

# PENNSYLVANIA'S PREVAILING WAGE

October 11, 2011



## SENATE LABOR & INDUSTRY COMMITTEE TESTIMONY

Since the enactment of Pennsylvania's prevailing wage law in 1961, the wage determination, work responsibilities, fringe calculation, and enforcement of this act have not adjusted to today's public works climate. In the meantime, progressive construction companies are striving to recruit, educate, train and retain the best employees to help their companies grow and succeed. This lack of progression has brought forth obstacles, barriers, and penalties for these companies trying enhance their employer/ employee relations while working within the confines of this 50 year old law and archaic employment concepts. It is time for Pennsylvania's prevailing wage to be brought up to date and developed to be an open and fair process for **ALL** contractors and employees working in the public works sector. Examples of conflicting procedures which creates an unfair playing field include:

### Working Under a Collective Bargaining Agreement

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|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Job Responsibility         | Prevailing Wage work responsibilities (the work a laborer does vs. the work an electrician does) are enforced using regional union trade agreements which are confidential and only available to contractors who work under a collective bargaining agreement and the unions                                                                                                          |
| 2. Fringe Benefit Calculation | Employees under a collective bargaining unit are paid their benefits under a specified dollar / hour rate (the rate is split into health care, vacation time, sick time, pension, etc.). The fringe benefit calculation for prevailing wage is based on the area collective bargaining unit fringe and enforced as a mandated payment/ hour for all employees on working on the site. |
| 3. Apprenticeship Ratio       | The number of apprentices/journeymen working on a job is contingent on the collective bargaining agreement and negotiated between the employers and the union. In some cases, the contracts state that the ratio is flexible on a job/job basis for economic reasons [i.e.: to win work].                                                                                             |
| 4. Mutli-Tasking              | Work rules between the numerous trades are clearly defined. The workers only work on their regulated tasks. An electrician cannot move wiring from the construction pile- it is for a laborer. Moving roof shingles from the first pile to the site is not the responsibility of the roofer – it is for a laborer.                                                                    |

### Not Working Under a Collective Bargaining Agreement

- Job Responsibilities on public work are not available to contractors who are not signatory to a collective bargaining agreement. These companies are then forced to guess the job responsibilities during the bid process and allocation of work on a worksite (i.e. do you pay a laborer rate for moving roofing materials to the roof or pay a roofer rate). If the contractor guesses wrong, the contractor is penalized.
- Companies use their benefits to help recruit and retain quality and skilled workers. These companies are using numerous benefit options to enhance their employment goals (cafeteria plans - health care, vacation/ sick time, education reimbursement, pension/401K plans, flex time, tools, cars, etc.). Cafeteria plans are not considered adequate benefits under Prevailing Wage forcing companies to fit the union's fringe rate/hour into their already established benefit package.
- To change an apprenticeship/journeymen ratio, the ratio change must be approved by the Pennsylvania State Apprenticeship Council (SAC): a council administered by L&I. The SAC is also responsible for approving all apprenticeship programs. The SAC has a history of political and professional bias and continually obstructs ratio changes when requested.
- Employees on worksites multi-task to complete assigned tasks and projects. For example: Carpenters move the materials to the site and clean up the worksites. Without the enforceable job responsibilities made public in the beginning of the bid process and project, contractors and their employees have to guess what is the trade pay rate is for the work. If the guess is wrong, the contractor is penalized.

Contractors and employees working in the public sector arena are hindered by the 50 year old Prevailing Wage law. The rules and enforcement interpretations have remained stagnate since 1961 even though the companies have changed their efforts to hire, educate, train and retain quality and skilled workers. It is time to acclimate this archaic law in to the construction climate of 2011. **ALL contractors should have a state-wide uniformed set of job responsibilities for all public works projects (enforced consistently); the fringe benefit should reflect ALL benefit plans for employees; the apprenticeship ratio should be consistent for ALL (regardless of labor affiliation) programs approved by the SAC; and an understanding should be granted to those companies and employees who CHOOSE to multi-task their efforts to complete a project on time and within budget.**

Thank you—Hank Butler, Executive Director, PennCGC