to determine if it received communications from “outside interests” attempting to influence its work, somebody should be able to subpoena the Legislature to see how many communications it received from the American Legislative Exchange Council regarding 2015 legislation.

I don’t have subpoena power, but I did submit a FOIA request to Senate President Bill Cole and House Speaker Tim Armstead requesting all ALEC communications received during the 2015 regular session.

As of press time, I haven’t heard from the president’s office, but the speaker’s office indicated it is in the process of complying with the request.

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Finally, the state Racing Commission this week will hear recommendations from the panels it set up early last month to come up with ways to revitalize the state’s thoroughbred and greyhound racing industries.

I listened in on the marketing panel, and panelists made several good points, one being that Division of Tourism advertising of late has not emphasized the state’s racetrack casinos.

While casinos feature prominently in Tourism’s print materials, including the official travel guide (and while, by law, they get the largest share of advertising matching grants), they pointed out that TV ads rarely have shots of casinos and almost never show thoroughbred or greyhound racing.

Coincidentally, at about the time the Racing Commission panel was commiserating about the lack of ad time, Tourism officials were in Wheeling shooting video for a future ad that will include shots of the Wheeling Island Racetrack and Casino, Commissioner Amy Shuler Goodwin said.

“We agree that should be and is part of the ‘Real’ campaign,” she said of the racetrack casinos.

Goodwin said there’s several reasons why Tourism hasn’t emphasized gambling in its recent ads. For one, vacations by multi-generational families are a big part of the state’s tourism business, which can pose logistical issues, since the gaming venues are off-limits to those under 21. For another, the Lottery has strict rules for filming in casinos, and the Lottery Commission has to sign off on any footage used in ads, making it more cumbersome to include casinos in TV spots.

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