
Republicans vote against extension to set prevailing wage rate

By Joel Ebert

West Virginia's prevailing wage rates are in limbo after an interim committee on Monday rejected the work done by a state agency and voted against extending a recalculation deadline.

Committee members and a large audience that included economists, lawmakers and laborers, were left surprised after 10 members of a joint committee on government and finance finally concluded a lengthy and, at times, contentious discussion on choosing the methodology for determining the state's newest prevailing wage rates.

Among the most debated issues during the 2015 session, the prevailing wage rate law required Workforce West Virginia to meet with economists from Marshall University and West Virginia University to recalculate the rate by July 1.

Monday's meeting was the first opportunity for the group to present their set methodology but their findings were not well received by many Republicans in the committee.

Sens. Charlie Trump, R-Morgan and Mitch Carmichael, R-Jackson, probed John Deskins, director of WVU's Bureau of Business and Economic Research, Marshall University director of the Center for Business and Economic Research Jennifer Shand and Jeff Green, director of Workforce West Virginia, before concluding the three had not accomplished what had been required by law.

"This report is not in compliance with the statute," said Carmichael, to which the committee's legal counsel concurred.

But following the meeting, Green stood behind his work.

"The course of action we took we thought was following along with the statute," he said.

At issue was whether or not the law provides Workforce West Virginia the leeway to determine the specifics included in creating the methodology for the wage rate recalculation.

In its summary, Workforce West Virginia said it would use average wages published by the U.S. Bureau of Labor and Statistics along with an occupational wage questionnaire to determine the wages paid to laborers and contractors on public projects throughout the state.

Deskins noted there were some problems with solely relying on data from the federal government but said there would be ways to address each of those issues.

When pressed on whether he supported the final recommendations included in the executive summary, Deskins made several efforts to dodge the question. Instead he called it a "risky approach." He said the questionnaire would need to have a significantly high rate of return for the outlined methodology to succeed.

The committee's Republicans and their legal counsel cited many objections outlined in Workforce West Virginia's executive summary, which was written by Green, Shand and Deskins.

The committee Republicans said the law does not allow for the consideration of fringe benefits in the recalculation. Workforce West Virginia intended to include fringe benefits.

The methodology also featured an aspect that Deskins explained would have removed the extreme outliers among those in a given sector and given a more realistic view of the prevailing wage rates.

In addition, the Republicans argued the law requires Workforce West Virginia to use information from the U.S. Bureau of Labor and Statistics to determine the new prevailing wage, a point that was the majority of their contention throughout much of the afternoon discussion.

But Democrats pointed to the language of the bill, which was written after lengthy negotiations, to try and combat the majority party's points.

The statute does not specifically require Workforce West Virginia to only use Bureau of Labor Statistics data. Instead the law says it can use the federal agencies' data in conjunction with other appropriate economic data.

After several members expressed disapproval of the actions by Workforce West Virginia, the committee voted to reject an extension that left Democrats and laborers worried.

Seven Republicans — Sens. Bill Cole, Mitch Carmichael and Charlie Trump and Delegates Tim Armstead, Eric Nelson, John Shott, and Daryl Cowles — rejected a motion to allow Workforce West Virginia the ability to set the state's prevailing wage rates by September 30 instead of the July deadline.

Three Democrats — Sen. Jeff Kessler and Delegates Tim Miley and Brent Boggs — voted for the extension, arguing that it would create havoc in an already uncertain labor force.

“Anything after July 1 would depend on rates that are not yet calculated,” Kessler said. “I don't feel real comfortable where we are today.”

The committee ended with many lawmakers leaving with several unanswered questions, including what would happen to the state's prevailing wage rates if Workforce West Virginia did not set the rates by the beginning of next month.

Some lawmakers even questioned how Workforce West Virginia reached its conclusion. Carmichael invoked a statute that allows the committee's legal counsel to compel Workforce West Virginia to hand over all notes, emails and other material that went into creating the methodology.

Following the meeting, Affiliated Construction Trades director Steve White said he was shocked at what had occurred.

“The law called on Workforce (West Virginia) to come up with a new methodology to be reviewed, not approved,” he said. “Those agencies did what the law required.”

With the committee rejecting the extension, White said laborers and contractors are now left in limbo.

“July 1 is going to come and there will be no prevailing wage rate in West Virginia until Workforce comes up with one,” he said. “Hopefully they'll end up doing something with haste.”

In an impromptu press conference following the meeting, Republicans and Democrats debated the preceding action.

“Workforce has taken upon itself to disregard the act of the legislature,” said Trump. “They’ve jeopardized prevailing wage for the working people of West Virginia.”

“The majority party crafted the language,” Miley said. “They didn’t like the results they got from the language. Now they’re trying to claim the language wasn’t followed.”

The committee is not scheduled to meet again until later in the year. However, Republican leaders can call the committee to reconvene and take up the prevailing wage rate discussion whenever deemed necessary.

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