

Without recalculation, prevailing wage at risk

By Phil Kabler

CHARLESTON, W.Va. — Prevailing wage rates for state-funded construction projects are now set to expire July 1, after the legislative Joint Committee on Government and Finance rejected a motion Monday to extend the deadline for calculating new wage rates to Sept. 30 on a party-line vote.

Prior to the vote, Republican members of the committee strongly criticized methodology proposed by WorkForce West Virginia to calculate new prevailing wage rates, which would rely primarily on conducting wage surveys of more than 5,000 contractors and subcontractors in the state.

“As a result of them not doing their job, they’ve put prevailing wage in West Virginia at risk,” said Senate Majority Leader Mitch Carmichael, R-Jackson.

Under legislation revamping the calculation of prevailing wage rates for public works projects (SB361), WorkForce West Virginia was directed to submit a methodology to recalculate wage rates for construction workers that critics of the current system contend artificially inflates wages.

Republican members of the committee, made up of ranking members of the Legislature, were highly critical of the proposed methods, contending that WorkForce West Virginia had ignored legislative mandates by opting for the survey method to calculate wages.

Several accused WorkForce West Virginia research director Jeff Green of ignoring a requirement to use federal Bureau of Labor Statistics wage rates as the primary factor in setting the new prevailing wage rates.

Green told the committee it was difficult to apply that data to state projects because the bureau’s figures mix residential construction, which pays lower wages, with commercial and heavy construction projects.

“What we’re trying to capture with this is the fair market rate,” Green said of the survey of contractors. “When you’re talking about a prevailing wage rate, you want a fair market rate for the construction trades.”

Carmichael contended that a new survey of wages that contractors are paying workers would simply reflect what he called the “currently inflated rates” of the current prevailing wage.

Under the law, the Joint Committee cannot reject the methodology proposed by WorkForce West Virginia. However, it does have authority to extend the current prevailing wage rates through Sept. 30 if WorkForce West Virginia has not completed calculation of the new rates by a July 1 deadline in the law.

Green has said previously the new rates could not be set until the fall, since it will take time to conduct and analyze the surveys.

During an extended debate Monday, Senate Minority Leader Jeff Kessler, D-Marshall, moved to extend the deadline to Sept. 30, “for the sake of predictability” for contractors and construction workers.

That motion was rejected on a partisan 7-3 vote, with Democrats Boggs, Kessler and Miley voting yes, and Republicans Carmichael, Cowles, Nelson, Trump, Shott, Cole and Armstead voting no.

The committee then adopted a series of majority party motions. Those include sending a letter to WorkForce West Virginia advising that the committee does not believe the proposed methodology complies with the new law; authorizing the Joint Committee to pursue options if WorkForce West Virginia fails to provide a suitable prevailing wage methodology, including enacting new legislation as well as possible legal actions; and requiring WorkForce West Virginia to provide to Joint Committee attorneys all communications and documentation used in preparation of the proposed methodology.

Afterward, Kessler said the law is clear that WorkForce West Virginia has authority to set the methodology using all applicable economic data, including but not limited to the Bureau of Labor Statistics figures.

House Majority Leader Daryl Cowles, R-Morgan, defended the Joint Committee's action. "It's \$39 an hour for a general unskilled laborer today. We need to get that fixed," he said.

With Monday's action, current prevailing wage rates set by the Division of Labor will remain in effect until July 1.

If WorkForce West Virginia does not submit new wage rates by July 1, there will be no prevailing wage rates in effect for projects put out to bid after that date.

"It could be like 20 other states without a prevailing wage," said Sen. Craig Blair, R-Berkeley, who sponsored SB361, which in its original form, provided for an outright repeal of prevailing wage.

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