



MWPA Holiday Meeting  
December 21, 2016

Legislative Year in Review by Dan Bosley

### 2016 in Review

Tough fiscal year- We knew going in that the budget was going to be tight. Budget is driven by a handful of budget busters: Health insurance, pensions, bonding obligations and local spending. Additionally, the income tax hit a trigger determined in 2000 that lowered the tax rate from 5.15% to 5.10%. This change alone cost the state \$152 million. We knew going into this year that we would have considerable headwinds. After a cut the year before, the Baker administration budget level funded us at \$4.5 million. The House budget cut that to \$4 million. The single bright spot in this was that we had 53 House cosponsors as well as the Labor and Workforce Development Chair John Scibak on the amendment to raise our appropriation. While this amendment failed, we now have a good list of advocates in the House to start this year.

The Senate restored us to \$4.5 but the final figure was \$4.025 m. The Baker administration then cut another \$262,000 in his veto message.

Through a lot of advocacy, the House and senate overrode the Governor's veto message to restore our line item. That said, the Governor has not released the \$262,000 and has recently cut this amount again using his 9C constitutional powers. This is the section of the Constitution that requires the governor to balance his budget. While I feel this is against the will of the Legislature and is premature, it nonetheless is a reality and so we turn our efforts to improving our line item in the 2018 budget.

As far as our efforts to fund the MWPA line item, we were unsuccessful for a second year. However, we were able to contract with the state for money and hopefully we can continue this relationship. The long-range plan is to enact a law change in the Workforce Trust Fund, Chapter 29, to embed our funding in the enabling legislation so that we don't have to fight this battle every year. This would assure us of funding and would allow us to concentrate on our line item funding.

Other funding in the FY 2017 budget were:

\$3.3 million in Connecting Activities

\$10.2 million in Youth At Risk

\$12 million in ESP Employment Service Programs

\$500,000 WCTF

Much of this has also been cut by Gubernatorial vetoes so we will have to see if the House and Senate can find ways to refund these programs fully.

We did have a successful Day on the Hill on March 15. We also had a series of Legislative Breakfasts

Finally, in 2016, We had a few changes on the Labor and Workforce Development Committee. Our strong supporter in the House, Vice Chair Marcos Dever lost his primary and in the Senate, Chair Dan Wolf decided to retire from the Legislature.

In 2017, the Senate and House chairs of Ways and Means have already said that revenue growth is projected at around 3%. They have said it will be another tough fiscal year. So, we have our work cut out for us. We will need to reach out to the new Chair in the Senate and continue to work with John Scibak who I am sure will be back as House chair this year.

We will need to look for a date for both a Day on Beacon Hill and for Legislative Breakfasts in the Centers. I have already talked to the Speaker about renewing our efforts to enact a law change for MWPA funding and we need to start right after the first of the year beating our drum on our line item funding.

## **Federal Changes**

While our challenges in the state are the same as we have always had, we have a new administration in Washington and I want to talk for a few minutes about that.

## **Workforce Development under a Trump Administration**

While Donald Trump talked about improving our economy, aside from immigration change and renegotiating trade agreements, he offered little in specifics.

Trump was on both sides of the question of raising minimum wage but generally talked favorably about giving people a decent wage.

As I said, trade and work visas could be impacted by his immigration policy. STEM programs seem to have bipartisan support so I am confident that some programs aimed at worker training will continue. Other than that, we know that WIOA was a five-year reauthorization. This will take us through the first four years of this administration but enforcement and funding may be problematic if the newly nominated budget director, South Carolina Congressman Mick Mulvaney is true to his rhetoric.

## **Congressman Mick Mulvaney**

Mulvaney is a Tea Party member who believes we should cut taxes and deeply cut spending. He was a member of the shutdown caucus, so named because they would rather shut down government than increase the debt ceiling. Mulvaney quickly came to oppose Boehner's leadership before Boehner was pushed out in 2015. In 2013, Mulvaney declined to support

Boehner's re-election to the post. That year, Mulvaney unsuccessfully pushed for amendments to reduce Pentagon funding and proposed broad across-the-board federal cuts, including for the military.

Votes in this congress:

Votes in the current Congress score dealing with Labor issues include:

Bill: H.R. 658, LaTourette Amendment No. 21: NO on repealing changes to the Railway Labor Act's voting rules.

Bill: H.R. 658, Gingrey Amendment No. 18: YES to prohibit Federal Aviation Administration employees from using official--that is, taxpayer sponsored--time for union activities during the official workday.

Bill: H.R. 1, Price Amendment No. 410: **YES to defund the National Labor Relations Board (NLRB).**

Bill: H.R. 1, Guinta Amendment No. 166: **YES to prohibit imposing "prevailing wage" and other requirements in project labor agreements that advantage unionized contractors.**

Bill: H.R. 2017, Scalise Amendment No. 388: YES to prohibit project labor agreements in DHS contracts

Bill: H.R. 2055, LaTourette Amendment No. 411: **NO on funding for federal project labor agreements.**

Bill: H.R. 1, King Amendment No. 273: **YES to eliminate the "Davis Bacon" prevailing wage rate requirement for federal projects.**

Bill: H.R. 2017, Gosar Amendment No. 386: YES to eliminate the "Davis Bacon" prevailing wage rate requirement for Department of Homeland Security contracts.

Bill: H.R. 2354: Gosar Amendment No. 655: YES to restrict application of the Davis-Bacon Act to contracts exceeding \$20 million.

Bill: H.R. 2017: Rokita Amendment No. 2: **YES to prohibit collective bargaining at the Transportation Security Administration (TSA).**

## **Andrew Puzder:**

Trump has named Andrew Puzder as his pick to become Secretary of Labor under his administration. Andrew Puzder is 66 years old and lives in Tennessee. He is the CEO of Hardee's and Carl Jr., the fast food chains that operate under the name CKE Restaurants. They are a closely held corporation. (That means the stock is publicly traded but is held by a small number of people. It also doesn't trade on a regular basis.). According to the economic magazine "The Street" they have one of the highest volume, highest turnover rates in America. And there are articles that placed wage and hour violations at approximately 60% of their restaurants. The New York Attorney General has accused them of theft for their wage practices.

Puzder was an economic advisor to the Romney Campaign in 2012 and donated \$332,000 to the Trump campaign.

Mr. Puzder is a member of the Job Creator's Network, a group that opposes government labor regulations. He is co-chair of the American Enterprise Institute, a conservative think tank.

Again, as with Mulvaney and most everyone in this incoming administration, Puzder is extremely conservative. Mr. Puzder wrote a book six years ago that called for less federal programs, lower taxes, reduced government spending and a cut back on federal business regulations. He calls this the Certainty Factor in the book. Cut back on regulations so that business knows the playing field and doesn't have to worry about government regulation or any future changes.

This book was co-written with David Newton, a lecturer at UCLA-San Diego. Mr. Newton has called for an elimination of the minimum wage. Puzder has only said he is skeptical of a minimum wage. He believes wages are a matter between employer and employee.

Mr. Puzder opposed the Obama Healthcare law, is against sick leave and has backed immigration reform. Puzder thinks that access to immigrant labor is important for businesses. In a Business Insider interview, Puzder

stated that he supported automation of our workforce because machines “are always polite, always upsell, they never take a vacation, never slip and fall, file age or race discrimination cases.”

He has also said that low skilled jobs are important because they give you access to high skilled jobs. Sort of trickle up economics. He has also publicly stated that government should protect employers, not employees.

Finally, from a social aspect, he has expressed outrage in labor rate participation rates. For the record, the rate is 62.7% and has been falling since 2000. However, that is not due to social welfare programs but the unprecedented inequality of our society today. The biggest drop in participation was among adults over 25 with only a high school degree.

### **What does this mean to labor policy?**

This is a mixed bag. Government is designed to be more deliberative than reactive. So many of the changes that Trump and his administration lean towards will be hard to achieve quickly.

As I stated earlier, WIOA was a five-year reauthorization, so it will not require any action from the Trump administration unless there is a second term.

Trump will get to reshape the National Labor Relations Board NLRB, nominating members and a chair.

There will be little support for such initiatives as the Employee Choice Act, an act supported by the Obama administration that allowed for more freedom to organize.

Employers may face new restrictions on hiring immigrants

We don't know what exactly Trump will do with Trade agreements. Since the US consumes roughly 26% of all the world's consumer goods, we could see pressures to keep prices down conflict with pressures to bring home jobs.

A regulation governing an increase in the threshold for overtime is now in federal court. This would raise the threshold requirement on paying overtime from \$23,600 to \$47,476. This may be meaningless if the new administration rescinds the executive order requiring this increase.

Aside from these specifics, what can the administration accomplish?

Trump can:

Rescind executive orders. He can do this with one big rescission, but that may have disastrous consequences sweeping all orders out including some that may be necessary or popular. More likely will be a culling of all executive orders to see which ones they really want to rescind. This is a problem politically. If he doesn't rescind all the orders, he is acknowledging that the President has a right to issue such orders which conflicts with his rhetoric.

Trump can also stop the implementation of rulemaking that is not yet finalized.

And the new administration can just stop enforcing laws and regulations that they don't agree with.

Given the conservative budget director at OMB, they may have fewer investigators in the Department of Labor, leading to fewer investigations.

However, any regulations or rules that are now in place must go through a formal process to change or repeal. It isn't simple.

Each formal proceeding will need:

Notices on the revised rules or regulations

reviews on the regs

public comment periods

review of all substantial comments

interagency process for overlapping jurisdiction

response on substantial comments

posting of final rules

if all else fails; litigation of proposed changes or rescission

This is cumbersome. If agencies are asked to comb through all their regulations and rules to find those that may be reversed, this could take years. And the question is, does this administration want to spend time and resources on this when they have other priorities?

The bottom line is that there is a disconnect between theory and practice and what may be possible is not always doable.

So, what can we do? We can lobby our delegation here in Massachusetts, but they are probably with us on all these issues. We could better spend our time in state advocating for a continuation of state policy protecting workers and workforce development. State laws can not contradict federal law or regulation but can go farther than federal law. That is why our minimum wage is higher and more comprehensive than the federal standard. We can continue to advocate that our state continues protections for workers and workforce development regardless of the federal actions.