



CCM 2013 Testimony

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LABOR & PUBLIC EMPLOYEES COMMITTEE

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The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 92% of Connecticut's population. We appreciate the opportunity to testify on issues of interest to towns and cities.

Connecticut's Mandated Prevailing Wage Thresholds: *Not Repeal. Not Reform. Just Adjust.*

Good morning. My name is Leo Paul, First Selectman from the town of Litchfield. I am here today on behalf of CCM, and thank you for this unique opportunity to testify before the Labor Committee regarding the prevailing wage mandate. It is my hope that today's forum is a precursor to a legislative public hearing during the 2014 session on actual proposed bills.

As the Legislature deliberates means of providing serious mandates relief for their partners in local government – it is imperative that political allegiances are placed aside in order to effect actual relief. Hometown leaders from both parties are realistic and recognize the political sensitivity of modifying any state mandate. For this reason, local leaders seek *reasonable* compromises from increased construction costs known as “prevailing wages”.

Make no mistake, **municipal officials want all workers to be paid fair wages** but, the out-dated prevailing wage thresholds that trigger this unfunded state mandate are long overdue for an adjustment.

Rather than just present our concerns with this onerous mandate – **we have concrete solutions** that, if enacted, would provide tangible relief to strained local services and our property taxpayers.

Recommendation #1:

- ✦ Amend §31-53(g) to adjust the thresholds for (i) renovation construction projects, from \$100,000 to \$400,000; (ii) new construction projects, from \$400,000 to \$1 million, and (iii) index for inflation thereafter.

Reason:

Appropriate thresholds for remodeling, refinishing, refurbishing, rehabilitation, alteration -- as well as new construction -- are essential to allowing municipalities the ability to manage their limited resources. This proposal to adjust would free-up state and local dollars, jumpstart and expand projects, and protect and create jobs. The alternative -- looming layoffs and shelved projects should not be an option.

Precedent:

The prevailing wage thresholds have not been adjusted since 1991. Prior to 1991, legislators adjusted prevailing wage thresholds on a six-year schedule:

- 1979 – P.A. 79-325: set project thresholds at \$10,000 for renovations and \$50,000 for new construction.
- 1985 – P.A. 85-355: adjusted thresholds to \$50,000 for renovations and \$200,000 for new construction.
- 1991 – P.A. 91-74: adjusted thresholds to \$100,000 for renovations and \$400,000 for new construction.

Real World Impact:

The reality of the prevailing wage mandate on hometowns can be felt in projects big and small (*see adjacent table – excerpts from a 2011 CCM survey of local projects forced to pay added costs*).

The town of Harwinton’s experience is illustrative of the problem. Town officials had plans for a town garage.

The cost estimates for this project without prevailing wages was \$1,300,000 – however, because of this state mandate, prevailing wages were required thus, raising the costs to \$1,800,000. **Translation: in order for the town of Harwinton to build a garage, local taxpayers had to fork over an extra \$500,000 because of the prevailing wage state mandate.** That is the opposite of efficient spending, particularly in an era when local dollars are stretched to the max.

2011 CCM Survey Results (excerpts): Local Projects

Affected

Avon: A library renovation project that triggered the prevailing wage threshold.

Bristol: Had two large school projects that will be taking place in the City. Bids were just issued to construction companies, prevailing wage thresholds were triggered for both projects.

Cheshire: Had several large projects within the last year that triggered prevailing wage: (1) sewer treatment project, this is a \$30 million dollar project, (2) roofing projects at two schools this summer (3) turf installation project at the high school, also slated to take place this summer – prevailing wages will raise the costs of each project.

Farmington: Had two projects scheduled over the last year that triggered prevailing wage -- both of which have gone out to and come back from bid; (1) a multi-use trail, and (2) a street skate project.

Manchester: Had 15 large construction/renovation projects scheduled over the next year that have triggered the prevailing wage thresholds.

Portland: Had a water pollution project scheduled, total cost of the project was around \$850,000, which triggered prevailing wage mandated benefits.

Stonington: Underwent a sewer treatment project, total project cost was \$18 million – causing additional mandated prevailing wage benefits.

Waterbury: Had 10 large construction/renovation projects scheduled, each of which triggered the prevailing wage threshold, three of these projects currently out to bid.”

Recommendation #2:

- ✚ Clarify statutory definitions and **improve the process for determining whether a project is new construction or repair/renovation** which often serves as a deterrent to break ground on projects.

Reason

The process itself for determining whether a project is new construction or repair/renovation can be arbitrary and flawed.

Real World Impact:

Examples abound -- again, in the town of Harwinton just a few years ago, there was a project involving funds from a STEAP grant for \$236,000 to extend a water line from the elementary school to the town offices and some local businesses. The Regional School Board had contracted and paid for the waterline to the school, which was done three years before the town of Harwinton received the STEAP grant. The contract was a separate agreement between the Water Company and the Town -- and was under the \$400,000 mandated threshold. However, the state Department of Labor dictated that Harwinton's contract was a continuation (i.e. a renovation) of the School Board's contract and therefore, was subject to the lower prevailing wage threshold of \$100,000. **Again, because of this unfunded state mandate on municipalities – Harwinton was forced to scrape together an additional \$56,000. Why?**

The town of Goshen is another example for the need to sync statutory definitions with practical application. In 2011, Goshen was in the process of replacing the Dam at Tyler Lake. This was a project that required the removal of the entire structure, including soils. The provisions of §31-53(g) are very clear:

“The provisions of this section do not apply where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of any public works project is less than four hundred thousand dollars or where the total cost of all work to be performed by all contractors and subcontractors in connection with any remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project is less than one hundred thousand dollars.”

Despite the fact that nothing of the original structure remained, the Department of Labor insisted that it be classified as a “repair”. As a result, the project triggered the \$100,000 mandated threshold and in doing so, the costs were arbitrarily increased.

Amending (or recommendations to amend) laws that mandate hometowns pay inflated prevailing wages is not a radical idea. In fact, some states have adjusted their laws to reflect economic realities and the concerns of local officials. **“Five states have changed their prevailing wage thresholds since 2010.** Alaska, Indiana, and Wisconsin significantly raised their thresholds applying to all public works projects. Ohio increased thresholds for projects that did not involve road or bridge construction and Vermont lowered its threshold,”¹ which is now equal to Connecticut's threshold for remodeling at \$100,000.

The results have been that relief – even if only temporary – is a way for state and local governments to make more efficient investments in infrastructure, while using the same amount of taxpayers' money. For example: the state of Michigan suspended its prevailing wage rate law from December 1994 to June 1997. According to

¹ The Prevailing Wage,” OLR Research Report 2013-R-0393, 10/21/13.

a study, "Prevailing Wages: Costs to State and Local Governments", conducted by Frank Gamrat, Ph.D., of the Allegheny Institute for Public Policy, state and local governments in Michigan spent about \$2.51 billion in construction projects in FY 1995. The study assumes a 10% increase in construction costs as a result of the prevailing wage law, thereby estimating that Michigan saved \$251 million in FY 1995. From December 1994 to June 1997, the period during which the law was suspended, 116 new construction jobs emerged for every 1,000 jobs overall, a 48% increase over the 30 month period before Michigan's moratorium. "In one school renovation project, for example, the winning non-prevailing wage bid was 16 percent less than the lowest [bid]..."²

The Public Policy Foundation of West Virginia made similar recommendations based on their analysis of the prevailing wage state mandate. Submitted by West Virginia University's Department of Economics -- the reported recommended, among other things, that legislators "**create an exemption to the prevailing wage for schools...**The 30 percent (or more), as stated by the school administrations in the "1990 West Virginia Prevailing Wage Study," schools must spend to construct facilities results in both fewer new schools and less money to spend on other areas of education such as teacher salaries, textbooks, supplies, and other educational resources."³

Conclusion:

Attempts to compare Connecticut to the myriad of state prevailing wage laws across the country can be misleading and not reflective of the totality of the mandate's impact specific to our state. While it is true that some states have lower mandated-thresholds than Connecticut -- it is also true that some states have higher mandated-thresholds than Connecticut. For example, **Maryland has a higher threshold for new construction while Indiana, Kentucky, and Maryland have higher thresholds for remodeling projects.**⁴ It is also true that over one-third of the states do not have any prevailing wage laws at all -- including New Hampshire (eight states have never had such laws -- while ten have either repealed their prevailing wage laws or were deemed invalid by court order).⁵

Given the above statistics, the fact remains: **Connecticut is more dependent on property taxes to fund local government than any other state in the nation.**⁶ The revenue options available to Connecticut's towns and cities are considerably limited by state statute when compared to other states. All this means is that, in-terms of generating own-source revenue, our hometowns are effectively restricted to just the regressive property tax thus, creating an "apples to oranges" assessment when examining the feasibility of any state mandate -- particularly prevailing wage -- among other states. **In short, Connecticut's municipalities are handcuffed and cannot afford to operate under the current out-dated prevailing wage thresholds.**

Arguments that the prevailing wage mandate ensures better safety and quality are unsubstantiated. Proponents of the prevailing wage status quo have failed to submit supporting evidence that private-sector (non-prevailing wage) structures are less safe or of lower quality than public (prevailing wage) structures, or that non-union firms are less capable. In fact, Occupational Safety and Health Administration (OSHA) data shows that "**accident rates did not increase in states that repealed their prevailing wage laws and also that accident rates are in fact higher in prevailing wage states than in states that never had such a law** (Thieblot 1996:18-

² "Prevailing Wage Laws: Public Interest or Special Interest Legislation?" Cato Journal, Vol. 30, No.1; George C. Leef

³ "An Economic Examination of West Virginia's Prevailing Wage Law," the Public Policy Foundation of West Virginia. January 2009.

⁴ "The Prevailing Wage," OLR Research Report 2013-R-0393, 10/21/13.

⁵ Ibid.

⁶ Based on data from the U.S. Census Bureau and Tax Foundation.

23)".⁷ After suspending the state mandate in Ohio, specific to school construction projects, officials "sought to ascertain whether the suspension had led to a decrease in work quality. A study by the Ohio Legislative Service Commission (2002:11) found that **91 percent of the school district officials surveyed stated that there was no change in the quality of work done** while open bidding was allowed; of the remaining 9 percent, only 3 percent said that quality had fallen while 6 percent said it had improved."⁸

Simply put, proponents of the status quo cite safety, quality of work, and training as vital components of the construction industry that would be greatly compromised if adjustments to the thresholds were made in Connecticut. This argument fails. **There is no credible evidence to support the claim that those states without prevailing wage mandates build sub-quality structures** and operate with an inferior-trained workforce than in states that mandate prevailing (higher) wages.

Given these findings, it is imperative to reiterate that Connecticut local officials merely request adjustments to the thresholds that trigger the state prevailing wage mandate.

Studies (old and new) draw the same conclusions: **prevailing wage mandates inflate project costs.**

- A 1995 Connecticut Advisory Commission on Intergovernmental Relations study concluded that prevailing wage rates increase construction costs to towns and cities upwards of 21% annually;
- A 1996 Legislative Program Review and Investigations report pegged the increase in costs caused by the prevailing wage mandate at around 4 to 7%;
- The Wharton School of Business has reported the figure to be upwards to 30%;
- In December 2001, the Kentucky Legislative Research Commission determined that the prevailing wage mandate resulted in a 24% increase in the wage cost of state and local projects;
- The 2009 Public Policy Foundation of West Virginia released a study which concluded that West Virginia's average state prevailing wage rate is at least 49%, and as high as 74% above the state's true market prevailing wage, stating that as many as 1,500 more jobs could have been created if the state mandate were repealed or amended.

A **2012 comprehensive study** on the topic, conducted by Columbia University's Center for Urban Real Estate, recommend, among other things:

"Under Governor Andrew Cuomo's NY Works capital plan, 45 agencies and authorities will spend some \$16 billion annually rebuilding New York's infrastructure. Of that, some \$6 billion will be spent on labor, much of it at **artificially high prevailing wages misallocating some \$2-3 billion** which could productively be used to employ more workers and rebuild more infrastructure. **These billions would be more equitably spent hiring additional workers, which would result in getting more projects moving and far more of New York rebuilt** [emphasis added]."⁹

Regardless of the era certain studies are conducted, and their varying estimated percentage cost increases -- **there is no dispute that the prevailing wage mandate forces municipalities and the State to pay millions of extra dollars every year for public works projects.** Precious state and local tax dollars are squandered. Worthy projects such as school construction, highway and bridge repairs are left undone.

⁷ "Prevailing Wage Laws: Public Interest or Special Interest Legislation?" Cato Journal, Vol. 30, No.1; George C. Leef

⁸ Ibid.

⁹ "The Complex World of New York Prevailing Wage". Vishaan Chakrabarti, AIA & Jesse M. Keenan; June 5, 2012. Columbia University, Center for Urban Real Estate.

The reward for the State as a whole greatly outweighs any possible impact on special interests. Others agree: in 2006, the state Department of Public Works testified before the General Assembly's Labor & Public Employees Committee that it "makes sense to raise the thresholds" and that the State could actually save money by being able to get more construction work accomplished while using the same amount of funds.¹⁰ The Hartford Courant later concurred, stating that "Raising the threshold will at least bring the state a little closer to the 21st century."¹¹

Local officials seek the political fortitude necessary to effect change.

Don't repeal the prevailing wage mandate in Connecticut – simply update it by (1) adjusting the thresholds, and (2) improving the process by which local projects must comply with this unfunded state mandate.

The recommendations are a sensible compromise and the right thing to do.

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If you have any questions, please contact Robert Labanara, State Relations Manager of CCM via email rlabanara@ccm-ct.org or via phone (203) 498-3000.

¹⁰ Testimony of the Connecticut Department of Public Works, House Bill 5741, March 10, 2006.

¹¹ "Update Prevailing Wage Law", Hartford Courant Editorial, page A10. May 2, 2007