

Workforce provided prevailing wage emails, documents show

By Phil Kabler

Documentation from the Department of Commerce indicates that WorkForce West Virginia provided thousands of pages of documents, e-mails and other communications regarding input for developing a new methodology for recalculating the state's prevailing wage rate to the Legislature on June 17 – including e-mails from an Affiliated Construction Trades Foundation researcher that legislative leaders contend were not provided to the Legislature.

Those alleged omissions prompted the rare issuance of a legislative subpoena Tuesday to WorkForce West Virginia acting executive director Russell Fry, demanding all documents relating to the recalculation.

In a letter accompanying the subpoena Tuesday, Senate President Bill Cole, R-Mercer, and House Speaker Tim Armstead, R-Kanawha, accused WorkForce West Virginia of failing to provide those communications from the ACT Foundation.

“At least one of these documents provided by outside labor interests was relied upon in the development of the new prevailing wage methodology,” Cole and Armstead stated.

However, according to Department of Commerce spokeswoman Chelsea Ruby, the e-mails were among the thousands of documents submitted to Ritchie Heath, counsel to President Cole, and to Dan Greear, House chief of staff, on June 17.

According to documents released by the department and posted Tuesday on the department's website, that includes e-mails from ACT Foundation research director Lesly Messina sent to WorkForce West Virginia research director Jeff Green and others on March 25 and 27.

As Cole and Armstead noted in their letter, those e-mails include attachments that are critical of relying on Bureau of Labor Statistics wage figures to calculate prevailing wage rates.

Among the documents is a transcript of 2013 Congressional testimony by BLS Commissioner Erica Groshen explaining why she believes BLS data is not suitable to use to calculate prevailing wage rates.

“Throughout this process, numerous people and interest groups offered input, including but not limited to members of the Legislature, legislative staff, labor groups and business groups,” Ruby said of the thousands of pages of documents and e-mails provided to the Legislature.

Despite the release of the documents, legislative leaders stand by their assertion that WorkForce West Virginia has withheld documents regarding prevailing wage, Senate spokeswoman Jacque Bland said Wednesday.

“As stated in both the letter to WorkForce West Virginia acting director Russell Fry and the accompanying subpoena, the Joint Committee on Government and Finance does not believe it was provided with all of the responsive documents, and continues to stand by that.”

Ruby indicated that interested parties had sent input to WorkForce West Virginia, in part, because legislative leaders rejected a proposal to have a public comment period on the prevailing wage recalculation.

Public comment periods are routine when state agencies are developing new rules.

“Before adopting the new method, WorkForce West Virginia suggested a public comment period to allow for additional input from outside interest groups, but Republican members of the Legislature asked that no comment period be conducted. WorkForce acquiesced,” she said.

In response, Bland said, “Senate Bill 361, as enacted, did not call for a public comment period, but rather mandated that WorkForce West Virginia, the West Virginia University Bureau of Business and Economic Research, and the Center for Business and Economic Research at Marshall University work together to develop a methodology for calculating the prevailing wage rate based on all appropriate economic data. Public comment was not necessary for the entities to perform their statutory functions.”

Meanwhile, the sponsor of the prevailing wage legislation, Sen. Craig Blair, R-Berkeley, said he doesn’t believe the lack of a public comment period is an issue, and suggested the administration would have complained if the Legislature had required them to accept public comment.

“It’s whatever fits their narrative,” he said.

Blair said he remains critical of WorkForce West Virginia’s decision to significantly rely on a survey of contractors regarding their wage rates, saying the use of surveys is what caused the previous prevailing wage rate to skew high.

“We know the survey was always an issue,” Blair said, adding that his goal has been to come up with a wage scale that is fair to both workers and taxpayers.

“The fact that is hardly ever mentioned is that we care about workers’ wages as much as everyone else does,” he said.

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