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State Tax Dollars for Downtown Development and Prevailing Wages

Upon handing $4 million to a Downtown Pittsburgh construction project, Pennsylvania's Governor was quoted in a newspaper article as saying, "It's going to make a huge difference in the central business district of Pittsburgh".

In the next paragraph, the report continued as follows: "developers say the project meets the most pressing needs of a growing Downtown: parking, new jobs and hotel space."

Are we getting mixed messages? How is it that a growing Downtown with pressing parking and hotel space needs cannot fund projects privately? Presumably, pressing needs imply profitable opportunities for entrepreneurs who can satisfy those needs. Pressing needs suggest demand is outstripping supply, the perfect situation for profits to be made.

In short, tax dollars should not be necessary for this project. But the infusion of tax dollars does one important thing that most commentary will not cover. With public funds paying for a part of the project, the project becomes a public work and therefore workers on the project must be paid the prevailing wage.

Consider the Supreme Court ruling of August 22, 2002; "PA State Building and Construction Trades Council AFL-CIO versus Prevailing Wage Appeals Board, no. 59 01 60 01. In that ruling the Court makes it clear that the requirements of the Prevailing Act were met. Quoting from the decision:

43 P.S. § 165-5 of the [Wage] Act requires that: Not less than the prevailing minimum wages as determined hereunder shall be paid to all workmen employed on public work. Thus, only workmen who labor on "public work" must be paid the minimum prevailing wage. Section 2(5) of the [Wage] Act, 43 P.S. § 165-2(5), defines "public work" as: Construction, reconstruction, demolition, alteration and/or repair work other than maintenance work, done under contract and paid for in whole or in part out of the funds of a public body where the estimated cost of the total project is in excess of twenty-five thousand dollars ($25,000), but shall not include work performed under a rehabilitation or manpower training program.

The Court concluded the conditions outlined under 43 P.S. §165-5 of the [Wage] Act regarding "covered" projects were in fact found in the TIF project in question. Thus, the Court has established ample precedent to show that any construction project as described in the Act is a “public work” and if the value exceeds $25,000, must fall under the Prevailing Wage Act and workers must be paid prevailing wages.

In all likelihood, the construction of the project in question—with an estimated cost of $134 million—would have been built with union, prevailing wage labor anyway, so the prevailing wage requirement would be moot. However, now that the state tax dollars have been provided, there is no way for the contractors to avoid legally the payment of prevailing wages. Indeed, one can interpret the $4 million as help toward paying the extra 20 to 30 percent in wages and benefits that will be required compared to the wages non-union workers would earn.

Indeed, as we noted in a *Policy Brief (Volume 3, Number 7)* eleven years ago, tax increment financing of projects usually provided enough tax dollars to cover the extra costs incurred because of prevailing wage requirements. A real boon for contractors and developers who in Pennsylvania face extremely hostile labor environments and have to factor in the extra costs prevailing wages add to the projects they bid on.

Our *Policy Briefs* have long ago demonstrated the costly effects on public projects such as schools imposed by prevailing wage requirements. But little has been written about the surreptitious way of making private projects into public projects through any type of public funding being used on the project.

Perhaps it is time for the Legislature to amend the Prevailing Wage Act to remove the provision that says that a project becomes a public work if any part of the project is funded by public funds. Either that or stop providing funds to support private projects. Preferably, they should do both.

Little wonder developers in the state are always at the government’s fund dispersing offices, along with local officials with ties to union voters, looking for project funding help. All this is unhealthy for the economy at many levels. And as we saw in the survey of Pennsylvania businesses we wrote about earlier this summer (*Policy Brief Volume. 14, Number 37*) none of this is helping the state’s–or the Pittsburgh region’s—image in terms of business friendliness.

Old habits are hard to break, especially when powerful interest groups are opposed to meaningful change, but at some point the Commonwealth must summon the courage to fix these counterproductive policies.

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