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**Project labor agreements are bad policy**

As a judge says, they unfairly limit competition, which is bad for the public.

**By** [**The Editorial Board**](https://www.bostonglobe.com/about/staff-list/staff/editorial-board/?p1=Article_Byline)Updated May 28, 2024,

A construction worker stood on scaffolding at Brockton City Hall on April 10, 2024. DAVID L. RYAN/GLOBE STAFF

It’s one of the most predictable of economic impulses. Facing competitive pressure? Then try to limit the competition.

With labor unions in Massachusetts, one oft-attempted approach has been to pressure public-sector decision-makers to impose so-called project labor agreements on public projects. Although they don’t say so explicitly, PLAs in effect limit public work only to firms whose workers belong to trade unions.

Such agreements usually drive up costs for the taxpayer.

In broad terms, the public policy dance goes this way. In deciding what candidates to endorse and help in their bid for office, labor unions solicit their support on various labor issues, one of which is usually PLAs. Democratic politicians almost reflexively sign on. Then, when a sizable project comes up, unions urge their friends in public office to press the decision-makers to impose a PLA on the project. Since offering such a public statement is easy, the electeds usually do. If the contracting agency then does as urged, a PLA is imposed — and nonunion firms’ only resort is to go to court to fight it.

All that just happened in Western Massachusetts. After the urging of an array of elected officials, the [Springfield Water and Sewer Commission](https://waterandsewer.org/)imposed a PLA on a [$325 million water-filtration project in Westfield.](https://waterandsewer.org/projects/drinking-water-projects-2/new-water-plant/) Several umbrella organizations for nonunion construction firms filed a lawsuit challenging the PLA.

This month, Hampden Superior Court Judge Michael Callan [blocked the competition-constricting requirement,](https://www.masslive.com/westernmass/2024/05/judge-halts-springfield-water-treatment-plant-project-due-to-union-friendly-labor-agreement.html) noting that the state’s [Supreme Judicial Court has said](https://caselaw.findlaw.com/court/ma-supreme-judicial-court/1015396.html)that for a PLA to be permissible, a project must be of “such size, duration, timing, and complexity that the goals of the [public] bidding statute cannot otherwise be achieved” and that the awarding authority must have undertaken “a careful, reasoned process” to assess the effects of a PLA in regard to the intent of that law.

Those standards simply weren’t met, Callan ruled.

In fact, Callan noted, the firm that the water and sewer commission consulted with had concluded a PLA would delay the project by several months and hike its costs by $15.5 million. Indeed, there really hadn’t been any strong policy argument for the PLA. The commission’s own legal counsel, before having a late-in-the-process change of mind, had advised that he didn’t think the project met the SJC’s threshold for the imposition of a PLA.

The judge’s clear-eyed decision also pierced through much of the disingenuous rhetoric about PLAs, writing that “for all intents and purposes, the PLA excludes open shops from bidding, as it essentially requires bidders to … use union laborers on the project.”

That’s exactly right. And limiting the bidding only to union labor hikes project costs. Such a price-increasing effect is a generally recognized impact of constricted competition. It pertains in particular when nonunion firms have been eliminated from even bidding on the project; if unionized firms know their only rivals for a project are other union firms, they will feel significantly less pressure to take a sharp pencil to their bid.

Various [studies](https://www.rand.org/content/dam/rand/pubs/research_reports/RRA1300/RRA1362-1/RAND_RRA1362-1.pdf) have [estimated](https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Ascds%3AUS%3A738a42b2-0ccb-4050-bbeb-48ca6aa88a37&viewer%21megaVerb=group-discover) the [added cost](https://www.everycrsreport.com/files/20120628_R41310_731846eb1c5bc373a7ea40ebd566f72ded8a8771.pdf) of PLA-ed projects in the 10 percent to 20 percent range (though [other analyse](https://www.epi.org/blog/project-labor-agreements-on-federal-construction-projects-will-benefit-nearly-200000-workers/#:~:text=Project%20labor%20agreements%20don't%20raise%20construction%20costs&text=Another%202015%20paper%20from%20University,agreements%20are%20not%20union%20contracts.)s contend there is no significant price effect). In part, nonunion firms say, that’s because their work teams aren’t bound by union work rules that, say, require a laborer to perform one task, a carpenter a second, an electrician a third, and a plumber a fourth. Nonunion firms usually have their own teams, with developed and complementary specialties. If one worker can perform two or more of those tasks, it saves time and makes work at the job site go more smoothly, with fewer delays.

Although PLAs are sometimes portrayed as necessary to keep nonunion contractors from undercutting trade wages, in fact, the state’s [prevailing wage law](https://www.mass.gov/info-details/prevailing-wage-for-contractors) already mandates that nonunion firms pay the prevailing wage on public projects. That wage is essentially the rate set in union collective-bargaining contracts.

Thus there really is no strong policy argument for imposing a PLA. Further, it is unfair to the [many Massachusetts construction workers who are not union members.](https://www.wbjournal.com/article/the-numbers-game-in-the-states-construction-industry-who-should-we-believe-when-it-comes-to) It means that those workers are paying taxes to help fund projects that PLAs would exclude them from working on.

As a result of Callan’s ruling, the water and sewer commission has decided to move forward with the project without a PLA.

“The Commission is proceeding with the procurement of the new West Parish Water Treatment plant pursuant to the established schedule and the recent Superior Court ruling in accordance with its primary goal of completing the new plant as quickly as possible,” commission communications manager Jaimye Bartak said via email. (The local labor council appears to be attempting a last-gasp Hail Mary intervention.)

That’s good news. But honestly, this whole exercise was a waste of judicial time. In the future, when faced with union lobbying for PLAs, elected officials and public decision-makers should cite Callan’s lucid ruling on the matter and say a firm and emphatic no.

Why, they might even want to quote the judge, who pithily summed things up this way: “The public benefits from an open, fair, competitive, and robust bidding process. The PLA requirement unnecessarily curtails that without legal justification.”

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