



Michigan Project Labor Agreements: A Thing of the Past in Public Sector

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July 2011

On July 19, Michigan Gov. Rick Snyder signed into law Public Act 98 of 2011, which does all of the following:

- Prohibits all state, local and educational governmental entities in Michigan from entering into or expending funds under a contract for the construction, repair, remodeling or demolition of a facility if the contract or any subcontract requires contractors or subcontractors to become parties to any collective bargaining agreement (i.e., Project Labor Agreements);
- Prohibits these governmental entities from discriminating against bidders, contractors and subcontractors based on their status as parties or nonparties to, or willingness or refusal to enter into, collective bargaining agreements with respect to the underlying construction project or other related construction projects; and
- Prohibits these governmental entities from awarding any grant, tax abatement or tax credit that is conditioned or discriminates against a recipient based upon either the recipient's execution of a Project Labor Agreement or the recipient's status as a party or nonparty to a collective bargaining agreement.

The Act is prospective only in its application and has no impact on publicly funded construction projects, grants, tax abatements or tax credits that pre-date its enactment. It also has no impact on any prevailing wage requirements in publicly funded construction projects under either the federal Davis-Bacon Act or Michigan's Prevailing Wage Law, MCL 408.551 et seq.

Practical Impact:

This new Act will certainly facilitate, to a certain degree, the bidding on and participation in publicly funded construction projects by contractors and subcontractors who are not parties to collective bargaining agreements with building trades labor unions. It will also likely force those contractors and subcontractors who are parties to such labor agreements to 1) seek ever more cost-efficient methods of doing business, 2) maximally "sharpen their pencils" in submitting bids on such projects, and 3) seek the cooperation of the building trades unions in maintaining competitive pricing and the offering of workers who possess superior skills.

With the carve-out for prevailing wage projects, however, the impact of this new legislation is softened considerably, since many if not most publicly funded projects are still subject to either federal and state prevailing wage requirements. In turn, those prevailing wages are typically pegged via reference to whatever wages and benefits are specified in the building trades labor agreements for a particular locality. Thus, the absence of a Project Labor Agreement requirement may not have a huge impact on those projects.

It is not unrealistic, though, to forecast that the biggest losers under this legislation may eventually be the jointly-administered, multi-employer fringe benefit funds established in the building trades collective bargaining agreements.