



News Release



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Appeals Court Upholds Michigan Law Guaranteeing Fair and Open Competition On Public Construction Projects

Lansing, Mich. – Associated Builders and Contractors (ABC) and ABC of Michigan today celebrated a victory when the U.S. Court of Appeals for the 6th Circuit upheld a law that banned government-mandated project labor agreements (PLAs) on taxpayer-funded construction projects.

“This landmark decision ends union-based discrimination in the Michigan construction industry and ensures taxpayers get the fiscal accountability they deserve,” said Chris Fisher, president of ABC of Michigan. “This decision has national implications and makes crystal clear that Michigan and other states can pursue equal opportunity in public contracting regardless of labor affiliation.”

Specifically, the appeals court upheld Public Act 238 of 2012, which amended Michigan's Fair and Open Competition in Governmental Construction Act (Public Act 99, 2011). Last year, the U.S. District Court for the Eastern District in Michigan enjoined the 2011 law in response to a complaint filed by the Michigan Building and Construction Trades Council, AFL-CIO, and the Genesee, Lapeer and Shiawassee Building and Construction Trade Council, AFL-CIO. Gov. Rick Snyder (R) signed Public Act 238 in June 2012 in an effort to amend the initial law and address the court's concerns.

After the district court enjoined the amended law in November 2012, the case went to the U.S. Court of Appeals for the 6th Circuit, which Sept. 6 upheld the 2012 amendments to the law, ensuring that government-mandated PLAs are prohibited on state, local and publicly funded projects in Michigan.

“In response to President Barack Obama's 2009 Executive Order 13502 encouraging federal agencies to mandate the use of PLAs on large-scale construction projects, and Big Labor's effort to promote PLA mandates, state after state has stood up for their taxpayers and rejected government-mandated PLAs,” said ABC Sr. Manager of State and Local Affairs Andy Conlin. “So far, 18 states have banned

government-mandated PLAs and this ruling shows that state governments are well within their rights to say that these taxpayer-funded handouts are not welcome on projects in their states.”

The U.S. Circuit Court of Appeals for the 6th Circuit is the second federal Circuit Court of Appeals to uphold the right of a government entity to ban government-mandated PLAs. In 2002, the U.S. Circuit Court of Appeals for the District of Columbia upheld Executive Order 13202, issued by President George W. Bush in 2002. Additionally, the U.S. District Court for the Southern District of Iowa upheld a similar order issued by Iowa Gov. Terry Branstad (R) in 2011.

Numerous studies show PLAs discourage merit shop contractors and subcontractors from competing for public construction contracts, thereby increasing costs to taxpayers and discriminating against the 81.2 percent of Michigan’s construction workforce that does not belong to a labor union. PLAs typically force contractors to hire most or all of their craft employees from union hiring halls; follow inefficient union work rules; hire apprentices exclusively from union apprenticeship programs; and pay into union benefit plans on behalf of employees, even if they have their own qualified benefit programs. PLAs force employees to pay union dues, accept unwanted union representation, and forfeit benefits earned during the life of a PLA project unless they join a union and become vested in union benefit plans.

To learn more about wasteful and discriminatory PLA mandates, visit ABC’s educational blog, TheTruthAboutPLAs.com.

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Associated Builders and Contractors (ABC) is a national trade association representing 22,000 members from more than 19,000 construction and industry-related firms. Founded on the merit shop philosophy, ABC and its 72 chapters help members develop people, win work and deliver that work safely, ethically, profitably and for the betterment of the communities in which ABC and its members work. Visit us at www.abc.org.

ABC of Michigan, a statewide trade association representing the commercial and industrial construction industry, is dedicated to quality, open competition, equal opportunity and accountability in publicly and privately funded construction projects.

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