

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

HOUSE STATE GOVERNMENT COMMITTEE HEARING

STATE CAPITOL
RYAN OFFICE BUILDING
ROOM 205
HARRISBURG, PENNSYLVANIA

WEDNESDAY, JANUARY 24, 2018

IN RE: HOUSE BILL 1849
PROHIBITING DISCRIMINATORY PROJECT LABOR AGREEMENTS

BEFORE :

HONORABLE DARYL METCALFE, MAJORITY CHAIRMAN
HONORABLE MATTHEW BRADFORD, MINORITY CHAIRMAN
HONORABLE CRIS DUSH
HONORABLE SETH GROVE
HONORABLE KRISTIN HILL
HONORABLE JERRY KNOWLES
HONORABLE JOHN LAWRENCE
HONORABLE BRETT MILLER
HONORABLE FRANK RYAN
HONORABLE THOMAS SANKEY
HONORABLE CRAIG STAATS
HONORABLE JUSTIN WALSH
HONORABLE JUDY WARD
HONORABLE JEFF WHEELAND
HONORABLE DONNA BULLOCK
HONORABLE PAMELA DeLISSIO
HONORABLE ISABELLA FITZGERALD
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1 P R O C E E D I N G S

2 * * *

3 MAJORITY CHAIRMAN METCALFE: This meeting of the
4 House State Government Committee today is a public hearing
5 on House Bill 1849 authored by Representative Bloom.

6 Before we get started, I'd ask everybody to
7 please rise.

8 And, Representative Wheeland, could you lead us
9 in the Pledge, sir?

10 (Pledge of Allegiance)

11 MAJORITY CHAIRMAN METCALFE: Thank you,
12 Representative Wheeland.

13 Representative Bloom is with us and he's going to
14 make a few opening remarks about his legislation and then we
15 would invite the prime sponsor to sit with the Committee, if
16 he'd like, through the hearing.

17 Before we start the opening remarks, we'll take a
18 quick roll call. That will certainly vary throughout the
19 morning. We'll have members coming and going most likely
20 with other responsibilities they have to attend to this
21 morning in addition to this hearing.

22 Representative Hill, Madam Secretary, could you
23 call the roll, please?

24 (Roll call)

25 REPRESENTATIVE HILL: Thank you, Mr. Chairman.

1 MAJORITY CHAIRMAN METCALFE: Thank you,
2 Representative Hill.

3 Representative Bloom, we're happy to hear
4 whatever opening remarks you'd like to share with us, sir.

5 REPRESENTATIVE BLOOM: Thank you, Mr. Chairman.

6 And I do thank you, members of the Committee, as
7 well, staff, and other testifiers, for holding this hearing
8 today on House Bill 1849.

9 One of the ongoing duties of government is to
10 improve efficiency in public construction projects to
11 preserve taxpayer resources. Efficiency can better be
12 accomplished if we encourage open competition amongst
13 potential contractors.

14 In accordance with this goal, I have introduced
15 legislation known as the Open Contracting Act barring the
16 use of project labor agreements on taxpayer-funded
17 construction projects.

18 Project Labor Agreements, or PLAs, include labor
19 terms and conditions for construction projects, often
20 incorporating terms from collective bargaining agreements of
21 unions to be involved in the project. By limiting bidders
22 and imposing inefficient rules, PLAs drive up taxpayer costs
23 on projects. I believe these PLAs also discriminate against
24 merit shop contractors, workers, and other businesses.

25 Over 80 percent of our construction industry

1 workers belong to nonunion shops. Since PLAs exclude local
2 nonunion workers, PLAs not only drive up taxpayer costs, but
3 they also discourage local hiring and job creation.

4 I look forward to the testimony this morning and
5 I appreciate your consideration of this important
6 pro-taxpayer, pro-jobs legislation, of House Bill 1849.

7 Thank you, Mr. Chairman.

8 MAJORITY CHAIRMAN METCALFE: Thank you,
9 Representative Bloom. And as I mentioned, you're welcome to
10 sit with the Committee if you'd like to.

11 Before we invite our first guest up, just a
12 reminder for members, as I've done at past hearings. This
13 is a public hearing. Those testifying today are guests of
14 the Committee and they are not here for the members to
15 debate with. They're here to share information with us, for
16 us to question them, to gather information from them because
17 of their expertise and what they're testifying on.

18 So we ask all the Committee members to limit your
19 interaction with our guests to questions that we can get
20 answers from them on as we enter the Q&A period with each
21 testifier and not turn into a debate with the testifiers.

22 We will debate amongst each other at a future
23 date on the issue, I'm sure. Today we're just gathering
24 information.

25 With that, I'd like to invite Mr. Mark Eckman.

1 He's the President of J.D. Eckman, Incorporated.

2 Good morning, sir. Thank you for joining us.
3 You can begin when you're ready. We'll have about ten
4 minutes of testimony time and then we'll have about ten
5 minutes of Q&A with you if that's good for you.

6 MR. MARK ECKMAN: I apologize ahead of time. I'm
7 not a big public speaker.

8 Good morning, Chairman Metcalfe, Chairman
9 Bradford, and members of the House State Government
10 Committee. My name is Mark Eckman. I'm president of J.D.
11 Eckman, Incorporated, a family-owned road and bridge
12 construction company started in 1945 by my grandfather.

13 Based out of Atglen, Pennsylvania, J.D. Eckman
14 performs tens of millions of dollars' worth of road and
15 bridge work for the Pennsylvania Department of
16 Transportation annually. In fact, Eckman has completed
17 nearly a billion and a half dollars of work for PennDOT in
18 its history.

19 We are also members of the Associated Builders &
20 Contractors, ABC, a national construction trade association
21 with more than 20,000 members across the United States and
22 nearly 2,000 in Pennsylvania alone. ABC is dedicated to
23 promoting, protecting, and defending free enterprise and
24 open and fair competition in the construction industry and
25 has preserved the rights of thousands of merit shop

1 companies like J.D. Eckman.

2 On behalf of J.D. Eckman and the Associated
3 Builders & Contractors, I would like to offer our support
4 for House Bill 1849, or the Public Works Contracting Act.
5 This legislation would not only ensure that all of
6 Pennsylvania's contractors have an equal opportunity to bid
7 and perform public work, but it would also protect taxpayer
8 funds by ensuring that the most efficient process is
9 utilized for selecting Public Works contractors.

10 Simply put, HB 1849 would prohibit the use of
11 prehire collective bargaining agreements known as Project
12 Labor Agreements that are negotiated by a project owner and
13 labor unions to exclude nonunion contractors from the
14 bidding process.

15 My comments this morning primarily concern
16 Project Labor Agreements in regards to PennDOT work, as that
17 is the area I'm most familiar with. As I'm sure you are
18 aware, PennDOT has advertised a project in Montgomery County
19 for Phase 2 of Markley Street reconstruction that requires a
20 union-only Project Labor Agreement, or PLA as they are
21 commonly referred to.

22 PLAs are discriminatory as they restrict nonunion
23 companies from fairly participating in the procurement of
24 Public Works contracts. These agreements included in bid
25 documents for projects mandate that prospective bidders must

1 utilize a labor force from predetermined labor halls rather
2 than using their own employees.

3 PennDOT has taken the position that Eckman and
4 other nonunion companies can bid projects with PLAs.
5 Respectfully, we cannot do so. We could not use any of our
6 own worker forces but would have to bid and complete the
7 project with the union-supplied workforce.

8 I would say that is akin to you being asked to
9 write legislation but be restricted from using your own
10 staff and required to use the staff supplied by the opposing
11 party. I think you can determine for yourself what quality
12 of people you would get and how interested they would be in
13 helping you complete the project.

14 It would be impossible for nonunion contractors
15 to fairly and competitively bid projects requiring PLAs.
16 PLAs restrict competition and ultimately cost the
17 Pennsylvania taxpayers money.

18 As I mentioned earlier, PennDOT has advertised a
19 project in Montgomery County for Phase 2 of the Markley
20 Street reconstruction that requires a PLA. One needs look
21 no further than Phase 1 of the Markley Street project to see
22 the higher cost of requiring union-only contractors.

23 J.D. Eckman was the low bidder on that project
24 with a bid of \$20,825,000. The second bidder was Road-Con
25 with a bid of \$21,351,000. Road-Con is signatory to the

1 USWA, United Steelworkers of America, Union. USWA were not
2 part of the original PLA advertised for the second phase of
3 the Markley Street project. However, the recent rebid of
4 the project allows USWA bidders to use their own workforce
5 but does not allow nonunion contractors to do so.

6 The third bidder on the Markley Street project
7 was Highway Materials, which is a contractor signatory to
8 the unions in the PLA, with a bid of \$22,344,000. The
9 difference between Eckman's nonunion low bid and Highway's
10 trade union's bid is over \$1.5 million. This is one and a
11 half million the Commonwealth would have spent on just one
12 project had it insisted on a PLA union contractor. Multiply
13 that by dozens of projects and you can see how costly this
14 will become.

15 I'm going to skip ahead a little if you're
16 following my written testimony.

17 In addition, I would argue that PLAs are
18 unnecessary for PennDOT, as they already have a
19 pre-qualification system. A contractor must be
20 pre-qualified with PennDOT to bid on their contracts.
21 Pre-qualification includes proving you have successfully
22 completed the type of work before and that you have the
23 financial capacity to do the work.

24 As part of the pre-qualification system, Eckman
25 has provided PennDOT financial statements, evidence of

1 credit lines, lists of equipment owned, and history of
2 projects completed. PennDOT has pre-qualified Eckman for
3 virtually every type of work and has deemed Eckman to have
4 unlimited financial capacity when it comes to the amount of
5 contracts it can execute with PennDOT. This
6 pre-qualification system ensures PennDOT contracts with
7 capable, experienced, financially sound contractors, and
8 makes the need for PLAs unnecessary.

9 Transportation Secretary Richards has put forth
10 the argument that PLAs are valuable in that they provide an
11 adequate supply of skilled labor, prevent work stoppages,
12 and can assist in having projects completed on time and
13 under budget. This is a prime example of finding problems
14 to fit their solution.

15 None of these reasons provide sufficient evidence
16 of the need for a PLA. PennDOT's pre-qualification system
17 ensures it contracts with companies that have adequately
18 skilled labor. Eckman has nearly 500 skilled, trained, and
19 experienced workers. Adequate supply of labor is not an
20 issue. To my knowledge, there has never been a work
21 stoppage on a PennDOT project due to labor issues. I am
22 certain there has never been one on an Eckman project.

23 Lastly, I see no legitimate correlation between
24 costs or time overruns in regards to union versus nonunion
25 contractors. Secretary Richards has put forth a spreadsheet

1 that purports to show that union contractors finish projects
2 more on time and on budget than nonunion contractors. This
3 list was hand-chosen by the Department to justify an already
4 made decision to implement PLAs. Any conclusion drawn from
5 this small sample size of projects would be unfounded.

6 As Secretary Richards' accompanying letter
7 indicates, the time and cost overruns listed are done so,
8 and I quote, without regard for cause.

9 Three of the ten listed nonunion contracts on
10 this sheet are Eckman projects. I could bore you with the
11 details of the causes for the time delays and cost overruns
12 and I've included the specifics in my written submission but
13 will not read them to you this morning.

14 In summary though, all delays on these projects
15 were at the request of the Department or due to changes in
16 scope of work the Department requested. All additional
17 costs were for additional work requested by the Department,
18 not for contractor issues.

19 Extra work included -- I mean, there was one
20 project, one contract, for two bridges. They actually added
21 two more bridges to it. There was a job where they added
22 2.25 miles of paving. No PLA or union contractor would have
23 prevented these Department-approved changes in time and
24 money.

25 One project not listed is the aforementioned

1 Markley Street Phase 1 project. Eckman completed this
2 project one year ahead of schedule. Let me repeat that.
3 This project, which is perhaps the best project to use in
4 comparison to the advertised Markley Street Phase 2 project,
5 was completed a year ahead of schedule by a nonunion
6 contractor without a PLA.

7 Secretary Richards herself came to the ribbon
8 cutting and lauded the early completion of this project.

9 Clearly there's no correlation between project
10 overruns in cost and time and a company's union status.
11 Almost all cost overruns and delays are the result of
12 unforeseen conditions in the plans or additional work
13 requested by the owner.

14 Had these delays or extra work items been the
15 fault of Eckman, we would not have received the time
16 extensions and payments for extra work that we did. It is
17 misleading and fraudulent for PennDOT to purport this
18 document as evidence of the necessity for PLAs.

19 In conclusion, I know that PennDOT has tried to
20 portray this PLA project as a pilot, a one off to test its
21 results. I question what viable information can come from
22 this one project. What are they going to compare it to,
23 Markley Street Phase 1, which didn't have any of the issues
24 they say PLAs could eliminate?

25 If we are totally honest, everyone in this room

1 knows that the true reasons for implementing PLAs has
2 nothing to do with the stated reasons that I already
3 mentioned. The true reasons are to strengthen and further
4 the political support for this Administration from the trade
5 unions.

6 To Eckman employees, this strikes at the very
7 heart of their livelihoods. Eckman and its employees were
8 signatory to the USWA until 2004, when they voluntarily and
9 through their own choice decided to abandon the union and
10 pursue the free-enterprise system.

11 Now PennDOT takes the position they are no longer
12 qualified to work on these projects because they don't
13 subscribe to being represented by Philadelphia union bosses.
14 I urge you to vote in favor of House Bill 1849, not because
15 it will change the bidding process in Pennsylvania but
16 because it will preserve the current construction bidding
17 process in place, a process that favors open competition,
18 best pricing for the Commonwealth, and the interests of all
19 Pennsylvania workers.

20 Thank you.

21 MAJORITY CHAIRMAN METCALFE: Thank you, sir.

22 The first question is from Representative
23 DeLissio.

24 REPRESENTATIVE DeLISSIO: Thank you, Mr.
25 Chairman.

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Good morning, Mr. Eckman.

MR. MARK ECKMAN: Good morning.

REPRESENTATIVE DeLISSIO: Thank you for being here today.

Just a couple of quick questions. I appreciate learning about this issue. Is there anything that precludes your company or a like similarly situated company from bidding for PLA jobs?

MR. MARK ECKMAN: Legally, no, but I cannot do so. And I can't bid and estimate a project with a workforce I've never seen. I can't and I wouldn't strictly.

I mean, first of all, I don't know how I would even price that project. And second of all, as one of the largest contractors in District 6 PennDOT, I mean, I obviously have the attention of the unions. We know each other well.

In fact, I had lunch with the Labor Union just this month. I wouldn't say we have an adversarial relationship. We oppose each other. I openly have told them that I intend to remain nonunion. And they have openly told me that they would like to organize Eckman.

So you can imagine if I did this one PLA what kind of cooperation I would get. I mean, I know I've had a painting subcontract in the past that had a one-project PLA. And he was frustrated to the point in getting qualified

1 labor, getting people that would actually work with him,
2 until he signed a national agreement and then he got
3 cooperation. I fear that I would have the same issues.

4 REPRESENTATIVE DeLISSIO: I appreciate that. And
5 very quickly, are you aware of any data that sort of states
6 how many projects within any time period, maybe the last
7 five years, have been issued or the last maybe ten years
8 issued as PLA work only versus non-PLA?

9 Are these dollars one category or the other
10 outpacing?

11 MR. MARK ECKMAN: PennDOT has never done a PLA in
12 its history. This will be a first.

13 REPRESENTATIVE DeLISSIO: PennDOT has not done a
14 PLA previously?

15 MR. MARK ECKMAN: Yes. This will be a first.

16 REPRESENTATIVE DeLISSIO: Thank you.

17 Thank you, Mr. Chairman.

18 MR. MARK ECKMAN: You're welcome.

19 MAJORITY CHAIRMAN METCALFE: I think it's a
20 significant point that everybody should be made aware of
21 that PennDOT has never used PLAs in the past. This is their
22 first one?

23 MR. MARK ECKMAN: That is correct. And that's
24 why I mentioned that, you know, this bill preserves the
25 process that is in place and prevents them from changing the

1 process that has worked for decades for this state.

2 MAJORITY CHAIRMAN METCALFE: Thank you very much.

3 Other members?

4 Thank you very much for testifying today, sir.

5 MR. MARK ECKMAN: Thank you very much for having
6 me.

7 MAJORITY CHAIRMAN METCALFE: We had moved our
8 hearing time to 8:30 from what it was originally scheduled
9 due to session being called today at 10 from the normal 11
10 o'clock time. So we had to move up our schedule so that's
11 the reason why we did start at 8:30. Normally we'd start a
12 hearing at 9. But as we go through the testifiers, we're
13 going to try and stick to our time frame for each testifier.

14 With that, we'd like to invite Mr. Frank
15 Sirianni, President, Pennsylvania Building and Construction
16 Trades Council, to the microphone.

17 Sir, you can begin your testimony when you're
18 ready. We'd ask once again for about ten minutes' worth of
19 testimony and then ten minutes allotted for Q&A.

20 Thank you, sir.

21 MR. FRANK SIRIANNI: Thank you, Mr. Chairman.

22 And thank you, members of the Committee, for
23 allowing me to be here today to talk about Project Labor
24 Agreements and to share with you our side of the issue. I
25 hope that you all get a better understanding because there's

1 been some misinformation about this issue.

2 My name is Frank Sirianni. I'm from the
3 Pennsylvania State Building Trades Council. I'm not a union
4 boss. I'm a CEO of a non-profit such as all of our members
5 are. All of our local unions are non-profits. We have
6 presidents and members who are your constituents throughout
7 the Commonwealth.

8 As a matter of fact, we have 133,000 unionized
9 construction workers in the Commonwealth that are affiliated
10 through our Council through 98 local unions and 16 regional
11 councils. And if you look at the numbers from L&I who say
12 there's 300,000 construction workers in the state of
13 Pennsylvania, we have 133,000. If you check all our LMs,
14 you can come up with that number, which means we have a
15 third of the construction industry, not 10 percent or 20
16 percent or whatever is implied by some people to say that we
17 don't have a lot of construction workers and they do.

18 So to get that straight and right out of the box,
19 I think that's beneficial to everyone's knowledge here.

20 Along with that, we work in cooperation with over
21 2,900 contractors throughout the Commonwealth that are
22 signatory to our collective bargaining agreements in one way
23 or another. Some are national agreements, as mentioned
24 earlier, and some are statewide agreements. Some are local
25 agreements.

1 And again, they're constituents in your areas and
2 they're employing our members in your areas. They create a
3 good base for the local economies. And that is one of the
4 biggest issues with Project Labor Agreements, that it
5 guarantees local workers on local projects.

6 As was stated earlier, there is no restriction
7 against any employer to bid on a Project Labor Agreement
8 project. As to project labor in general, I would think that
9 you would be interested to know that that is a
10 private-public partnership, which I'm sure many of you in
11 this Committee and other committees have been talking about
12 a lot recently about the public-private partnerships and how
13 beneficial they are to the taxpayer.

14 Well, I would say eliminating Project Labor
15 Agreements as part of the public-private partnership issue
16 you would be restricting local government, school districts,
17 municipalities, and State government, from having a tool in
18 the toolbox to use. It's not mandated by anyone to use this
19 process, but it is a tool in the toolbox to achieve skilled,
20 qualified labor on a project, whether it's union or
21 nonunion. That is the process. It is a P3 of such.

22 So I'm sure that, you know, as you dig deeper
23 into this subject and drill down into it, you'll find that,
24 you know, it's not really that bad of a thing. I mean, I
25 know a lot of nonunion contractors that bid to union

1 contractors and other projects such as the bridge project,
2 the 512 bridges that are done around Pennsylvania.

3 I believe the last testifier may have a portion
4 of that bid to the union contractor that got that entire
5 award.

6 So getting back into the nuts and bolts of it,
7 I've heard testimony in other committees from large groups
8 -- well, supposedly large groups. Some of them don't have a
9 lot of construction companies; some might have a few
10 construction companies and they present themselves as being
11 a voice of the construction industry -- testifying at other
12 hearings that there's a shortage of manpower and that
13 they're having problems getting people coming into the
14 industry.

15 So this is another venue to make sure you have
16 manpower on the projects to make sure that the jobs are
17 completed by skilled craftspeople that have, by the way,
18 completed apprenticeship programs that are certified by the
19 State and by the Federal Government.

20 So all in all, when you get down to the depth of
21 it, you know, PLAs are mostly used in the private sector.
22 And as you know, we're from the private sector. We
23 negotiate our agreements in the free market, which is
24 another thing that a lot of people don't understand about
25 the building trades and our contractors and our labor

1 management relations.

2 We try to present to all end-users the best
3 quality worker that's available. Now, when someone who is
4 not with our organization has used our people, we appreciate
5 them using our people. We appreciate the fact that some of
6 the contractors, as we heard here earlier today, are having
7 conversations with some of our members throughout the State.

8 That's how you start things going. That's how
9 you get relationships. And that's how people move forward.
10 But to come out with just a bam, stop this right now because
11 we might have one or we're going to have one seems kind of
12 hard core. I'm not sure that, you know, you want to take
13 that position on an issue like this, you know.

14 It works for Toyota. It works for Honda. It
15 works for major industries across the United States, all the
16 power industries, the gas industry. All your electrical
17 power is provided, as I said in my testimony, by union
18 trades people.

19 So, you know, Three Mile Island, every time
20 that's torn apart and put back together, 100 percent union.
21 Okay. PP&L, all your gas companies, all your electric
22 companies, all your outages for your power plants, all done
23 by our members. So we're part of your community. We're
24 part of your workforce or your constituents.

25 And we would like the opportunity to have our

1 contractors and our organizations, our non-profits, with
2 CEOs, not bosses, not thugs, just good people like you and I
3 to have the opportunity to sit down with local governments
4 and talk to them one on one as we're talking here today and
5 give them the opportunity to use a PLA or why restrict them.

6 Why would you have a mandate that they couldn't
7 use one? I thought we were against mandates in this room.
8 But I may be wrong.

9 I will leave with that. And personally, no
10 offense to the maker of the bill, I just think it was a
11 little bit of misinformation that's been transformed around
12 here. We've had these hearings for several years.

13 I mean, I think it's been about since John Baer
14 was in the House of Representatives we had hearings and
15 protest rallies. They brought their people. We brought our
16 people. I think we won. I don't know. We're still going
17 to have restrictions against PLAs, which I think would be --
18 I think it would be a problem for local governments to be
19 restricted.

20 So I'll leave it at that. Thank you.

21 MAJORITY CHAIRMAN METCALFE: Thank you.

22 Members? Pam DeLissio.

23 REPRESENTATIVE DeLISSIO: Thank you for your
24 testimony. I appreciate it.

25 So, Mr. Sirianni, you're saying PLAs have been

1 used successfully in other sectors. Is that what I'm
2 hearing?

3 MR. FRANK SIRIANNI: Yes, that's true. They're
4 very common in the private sector. And again, saying that
5 with the intent at the Capitol to move towards
6 public-private partnerships, I would think this would be
7 part of that.

8 REPRESENTATIVE DeLISSIO: And those PLAs, sir,
9 are negotiated. They're not just an agreement.

10 MR. FRANK SIRIANNI: That's correct.

11 REPRESENTATIVE DeLISSIO: I mean, it is
12 negotiated in the true sense of the word of, you know, both
13 parties have to agree to what's in it, what the parameters
14 of the agreement are, etc.; am I correct?

15 MR. FRANK SIRIANNI: That's correct. And you may
16 find that in some PLAs throughout the Commonwealth and in
17 other states that their local collective bargaining
18 agreement for each draft may not be the final piece of
19 paper. They're tailored to each situation for each local
20 government or School District if they're being used in the
21 public sector.

22 REPRESENTATIVE DeLISSIO: And is my understanding
23 correct, when I have large, somewhat large construction
24 projects to my credit, my career, and we did not have a PLA,
25 but costs were certainly a concern, that we were controlling

1 costs and that cost overruns, etc.? So is this primarily a
2 mechanism to kind of contain the unknown, would you say, or
3 is there a primary other reason for a PLA?

4 MR. FRANK SIRIANNI: Well, there's several
5 reasons, of course. You have guidelines for your project.
6 You have stronger benchmarks that hold more accountability.
7 There are a lot of cost overruns in a lot of projects.
8 It's, you know, job conditions, weather. It could be a
9 rebid. As an earlier testifier said, they may add on to the
10 project as you're on there. They may add another bridge.

11 So you have to really drill down into each
12 project to see exactly why that project may have cost more
13 money or may not have cost more money. I think that's a
14 fair look at it.

15 In a rebid project, a lot of times when they
16 rebid a project, it's because there has been talk during
17 primary prejobs and the bidding process when either the
18 awarded contractor or the other contractors that may have
19 been bidding on the project may have picked up something
20 that wasn't necessarily in the bid specs so that can
21 increase cost. There are change orders between Date A and
22 Date B, as was said here earlier by the gentleman from
23 Eckman Construction.

24 But all in all, you know, it does bring a focus
25 to the local area. You know, you're guaranteed local people

1 working on a project. You can set any standard you want
2 higher than the requirements by the Procurement Act. So if
3 you want more women in business, if you want more
4 minorities, if you want more military on the project, you
5 can put those into that agreement, which I'm guessing that
6 the local governments could do that if they choose to do so.
7 But there's also in most -- I'd say 100 percent of our PLA
8 agreements, Project Labor Agreements, there is drug testing
9 and background checks, which on a lot of projects other than
10 schools, that doesn't happen.

11 So, you know, it's a good process, a great tool
12 to use. Again, it's not mandated. And this would reverse
13 that and mandate that you couldn't.

14 REPRESENTATIVE DeLISSIO: Thank you, Mr.
15 Chairman.

16 Thank you, Mr. Sirianni.

17 MR. FRANK SIRIANNI: Sure.

18 MAJORITY CHAIRMAN METCALFE: Thank you.

19 Mr. Sirianni, you said that you'd like to have
20 the opportunity to sit down with local government officials
21 to talk about these projects and to be able to see these
22 projects bid on by companies that are utilizing organized
23 labor.

24 Without the PLA, you don't have that opportunity
25 to sit down and talk with those companies that are using

1 organized labor? They don't have an opportunity to sit down
2 and bid on those projects or talk about getting these
3 projects?

4 MR. FRANK SIRIANNI: I've never been invited to
5 talk about them with them. I've talked about issues with
6 legislators about it. That's not my place. The local
7 people do that with the local contractors.

8 As far as government, I haven't had any meetings
9 with the Department of Transportation.

10 MAJORITY CHAIRMAN METCALFE: I was going back to
11 what you had said when you were testifying that you would
12 like the opportunity to sit down and talk about those.

13 I mean, without a PLA, does organized labor not
14 have a chance to have companies that are hiring them bid on
15 those projects or secure those projects?

16 MR. FRANK SIRIANNI: Not to my knowledge. I
17 think the procurement laws are very plain that you have to
18 meet certain requirements to be eligible to bid on a
19 project. They've had them for quite some time. So if you
20 meet these requirements, and that requirement may be a PLA
21 in some other departments, then you meet that requirement.

22 MAJORITY CHAIRMAN METCALFE: So currently when --

23 MR. FRANK SIRIANNI: Hey, if any of these
24 contractors want to sit down and talk, I'm happy to talk.

25 MAJORITY CHAIRMAN METCALFE: Well, when somebody

1 is bidding on a project right now, a PennDOT project,
2 without this pilot program of this PLA that they're running,
3 other projects I assume have been done by companies that are
4 utilizing organized labor in Pennsylvania.

5 MR. FRANK SIRIANNI: That's correct. They're
6 using subcontractors. And some have used them for major
7 parts of their projects. We've had locals that have signed,
8 as you heard earlier, agreements to supply them with
9 manpower when they don't have enough.

10 MAJORITY CHAIRMAN METCALFE: So without a PLA,
11 when PennDOT is going to have a project bid on without the
12 PLA, every contractor has the ability to go after that
13 contract. But with a PLA, only contractors that are willing
14 to use one-third of the workforce would be able to bid on
15 that project if it had a PLA attached to it?

16 MR. FRANK SIRIANNI: That's not necessarily true.
17 But thank you for the question. It's a very good question.

18 Those terms and conditions are negotiated on how
19 that project would be manned. So that would be between the
20 awarding agency and whoever they have a contract with.

21 Just as if a contractor was going to use a substitute
22 material on a project, an alternate material. I'm a glazer
23 by trade. I put in glass. I've worked 33 stories up on
24 highrises on the outside of buildings, you know.

25 What happens is some contractors will want to --

1 they may not be able to supply a specific type of material
2 on a project so they have to go back to the Department or
3 the awarding agency and negotiate what they would use on
4 that project. Same thing happens with us in labor.

5 MAJORITY CHAIRMAN METCALFE: So you're saying not
6 every PLA requires organized labor to be used?

7 MR. FRANK SIRIANNI: No, I didn't say that. I
8 said it's negotiated.

9 MAJORITY CHAIRMAN METCALFE: So the PLA when it's
10 written isn't being used to strictly use organized labor?

11 MR. FRANK SIRIANNI: No. There's been test case
12 on that in the State and federally on discriminating against
13 people in general, whether it's race, age, status of being
14 in a labor union or nonunion. That's all been worked out.

15 I think I stated this section in my testimony.
16 The ruling is that no one can be discriminated on for their
17 nonunion status to work on a project.

18 MAJORITY CHAIRMAN METCALFE: Thank you.

19 MR. FRANK SIRIANNI: I have a bit of a cold. I
20 apologize.

21 MAJORITY CHAIRMAN METCALFE: No problem.

22 Representative McCarter.

23 REPRESENTATIVE McCARTER: Thank you, Mr.
24 Chairman.

25 Thank you, Mr. Sirianni, for your testimony

1 today.

2 MR. FRANK SIRIANNI: Sure.

3 REPRESENTATIVE McCARTER: And again, if you could
4 go back a little bit in terms of the history of PLAs, can
5 you give us a little background as to how long they've been
6 used and how successful they have been in terms from your
7 perspective?

8 MR. FRANK SIRIANNI: They've been used since the
9 Depression or maybe before that on the Boulder Dam and, you
10 know, major projects throughout the United States for
11 centuries. You'll find in a lot of areas you may not have a
12 workforce.

13 Out West when they were doing some big projects,
14 they thought, well, let's find a way to get skilled people
15 to these projects. I think that's how it started out.

16 REPRESENTATIVE McCARTER: And so the nature in a
17 sense of the skilled workforce then, again, what they tend
18 to do, if I understand correctly, is to maximize really the
19 local labor force that is skilled to be able to make sure
20 that they get jobs in contrast to others that may be
21 individuals who may be brought in as part of the workforce
22 from other parts of the State or beyond the State set forth
23 to carry these out; is that correct?

24 MR. FRANK SIRIANNI: That's correct.

25 REPRESENTATIVE McCARTER: And the negotiations

1 that you're talking about here, too -- and again, these are
2 done in such a way as to allow the contractor and the -- or
3 I should say the contractor in this case to work out those
4 details to guarantee in a sense local use of labor in many
5 cases or also to make you sure that the most skilled
6 individuals are available to do these particular jobs.

7 Would that be correct?

8 MR. FRANK SIRIANNI: In those agreements, you can
9 require that they have to be from a designated -- a certain
10 percentage would have to be from a designated area, such as
11 if you were in Carlisle, so many people would have to come
12 from the city of Carlisle if the city of Carlisle would wish
13 to have a Project Labor Agreement, which they never have.
14 Some municipalities choose not to do them and never had
15 them.

16 Lancaster County has never had a PLA that I know
17 of. And they passed an ordinance that they're illegal in
18 Lancaster County, which I think that if there is one ever
19 proposed and it does go through, I think we will win that in
20 a court of law. That wouldn't stand if they outlaw it.

21 There's been a lot of cases federally and through
22 the Commonwealth on these issues.

23 REPRESENTATIVE McCARTER: Okay. Thank you very
24 much.

25 MR. FRANK SIRIANNI: Thank you.

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REPRESENTATIVE McCARTER: Thank you.

MAJORITY CHAIRMAN METCALFE: Representative Knowles.

REPRESENTATIVE KNOWLES: Thank you, Mr. Chairman. And, Mr. Sirianni, thank you very much for testifying today.

MR. FRANK SIRIANNI: Sure.

REPRESENTATIVE KNOWLES: I will be leaving. I have another hearing I have to go to as soon as I ask my question. So I don't want you to think that I didn't like your answer and I stormed out of here or anything like that.

MR. FRANK SIRIANNI: Okay.

REPRESENTATIVE KNOWLES: But it's more of a statement. Local governments -- as a former local government official, what I've always heard is that PLAs shut out responsible bidders. And it takes away the opportunity for local governments to accept the lowest responsible bid.

Could you please just respond to that?

MR. FRANK SIRIANNI: Yes. And I wouldn't be offended if you leave.

First of all, under the PLA procurement laws, every government entity is required to take the lowest responsible bidder. There's been in the past some questions on responsible. I can remember there were some schools down

1 in a couple of counties where the schools actually were
2 found unfit to occupy when they were completed. And it cost
3 millions and millions of dollars to go back in to fix the
4 problems. And that contractor was awarded another school in
5 that same school district within a year.

6 Now, to me, the term responsible is so vague.
7 You know, I think that you're hitting a point that should be
8 looked at that doesn't really fall under this because
9 they're obligated to take the lowest responsible bidder. So
10 if there's a PLA, that doesn't change that because everyone
11 is welcome to bid on a Project Labor Agreement project.

12 Did I answer your question?

13 REPRESENTATIVE KNOWLES: Yes.

14 MR. FRANK SIRIANNI: Thank you.

15 MAJORITY CHAIRMAN METCALFE: Everyone is welcome
16 to bid as long as they would comply with what's specified in
17 the PLA that they used organized labor on the project?

18 MR. FRANK SIRIANNI: Which they negotiate with
19 the public body which would set the guidelines.

20 MAJORITY CHAIRMAN METCALFE: Just a question.
21 Isn't the criteria already set in the PLA? I mean, it's not
22 something that's negotiated once the person is awarded. The
23 lowest bidder makes their bid -- or, you know, everybody
24 puts their bids in.

25 MR. FRANK SIRIANNI: Right.

1 MAJORITY CHAIRMAN METCALFE: The lowest bidder is
2 awarded the contract. They don't now negotiate what they're
3 going to do. Isn't it already specified in the PLA when
4 they're bidding on it that you'll use this many laborers out
5 of this union hall or from this union?

6 MR. FRANK SIRIANNI: It doesn't tell you how many
7 you have to use. The contractors --

8 MAJORITY CHAIRMAN METCALFE: Does it tell you
9 percentages?

10 MR. FRANK SIRIANNI: Some do, yes. I would think
11 most of them would say that. But that again is negotiated
12 by the public body who feels that's necessary.

13 Now, along with that, you have to understand that
14 a lot of people that bid on these projects, one in
15 particular that I was involved with as a business
16 representative for the Glazers Union up in the Wilkes-Barre
17 area, a contractor, a nonunion contractor, bid the glass
18 project.

19 As a matter of fact, I was trying to organize
20 them at the time. And I developed a pretty good
21 relationship with this one particular company. I'll leave
22 his name out. He was the head of the Chamber. His name is
23 irrelevant at this point. But he's still in operation
24 today. And he bid on the project.

25 We supplied people for him as he needed them. By

1 the end of the job, we had 95 percent of the people because
2 he wanted more of our people. And it gave him the
3 opportunity to bid a larger project because he didn't have
4 the manpower.

5 We're finding that, you know, according to some
6 organizations, they say there's such a shortage of manpower
7 they want to change their ratio on apprentices so they can
8 get more people. I would think that these organizations
9 would be happy to have an available workforce from us which
10 doesn't obligate them to becoming a union contractor. It
11 doesn't obligate them to our pensions. It doesn't obligate
12 to our pension longevity.

13 So I would say, you know, you buy a couple things
14 on a project. And if it's a public project, you buy your
15 materials. You have your overhead and you have labor.
16 Well, the labor prices are already set in stone according to
17 the Prevailing Wage Act. So I don't know why the project
18 would be higher if you bid it at a certain rate at a certain
19 amount of hours.

20 You know, if the project goes up, is it a cost
21 overrun? Did you miscalculate? I don't know. You know, I
22 used to estimate projects once in a while. I always figured
23 it the highest dollar I could for the longest term I could.
24 Anything I made under that was profit for me.

25 So if I finished a job a year early and I charged

1 more to the State, I made a bunch of money off the State
2 that I didn't really even need, did I?

3 MAJORITY CHAIRMAN METCALFE: Our final question
4 will be from Representative Bloom. We have one minute left
5 for the question and the answer.

6 You brought up the apprenticeship issue. My
7 understanding is that the organized labor has a different
8 apprenticeship ratio than nonunion companies. Isn't that
9 the issue, the apprenticeship issue?

10 MR. FRANK SIRIANNI: The standard is set in the
11 State of Pennsylvania by the Apprenticeship Council and they
12 have meetings one Thursday a month.

13 MAJORITY CHAIRMAN METCALFE: I mean, it's
14 different. That's a different ratio. For organized labor
15 versus nonunion labor, isn't it a different apprenticeship?

16 MR. FRANK SIRIANNI: It depends on your program.
17 It depends on your local and your -- I don't set those
18 rules.

19 MAJORITY CHAIRMAN METCALFE: All right. Thank
20 you.

21 Representative Bloom.

22 REPRESENTATIVE BLOOM: Thank you, Mr. Chairman.

23 And I just wanted to mention a couple things.

24 One, Mr. Sirianni, thank you for testifying. You mentioned
25 in your testimony the use of PLAs with different

1 nongovernmental entities. And I just wanted to make sure
2 everyone is clear that the bill that I proposed does not in
3 any way restrict a private entity from entering into a PLA.

4 MR. FRANK SIRIANNI: Oh, yeah.

5 REPRESENTATIVE BLOOM: We're only talking about
6 projects where there are taxpayer dollars involved.

7 MR. FRANK SIRIANNI: Right.

8 REPRESENTATIVE BLOOM: But I've heard enough
9 evidence from companies that literally don't bid PLA
10 projects to know there's less diversity of bidders in a
11 public project where there's a PLA.

12 But the question I wanted to get into is, you
13 talked about the workers you have across the State. You
14 know, you're saying one-third of all the construction
15 workers, whatever the number may be, is there a geographic
16 skew to those numbers? In other words, are there parts of
17 the State where there are more union construction workers
18 and parts of the State where there's relatively fewer and,
19 if so, when you get into a project in an area where there's
20 a lesser percentage of available union workforce, aren't you
21 going to restrict the diversity of bids if you suddenly say
22 it's got to be a PLA?

23 I've got a government entity that said it has to
24 be a PLA. Are you going to be shutting out local
25 contractors, local workers, in an area where there's a lower

1 percentage of union workers?

2 MR. FRANK SIRIANNI: I don't think so because
3 that project would still be open to nonunion contractors.

4 But I will tell you this: I can't think of --
5 other than Forest County, which is called Forest County
6 because there's mostly trees there, might be a logical place
7 to say there's less construction workers in general.

8 And so when you look at that Forest County
9 Prison, which was done under a PLA, the basis for that was,
10 how do you get manpower to a project if that's necessary and
11 you're not in a high density of any construction workers or
12 a very low amount maybe just home builders?

13 REPRESENTATIVE BLOOM: Are there -- I know we're
14 time --

15 MAJORITY CHAIRMAN METCALFE: Representative
16 Bloom, we're done with this testifier. Thank you very much.

17 REPRESENTATIVE BLOOM: Thank you.

18 MAJORITY CHAIRMAN METCALFE: Thank you, sir, for
19 your testimony.

20 MR. FRANK SIRIANNI: Thank you, all.

21 MAJORITY CHAIRMAN METCALFE: Our next testifier
22 -- actually, we've got two gentlemen who will be appearing
23 together and sharing the 20 minutes.

24 Mr. Hank Butler, Executive Director of
25 Pennsylvania Council of General Contractors, and Mr. Ross

1 Myers, CEO of Allan Myers.

2 Gentlemen, if you could take your seats there
3 before the microphone and begin when ready.

4 We look forward to about ten minutes of testimony
5 time and ten minutes to chat with you in some Q&A.

6 Thank you.

7 MR. HANK BUTLER: I'm going to go first quickly
8 and then turn it over to Mr. Myers.

9 Thank you, Chairman Metcalfe, Chairman Bradford,
10 members of the Pennsylvania House of Representatives State
11 Government Committee, for the opportunity to discuss our
12 support for House Bill 1849 and our concerns regarding
13 Project Labor Agreements on construction projects.

14 I am speaking with you today on behalf of the
15 Pennsylvania Council of General Contractors, an organization
16 of general contractors who believe in the principles of
17 fair, efficient, and competitive construction, bidding,
18 awarding, and building.

19 PennCGC members believe in the importance of
20 strong working relationships with all entities on a
21 construction job site: owners, general contractors,
22 specialty contractors, employees, suppliers, etc.

23 Assuring that a construction project is completed
24 on time and within budget is the best way to build quality
25 construction and maintain a strong and successful business

1 relationship with owners and developers.

2 House Bill 1849 would prohibit union-only Project
3 Labor Agreements, commonly known as PLAs, on public work
4 projects. PLAs are discriminatory agreements designed to
5 reduce competition and require the workforce to only come
6 from union halls which have agreed to follow restrictive and
7 bureaucratic work rules on the agreed-to construction work
8 sites.

9 A construction worker who is not signatory to a
10 collective bargaining unit and wishes to work on a
11 union-only PLA would have to leave his/her current employer,
12 quit his/her job, join a union hall, pay union dues, have a
13 portion of his/her hourly wage be given to the Union Pension
14 and Benefits Fund and hope he or she is chosen to work on
15 the respective PLA project. This action does not happen.

16 Allow me to put this scenario in another
17 perspective. I am Jewish. But for this perspective, I have
18 chosen to practice Lutheran faith. I wish to work on a
19 project that only Catholics are allowed to work on. If I
20 wish to work on that project, I would have to convert to
21 Catholicism, go to Catholic church every Sunday, practice
22 the Catholic faith, pay Catholic church dues, and advocate
23 for the Catholic church. Once the project is completed, I
24 can choose to reconvert back to Lutheranism. I would not do
25 this, nor would any of you.

1 Currently, the Pennsylvania Department of
2 Transportation is attempting to implement a union-only PLA
3 on a \$30 million road project in Montgomery County. Having
4 a PLA on this state-funded project is discriminatory.

5 By this agreement, PennDOT is denying a
6 significant majority of Pennsylvania's construction
7 workforce to work on this project because they are not
8 signatory to a union, nor have joined a union hall. Only
9 those members of the union who signed a PLA with PennDOT are
10 allowed to work on this public construction project. This
11 is wrong and discriminatory.

12 All construction work, especially public
13 projects, should be open to all construction workers
14 regardless of their union affiliation. Construction
15 projects should be awarded to the lowest responsible bidder,
16 a bidder who has the needed prerequisites and qualifications
17 to build the project. The winner of the job should be
18 allowed to build using his or her employees regardless of
19 their labor affiliation.

20 The Pennsylvania Council of General Contractors
21 supports House Bill 1849 prohibiting union-only Project
22 Labor Agreements on public works and ending construction
23 discrimination.

24 PennCGC wishes to thank you and the State
25 Government Committee for the opportunity to speak with you

1 today and look forward to working with you on this issue in
2 the near future.

3 Thank you.

4 MAJORITY CHAIRMAN METCALFE: Thank you very much,
5 Mr. Butler.

6 Mr. Myers, thanks for joining us today, sir.

7 MR. ROSS MYERS: Good morning.

8 My name is Ross Myers. I'm Chairman and CEO of
9 Allan Myers. Before I start, I'd like to apologize for the
10 Band-Aid. I happened to visit my dermatologist yesterday
11 and I believe he was a little slow and he was charging by
12 the inch and it got a little bigger than we thought. I
13 apologize for the Band-Aid.

14 A little bit about our company. We've been in
15 business for over 77 years now. It was started by two dairy
16 farmers, Allan A. and Allan C. Myers in Worcester,
17 Pennsylvania, Montgomery County.

18 This past year, the hardworking women and men of
19 our company received the honor of being Mid-Atlantic
20 Contractor of the Year voted by our peers and Engineering
21 News Record out of over 10,000 contractors.

22 By Engineering News Record statistics, we are the
23 No. 1 transportation contractor in the Mid-Atlantic and we
24 are in the top 20 heavy civil contractors in North America.
25 We are the largest asphalt producer in the Mid-Atlantic.

1 And by industry average, we are four times safer than our
2 industry.

3 And I say that again being just so proud of the
4 men and women that work for our organization and the
5 excellence that they bring to their jobs every day. We have
6 a couple mottos around our company we live by. The one is,
7 we build you. We build you. We don't hire people for
8 projects. We hire people for careers, men and women, on our
9 construction sites, in our offices, in our plants, in our
10 quarries, in our trucks and our equipment.

11 We believe that we look for people with positive
12 attitudes and an ethic of hard work and integrity and we'll
13 train the rest. We spend several million dollars a year in
14 training our workforce. Last year we trained over 40,000
15 man hours. And we receive every year some awards in the
16 industry for our training efforts.

17 But that's not the important thing. The product
18 is the important thing. And our people continue to win
19 awards on projects, most recently by the Pennsylvania
20 Asphalt Producing Association for the best ride on any
21 Turnpike project in Pennsylvania.

22 I say this again as a background to, you know,
23 four miles from our company headquarters is a project that
24 our people are not going to be allowed to bid on.

25 And I'm here representing workers today like Rick

1 who has worked with us for over 30 years. He's lived in
2 Montgomery County, Pennsylvania, his whole life. He started
3 out of high school as a laborer, was trained to be a dozer
4 operator, took our classes at night.

5 He got involved with our Drexel Monitors Program,
6 which is an Associates Degree from Drexel that we offer free
7 of charge to our employees. He became a foreman and has a
8 very successful career building PennDOT projects for 30
9 years. By placing a PLA on this project that is two miles
10 from his home, we're telling Rick he's not good enough to
11 work on that project.

12 Owen Duker, a young man who just got married,
13 just started a family, loyal employee for ten years, started
14 out as a laborer and is now an operator. I'm embarrassed to
15 say that Owen is actually laid off right now for lack of
16 work in Pennsylvania.

17 I can tell you there's absolutely no shortage of
18 competent skilled craftspeople in our company to build
19 PennDOT projects and other projects in this state.

20 Tim Burke, 22 years, same story, Montgomery
21 County. He's working New Jersey right now. There's no work
22 for him in Montgomery County or Pennsylvania.

23 James Greg German, 20 years, has been a laborer,
24 an operator, a process foreman, now works in a pipe crew,
25 lives in Pennsylvania and is working in Virginia right now

1 because there's no work for him in Pennsylvania. A PLA is
2 going to keep him from working in his own backyard.

3 We just finished a book. I'll leave this for the
4 Chairman. If anyone also would like one, I'd be glad to
5 send you one. And it's just a book we put together on the
6 history of our company that when you do something like that,
7 it starts out like, oh, this will be easy. And four years
8 later we're still assembling data.

9 But as we're finalizing the book, a letter came
10 into my office that to me was just so powerful and said so
11 much about the people in our company that we just printed it
12 in the book. And with your patience, I'd like to read it.

13 It says, Ross -- and this is from a 40-year
14 employee, Ken Hoffman. He lives in Montgomery County,
15 Pennsylvania, North Wales. And Ken just retired.

16 It says, Ross, what do you say to someone who has
17 supported and taken care of you and your family for over 40
18 years? First, let me thank you for coming to the Employee
19 Appreciation Lunch last Friday. It turned out to be a
20 one-employee appreciation, not the whole team.

21 Mainly, you took time out of your very busy
22 schedule to be there and not just make it a token
23 appearance. It made a great deal to me. I thought about it
24 all weekend.

25 Soon after I started working for Allan Myers in

1 1973 back when we filled out our own timecards and picked up
2 our own paychecks at the Dispatch desk, my check was missing
3 one Friday. Your father offered to give me cash right out
4 of his pocket. I knew right then that this company cared
5 about its employees.

6 Mary Brookheimer knew my wife and my two kids by
7 name when they came to that little office. Once she told me
8 you wanted to see Myers grow and be able to offer the top
9 wages and benefits in the industry, and it surely happened.
10 I never had to worry about a paycheck bouncing and the
11 benefits continued to support me to this day, making it
12 possible to retire.

13 In addition to being a good businessman, you have
14 a knack for surrounding yourself with great people, office
15 and field. You have faith and trust in us to use our skills
16 and talents and even to let us learn to succeed after a
17 setback.

18 Vision, courage, and determination to stay the
19 course grew Allan Myers from less than 30 people when I
20 started to over 2,000 today. When the first oil shortage
21 hit in the early '70s, some companies cut hours or even
22 closed for lack of fuel. Not Myers. You kept us going
23 somehow back then and now.

24 We got new equipment and trucks, not junk. And a
25 new and modern shop was built and great mechanics were hired

1 to maintain the fleet. If something broke, corners were
2 never cut. It was fixed right. Trucks and equipment had to
3 be clean, instilling pride in its operators.

4 With the purchase of other companies, quarries,
5 and asphalts plants, the company expanded into several
6 states. The campus on Berks Road never changed, with
7 gardens, trees, walking paths, restored farmhouses and
8 barns. It is a beautiful place to work or just look at.

9 When new technology came along, you weren't
10 afraid to try it. When the pipe laser came along, you said
11 it would make us better. Utilizing a stone box for pipe
12 work, we became better and faster.

13 Next came the trench box and hard hat and we were
14 better, faster, and safe. Your commitment to safety is
15 second to none. I firmly believe that you care about your
16 employees. If there is a tool or a method to make a job or
17 situation safe, you get it for us.

18 When the Recession hit in 2008 and profit margins
19 were slim to none, you never cut back on safety. You do
20 things for us you would not have to do: Thanksgiving
21 turkeys personally given by you, Christmas gifts, clothing
22 items throughout the year, company picnics, tenure club.

23 Over one-third of our employees, over 600 people,
24 in our tenure club. The average tenure in our company is 11
25 years.

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MAJORITY CHAIRMAN METCALFE: Thank you, sir.

We're well over our testimony part of the time. And we have four members that want to ask you some questions.

MR. ROSS MYERS: That's great. Thank you.

MAJORITY CHAIRMAN METCALFE: I think you have our longest early list of people that want to ask questions, so your testimony has caused them to want to ask those questions.

We appreciate it. Don't mean to interrupt your stream of thought there.

MR. ROSS MYERS: I'm done, thank you, sir.

MAJORITY CHAIRMAN METCALFE: Thank you, sir.

Representative Miller, did you have a question?

REPRESENTATIVE MILLER: No.

MAJORITY CHAIRMAN METCALFE: Representative Grove?

REPRESENTATIVE GROVE: Thank you, gentlemen. I really appreciate your testimony.

I had the opportunity to ask the Secretary of Transportation some questions about the transportation PLA. And ironically she was just -- the previous question asked about discrimination. She was highlighting how the Department of Transportation does not discriminate. They take great pride in that.

1 And I had the opportunity to ask her about the
2 PLA and whether she felt the PLA would discriminate against
3 nonunion workers. Her comment back, if I recall properly,
4 is, it won't discriminate against nonunion workers.

5 So I'm a little confused. I had the Secretary of
6 Transportation saying it's not discrimination and nonunion
7 employees have full access being able to bid on it and move
8 forward with it.

9 Can you just clarify how that is possible?

10 MR. ROSS MYERS: It is very discriminatory
11 because we're not going to bid a project that our people
12 can't work on.

13 REPRESENTATIVE GROVE: So their PLA rules do not
14 allow a segment of our workforce to actually work on those
15 projects. You are completely locked out?

16 MR. ROSS MYERS: Our people would not be allowed
17 to work on the projects. We would have to hire people out
18 of a hiring pool who we do not know, who are not trained in
19 our safety, are not trained in any of our processes.

20 REPRESENTATIVE GROVE: Okay. Thank you.

21 MR. ROSS MYERS: We would not do that.

22 REPRESENTATIVE GROVE: Thank you.

23 MAJORITY CHAIRMAN METCALFE: Thank you,
24 Representative Grove.

25 Representative Bradford.

1 MR. ROSS MYERS: I would also add when we talk
2 about PennDOT in the last ten years, we have completed \$1.6
3 million worth of PennDOT construction at a savings to the
4 city of approximately 6 and a half percent. That's \$100
5 million. Why would you want to spend an extra \$100 million?

6 MAJORITY CHAIRMAN METCALFE: Thank you, sir.

7 Representative Bradford.

8 MINORITY CHAIRMAN BRADFORD: Thank you, Chairman
9 Metcalfe.

10 And thank you, Ross, for coming. I actually
11 represent Worcester Township and have gotten the opportunity
12 over the years to get to know Ross and his great company.

13 And coming from a progressive Democrat from
14 Worcester Township, everything he said about his fine
15 company is 100 percent true. They do spend money on all of
16 the training and the safety that you would want.

17 Sometimes we've disagreed. I know I've met with
18 Brendan many times over the years on the topics. But it
19 goes without saying that we're blessed in our part of
20 Montgomery County to have your company. So I just want to
21 say that again and thank you for coming today.

22 Again, we don't always agree but I really do
23 appreciate it.

24 MR. ROSS MYERS: That's the great thing about
25 America.

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MINORITY CHAIRMAN BRADFORD: Yes, it is.

Thank you, sir.

MAJORITY CHAIRMAN METCALFE: Thank you,
Representative Bradford.

Representative Wheeland.

REPRESENTATIVE WHEELAND: Thank you, Mr.
Chairman.

Thank you, gentlemen, for your testimony here.

In your industry, is there a rule of thumb that
PLAs -- and you may have touched on it on this particular
project, that it does increase the cost significantly. But
is there a rule of thumb, if you get a packet to bid on and
it requires a PLA, is there a rule of thumb that it's going
to cost you 20 percent more? maybe not you specifically.
But does anybody in the industry, PLAs rule of thumb, cost
more or less on a project?

MR. ROSS MYERS: 15 to 20 percent more. And if
you would take the PennDOT jobs bid in the last five years
in District 6 and separate, you know, the union from
nonunion, you'd see about the same amount, over 10 percent,
10 to 15.

MR. HANK BUTLER: I've been addressing this
issue, believe it or not, for now 20 years. We have never
seen a nonunion merit shop company bid on a PLA or work on a
PLA. They just don't do it. They will not give it to their

1 employees. The employees will go to them.

2 So what you see is by having a PLA, you will
3 reduce the competition so dramatically that, yes, you will
4 see a significant difference.

5 MR. ROSS MYERS: I would also like to say we do
6 not discriminate. We're a merit shop company. We take bids
7 from our subcontractors, from union and nonunion employees.
8 We use best value. And we use union companies all the time.

9 So we do not discriminate and we do not feel it's
10 right that we should be discriminated against.

11 REPRESENTATIVE WHEELAND: Thank you.

12 MAJORITY CHAIRMAN METCALFE: Thank you.

13 Thank you, Representative Wheeland.

14 Representative McCarter for our final question.

15 You only have time for one question.

16 REPRESENTATIVE McCARTER: Thank you, Mr.
17 Chairman.

18 And again, it's just a brief comment and then I'm
19 sure that you're going to reply.

20 You know, again, I want to commend you. I mean,
21 the letter that you read is a heartfelt letter. And I'm
22 sure the employees of your company and so forth are very
23 much appreciative of all the efforts you've done throughout
24 the years to help them.

25 And I know from my own personal experience in

1 working and coming out of high school and working in a
2 company that was a nonunion company that took great pleasure
3 in helping many of us to do things that surely I wouldn't be
4 here today if, in fact, they hadn't helped me in that way.

5 But not all employers are that gracious, as we
6 all know. And that's the reason that unionization developed
7 in the United States. And as a result, many of those other
8 companies even today give your company and so forth a bad
9 reputation because they are not union in some ways.

10 So it's a double-edged sword, as we all know.
11 And we want to make sure, I think, through PLAs as these
12 happen that we do get the best possible workers and that
13 hurts possibly you in that case. And I understand that
14 you're concerned.

15 MAJORITY CHAIRMAN METCALFE: Thank you,
16 Representative McCarter. We're out of time for your
17 comments. We asked for questions.

18 REPRESENTATIVE McCARTER: Can I get to that
19 question?

20 MAJORITY CHAIRMAN METCALFE: If you have a
21 question, please pose it because we need to go to the next
22 testifier. We're on the Floor at 10.

23 REPRESENTATIVE McCARTER: I'll let it go, Mr.
24 Chairman.

25 MAJORITY CHAIRMAN METCALFE: Thank you.

1 Sir, would you like to have any closing comment
2 based on the statement that was just made to you?

3 MR. ROSS MYERS: Just that PennDOT already has a
4 pre-qualification process. It's been in effect for 50
5 years. It works very well. And all contractors that bid on
6 PennDOT projects are already pre-qualified. And it's quite
7 a strenuous process.

8 MAJORITY CHAIRMAN METCALFE: Thank you, sir.

9 Thank you both for your testimony.

10 MR. ROSS MYERS: Thank you.

11 MAJORITY CHAIRMAN METCALFE: Our final testifier
12 is Mr. Keith Impink, President, Westmoreland Electric.

13 Sir, you can join us at the microphone and begin
14 when you're ready. We'll ask for about ten minutes of
15 testimony and then about ten minutes of Q&A with you and
16 we'll be finishing up the hearing.

17 Thank you, sir, for coming today from
18 Westmoreland County.

19 MR. KEITH IMPINK: Thank you.

20 Good morning, Chairman Metcalfe, Chairman
21 Bradford, and members of the House State Government
22 Committee. My name is Keith Impink. I'm the President and
23 Founder of Westmoreland Electric Services, a full service
24 electrical contracting company based in Tarrs, Pennsylvania,
25 which is just outside of New Stanton.

1 We provide electrical contracting work throughout
2 Pennsylvania, West Virginia, and Ohio. We currently have
3 more than 80 employees working in the field, along with our
4 office and warehouse staff. We complete in excess of \$18
5 million worth of electrical work annually.

6 Not only does Westmoreland Electric have a strong
7 reputation for quality craftsmanship, but much like the
8 other merit shop contractors, we provide safe and efficient
9 worksites. Westmoreland Electric is also a member of the
10 Associated Builders and Contractors of Western Pennsylvania
11 and have been since 1988.

12 As a resident and business owner in Westmoreland
13 County for over three decades, I've seen my fair share of
14 Project Labor Agreements and similarly to the previous
15 examples from the eastern part of the State, I cannot recall
16 a single instance in which a PLA has been more than a
17 blatant attempt to prevent merit shop employees from
18 performing public work.

19 This discrimination not only hurts the business
20 community but, more importantly, needlessly affects the
21 livelihood of my hardworking employees and their families,
22 simply because they choose not to be represented by a union.

23 I will not bid a project with a PLA on it because
24 it would mean I would have to lay off my loyal, hardworking
25 employees that currently work for me and hire employees out

1 of a union hall. I'm not going to lay my hard-working,
2 loyal people off and hire people that I have no idea what
3 they're like and probably have very little control over it.

4 The PLAs that I've seen in Western Pennsylvania
5 basically allow for me to have the first person on the
6 project, one of my employees, and the third person on the
7 project. And then for every ten more that I put on a
8 project, I can have one more.

9 So basically if I have a 15-man crew, three of
10 those people can be mine and the other 12 have to be hired
11 out of the union hall. I do not -- I'm not in business to
12 go and hire people that I don't know who they are. I pride
13 myself in taking care of my employees, treating them with
14 respect, treating them with dignity, training them, paying
15 them good wages.

16 I'm not going to lay them off and hire people
17 that I don't know just to perform a Project Labor Agreement.
18 That is why you're not going to get merit shop contractors
19 bidding on a Project Labor Agreement.

20 Over the past few years, I've compiled financial
21 data on public works projects throughout the Western
22 Pennsylvania region. They're the last two pages in the
23 packet. I can explain anything if you want me to. But they
24 basically show a lot of different projects that I've been
25 involved in, some that I was low on, some that I was not low

1 on. But it's a comparison to show the lowest union bidder,
2 the lowest nonunion bidder, the difference between the
3 nonunion bidder and union bidder and how much savings that
4 nonunion bidder allowed.

5 And if you look at the total, you'll see there's
6 -- I think on one of them there's about \$10,855,000 on \$143
7 million worth of work. You would not see those savings if
8 you put a Project Labor Agreement on the project because
9 those low nonunion merit shop bidders are not going to bid
10 those projects.

11 So that is how you're getting higher costs
12 because you're restricting the -- whether it's 66 percent,
13 85 percent, whatever the number is, you know, even at 66
14 percent, you're restricting 66 percent of the bidders from
15 bidding a project and you're going to lose that competitive
16 advantage when we don't have the chance to bid a project.

17 One of the most recurring and outlandish
18 fabrications against data like this is that merit shop
19 contractors pay employees far less than union companies. In
20 every instance that I used on those charts, those projects
21 were all public, which means that Pennsylvania's prevailing
22 wage rates apply to every employee regardless of union
23 affiliation. On every one of those projects, employees made
24 the same wage regardless of their decision to join a union.

25 So my guy got paid the same thing as if he was

1 working in the union and getting a union pay rate. That's
2 what prevailing wage does, is it has a level playing field
3 for all employees and their pay wages.

4 So one of the proponents of people that are for
5 PLAs will say, well, you're going to have a better wage for
6 your employees. Everybody is going to get the same wage
7 whether it's a merit shop or a nonunion contractor.

8 A second desperate claim to undermine the hard
9 work of merit shop contractors is that they are routinely
10 unsafe. Safety is not governed by whether you're union or
11 merit. Safety is governed by the attitudes of the company
12 owners, like myself, both union and nonunion. It is a
13 culture that is ingrained in good companies. It is not
14 union specific.

15 As a member of ABC, Westmoreland Electric has
16 access to the Safety Training Evaluation Process, or STEP.
17 STEP is a rigorous safety evaluation process administered by
18 ABC that ensures proper training and protection for all
19 employees to keep them safe and secure while performing
20 work. This process is so effective that the national
21 organization has done some studies and their studies show
22 that on average it produces 87 percent reduction in their
23 total recordable incident rate.

24 This reduction, when applied to all STEP
25 participants, accounts for a 770 percent safer working

1 environment compared to the national average. Our STEP
2 rating for this past year -- and they do this every year.
3 Our STEP rating for this past year was platinum, which is
4 the second highest level that a contractor can get.

5 At Westmoreland Electric, we utilize two
6 benchmarks to evaluate and prioritize the safety of our
7 employees. The first is the Occupational Safety and Health
8 Administration, or OSHA's, recordable violation process.
9 Not only does the OSHA incident rate provide a reliable
10 snapshot of a company's track record for safety, but it also
11 is a critical factor in the cost of doing business,
12 particularly for our insurance.

13 Any unsafe contractor, regardless of union
14 affiliation, will quickly experience a significantly higher
15 cost of doing business and eventually will be unable to
16 sustain the costs of operating in such a reckless manner.

17 I'm proud to say that Westmoreland Electric
18 employees not only take pride in their safety but that we
19 have not had an OSHA incident or violation in the last three
20 years. That means no citations. And that also means that
21 we've had no accidents in the last three years.

22 Finally, construction companies are also
23 evaluated on their Experience Modification Rate, or EMR.
24 This rate is developed by insurers and incorporates the cost
25 of past workplace injury as well as the potential future

1 risk of injury. Not only is an EMR a second benchmark for
2 safety, but it is also utilized to calculate workers'
3 compensation rates.

4 The industry average for EMRs is 1.0, meaning
5 that at least one employee has been paid a workers'
6 compensation payment by an insurer. Westmoreland Electric
7 has an EMR rate of 0.878. And that's pretty good because
8 this company is three years old and the standard is for a
9 company, until they finish their third year, to have an EMR
10 rate of 1. They can't get anything lower than 1 until after
11 three years. The EMR Compensation Board granted us a lower
12 rate after two years of being in business.

13 While I work with all of our employees to
14 maintain a competitive and safe working environment, I am
15 still susceptible to the effects of a PLA simply because my
16 employees have chosen to be part of the 86, 66, whatever
17 number you want to use, percent of the construction industry
18 that does not belong to a union.

19 By allowing these secretive, pre-hire agreements
20 to continue, Pennsylvania is continuing a process of
21 discrimination and corruption that blatantly excludes nearly
22 90 percent of the industry we have, which is at least 66
23 percent.

24 Whether private project owners choose to utilize
25 merit shop or union labor is up to them. We're not here to

1 dispute -- like we said earlier, we're not here to dispute
2 Project Labor Agreements on a private project. But when
3 you're talking about public projects paid with taxpayer
4 dollars, the work should be performed in the most efficient
5 and safe manner possible, regardless of union affiliation.

6 By supporting HB 1849, we are asking you to
7 uphold what you have pledged so many times to do. Efforts
8 across the Commonwealth to stamp out discrimination in
9 schools, in the workplace, in our public square must also
10 include public construction.

11 As a lawmaker, you have a fiscal responsibility
12 to keep spending under control. Instituting PLAs on
13 construction projects will not help in this effort because
14 of the restrictive competition the PLA inherently exhibits.

15 If I may just add a couple other brief comments
16 based on some of the earlier testimony that we had here.
17 There's nothing in a PLA, there's no stipulations in a PLA
18 that cannot be put in any spec book that any owner wants to
19 have his bidders bid on, whether it's apprenticeship,
20 whether it's this, that, whatever safety, you know, being
21 responsible. There are things that owners and architects
22 can put in a spec book for every bidder to adhere to that
23 you don't need to have a Project Labor Agreement to do that.

24 The only thing the Project Labor Agreement is
25 doing is excluding our contractors from wanting to bid on a

1 project. They're not excluding us from bidding. I'll agree
2 with that. We can bid on a project. We don't want to bid
3 on the project.

4 Our contractors -- I have a state-approved
5 apprenticeship program. I've had it for 30 years. I'm
6 going to take a guess. I probably graduated 100
7 electricians over those 30 years. Most merit shop
8 contractors that bid on public work, they have
9 state-apprenticeship programs, too. The unions aren't the
10 only ones that have the state-apprenticeship programs.

11 Out of 66 percent or 87 percent, or whatever
12 number we want to use, their constituents are yours, too.
13 Every one of them lives in Pennsylvania.

14 The gentleman that spoke a couple people before
15 me mentioned that he knows where nonunion contractors will
16 bid to union contractors and union contractors will use them
17 for some of their work. That might be true for a regular
18 project, on a PLA project. We're not going to be able to
19 bid the project. Again, we can bid it. We're not going to
20 bid it because we're not going to hire out of a union hall.

21 So the statement that he made earlier about union
22 contractors already hire nonunion contractors, that wouldn't
23 happen on a PLA because the people aren't going to bid on
24 the project.

25 I thank you for the time. I'll be glad to field

1 any questions that you have.

2 MAJORITY CHAIRMAN METCALFE: Thank you, sir.

3 Representative McCarter.

4 REPRESENTATIVE McCARTER: Thank you, Mr.

5 Chairman.

6 Thank you again for your testimony. And again, I
7 applaud you and your company for its good work. The record
8 that you quoted in here I think at one point saying that the
9 reduction when applied to all STEP participants accounts for
10 770 percent safer working environment when compared to the
11 national average.

12 Just so I'm clear on this. This includes
13 obviously union and nonunion activity. Would that be
14 correct?

15 MR. KEITH IMPINK: Yes. That is a study that was
16 done by our national organization, ABC, national
17 organization. It's a study that they've done several years
18 ago and updated over the years. And those facts come from
19 that study.

20 REPRESENTATIVE McCARTER: And again, I want to
21 applaud you obviously for the reduction and so forth and
22 making sure that your average is much higher. But what it
23 does illustrate is the fact that there are problems. And
24 that's, again, part of the PLA, I think, activity is to be
25 able to make sure that good work does take place. And so we

1 want to make sure that we do have good working environments
2 on every one of those projects.

3 I just wanted to clarify that point.

4 Thank you.

5 MR. KEITH IMPINK: And that is true. And as a
6 business owner, I want to make sure that, you know, we have
7 good, safe working environments on it, too.

8 What I'm trying to stress is that there are good
9 union contractors. There are bad union contractors. When
10 it comes to safety, there are good nonunion contractors.
11 There are bad nonunion contractors. The pre-qualification
12 process and doing some things like that is what can separate
13 that out. A PLA is not going to do that.

14 REPRESENTATIVE McCARTER: Thank you.

15 MAJORITY CHAIRMAN METCALFE: Representative
16 DeLissio.

17 REPRESENTATIVE DeLISSIO: Thank you, Mr.
18 Chairman.

19 Thank you, Mr. Impink. Just a quick question.
20 You mentioned earlier a PLA has a negotiated ratio. You
21 gave an example. Is that a negotiated ratio? Could that
22 ratio end up being 50/50 or 60/40 the other way?

23 MR. KEITH IMPINK: I don't know because I don't
24 develop them. I would think it probably could be negotiated
25 different ways.

1 The only thing I can tell you is every PLA that
2 I've ever been involved in, looked at, fought -- I've spent
3 a lot of time going to school districts before a project was
4 bid, fighting with -- not fighting with them, but trying to
5 convince them that putting a PLA on is not a good project.

6 And every time we do that, we see the PLA that
7 they want to put on the school district or DGS or whatever
8 it is they want to put on, every one that I've ever seen has
9 basically been first employee, third employee, and then
10 every tenth one after that.

11 Now, whether they can be adjusted -- maybe they
12 can -- I don't know. I've not seen one yet in my limited
13 experience working with PLAs over the last seven, eight
14 years that have been anything different than that.

15 REPRESENTATIVE DeLISSIO: Thank you.

16 Thank you, Mr. Chairman.

17 MAJORITY CHAIRMAN METCALFE: Thank you,
18 Representative DeLissio.

19 Mr. Impink is from -- his company, I believe, is
20 in Representative Walsh's district. But I think he lives in
21 Representative Nelson's district. Represent Nelson is a
22 guest here of the Committee today and I would like to
23 recognize Representative Nelson to welcome you.

24 I think he might have a question for you.

25 MR. KEITH IMPINK: Sure.

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REPRESENTATIVE NELSON: Thank you, Mr. Chairman.

And thank you for your testimony. I know we have worked together as a safety professional. I've done training with your company for years. I'm familiar with your apprenticeship program. You know, it is true and legitimate.

My question today, following up on that worker ratio, you know, the one, three, and then one for every ten, in your experience, have you ever bid a PLA job and then -- like, have you tried it?

MR. KEITH IMPINK: Yes, I have. Do you really want to know?

REPRESENTATIVE NELSON: Well, that's why I'm asking the question.

MR. KEITH IMPINK: I bid a project in the city of Pittsburgh. It was called August Wilson Center. It had a Project Labor Agreement on it. It was back when I was dumb and naive. I actually didn't really know about it until we turned our bids in. We turned our bids in to a construction manager. And after we turned our bids in, we kind of saw all the documents and saw that there was a PLA in there.

We talked this over with the construction manager. And they really pleaded for me to do this project I think because I was probably very low. But they pleaded with me to do this project. And in a moment of stupidity, I

1 guess, I decided to enter into one. So I bid a project in
2 Pittsburgh with a Project Labor Agreement on it. I was
3 allowed to have my first employee, which was my
4 superintendent; my third employee, which was my apprentice.
5 I never did have anybody else other than union people on
6 that.

7 I don't want to sound -- let me say this. I did
8 not get the cream of the crop from the union hall on that
9 project. My apprentice knew more than what some of the
10 electricians that I got knew on that project. I got a
11 couple good people. But most of them I got were not the
12 cream of the crop. They didn't know how to do things. They
13 honestly weren't as safe as I would have expected them to
14 be, too.

15 It was a project that for the entire project was
16 well over budget, well over the time allotted for
17 construction. That's one thing PLAs say. We'll do it on
18 time on budget. It was not on budget. It was not on time.
19 And personally for my company it was a disaster because of
20 the people I got.

21 That's why I'm saying I will not lay off my
22 people and hire out a union hall again because I don't know
23 what I'm going to get. I have no idea what the quality of
24 people is. And quite frankly, if I get somebody, I don't
25 have a whole lot of control over them. Yeah, if I don't

1 want them I can send them back and maybe wait a week and
2 lose a week of production and get the same caliber person
3 again.

4 You know, back at that time -- and this was
5 probably ten years ago -- the unions wanted real hard to
6 organize me. They really wanted me to be one of theirs,
7 which is part of the reason why I entered into it, because I
8 wanted to see what they could offer me.

9 I would have thought that they would have given
10 me some quality guys to maybe help me maybe change my mind
11 and decide to come to the union now. They had no intention
12 of giving me anybody good.

13 MAJORITY CHAIRMAN METCALFE: Thank you, sir.

14 Thank you, Representative Nelson.

15 REPRESENTATIVE NELSON: Yes.

16 MAJORITY CHAIRMAN METCALFE: Thank you very much
17 for making the trip from Westmoreland County and sharing
18 with us today.

19 MR. KEITH IMPINK: You're welcome. Thank you.

20 MAJORITY CHAIRMAN METCALFE: Have a safe journey
21 home.

22 That's all the testimony that we're going to be
23 gathering at today's hearing. It is time for the members to
24 go to the Floor. 10 o'clock session will be kicking off
25 here.

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Thank you for your attendance today. We look forward to further discussion on this legislation.

Motion to adjourn by Representative Grove.
Seconded by Representative Ward. This meeting is adjourned.
Everyone have a great day.

(Whereupon, the hearing concluded.)

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I hereby certify that the proceedings and
evidence are contained fully and accurately in the notes
taken by me on the within proceedings and that this is a
correct transcript of the same.

Jean M. Davis
Notary Public