

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office/County Counsel

BOARD AGENDA # \*B-25

Urgent

Routine

AGENDA DATE June 28, 2011

CEO Concurs with Recommendation YES  NO

4/5 Vote Required YES  NO

(Information Attached)

SUBJECT:

Approval to Introduce and Waive the First Reading of an Ordinance Adding Chapter 2.98 to the Stanislaus County Code to Prohibit the County from Requiring Project Labor Agreements on County Construction Projects

STAFF RECOMMENDATIONS:

1. Find that the subject ordinance is not subject to the California Environmental Quality Act (Public Resources Code section 21000 et seq.).
2. Introduce and waive the first reading of an ordinance adding Chapter 2.98 to the Stanislaus County Code to prohibit the County from requiring project labor agreements on County construction projects.

FISCAL IMPACT:

There is no significant fiscal impact associated with this item. Administrative costs associated with the approval of the said ordinance will be nominal and be covered through the existing Chief Executive Office Operations and Services budget.

BOARD ACTION AS FOLLOWS:

No. 2011-407

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION: This Item was removed from the consent calendar for discussion and consideration.

INTRODUCED AND WAIVED THE FIRST READING OF ORDINANCE C.S. 1103



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. ORD-55-O-1

Approval to Introduce and Waive the First Reading of an Ordinance Adding Chapter 2.98 to the Stanislaus County Code to Prohibit the County from Requiring Project Labor Agreements on County Construction Projects

**DISCUSSION:**

Stanislaus County, like other governmental agencies faces budgetary constraints and the need to maximize tax payer dollars, acknowledges that competition in contracting is fundamental to securing value. Approval of staff's recommendation is intended to ensure fair and open competition in contracting and fiscal responsibility in construction projects.

A project labor agreement is a type of collective bargaining agreement entered into between labor organizations and a contractor that applies to the contractor's construction project. For purposes of this proposed ordinance, introduced as Chapter 2.98 of the Stanislaus County Code, it shall mean any pre-hire, collective bargaining or similar type of agreement entered into with one or more labor organizations, employees or employee representatives that establishes the terms and conditions of employment on a construction project. The agreements can cover a wide variety of matters, but typically limits strikes, lockouts and other types of work stoppages in exchange for concessions from the contractor regarding wages, benefits, and other terms of employment in connection with the construction project.

The proposed ordinance prohibiting any requirement for project labor agreements only applies to County construction projects. The proposed ordinance defines construction projects as County projects for construction, rehabilitation, alteration, conversion, extension, maintenance, repair, or improvement of any structure or real property.

Specifically, the proposed ordinance prohibits the County from taking action that would require a contractor to enter into a project labor agreement as a condition of bidding, negotiating, awarding or performing a County construction project except as otherwise required by State or Federal law as a contracting or procurement obligation or as a condition of the receipt of State or Federal funds.

It is important to note that nothing in the proposed ordinance would prohibit a private party that may perform work on County construction projects from voluntarily entering into project labor agreements independent of any County requirements.

The proposed ordinance copies the prohibition adopted in San Diego County, and is similar to prohibitions in Orange County and other jurisdictions throughout California.

**POLICY ISSUES:**

Approval of staff's recommendation supports the Board Priorities of A Strong Local Economy and the Efficient Delivery of Public Services by ensuring fair and open competition environment for contracting and fiscal responsibility in construction projects.

Approval to Introduce and Waive the First Reading of an Ordinance Adding Chapter 2.98 to the Stanislaus County Code to Prohibit the County from Requiring Project Labor Agreements on County Construction Projects

**STAFFING IMPACT:**

There are no staffing impacts associated with this item. Existing staff from the Chief Executive Office, County Counsel and the Clerk of the Board will work cooperatively to process this item if approved.

**CONTACT PERSONS:**

Richard Robinson, Chief Executive Officer, 209.525.6333  
John Doering, County Counsel, 209.525.6376

ORDINANCE NO. C.S. \_\_\_\_\_

**AN ORDINANCE TO PROHIBIT THE COUNTY FROM REQUIRING PROJECT  
LABOR AGREEMENTS ON COUNTY CONSTRUCTION PROJECTS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

**Section 1.** Chapter 2.98 is added to the Stanislaus County Code to read as follows:

"Chapter 2.98 PROJECT LABOR AGREEMENTS

"Section 2.98.010 Definitions.

"For the purposes of this Chapter, the following definitions shall apply:

"1. 'Contractor' shall mean and include a contractor, subcontractor, material supplier, carrier or other person or firm engaged in the completion of a construction project.

"2. 'Construction project' shall mean and include any project for the construction, rehabilitation, alteration, conversion, extension, maintenance, repair, or improvement of any structures or real property.

"3. 'Project labor agreement' shall mean any pre-hire, collective bargaining or similar type of agreement entered into with one or more labor organizations, employees or employee representatives that establishes the terms and conditions of employment on a construction project."

"Section 2.98.020 Prohibition on Use of Project Labor Agreements.

"A. Except as otherwise required by State or Federal law as a contracting or procurement obligation or as a condition of the receipt of State or Federal funds, the County shall not require a contractor on a construction project to execute or otherwise become a party to a project labor agreement as a condition of bidding, negotiating, award or performance of a contract.

"B. Nothing in this Chapter shall be construed as prohibiting private parties that may perform work on County construction projects from entering into project labor agreements or engaging in activity protected by law."

**Section 2.** This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following called vote:

AYES: Supervisors:

NOES: Supervisors:

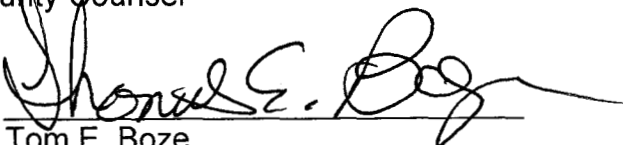
ABSENT: Supervisors:

\_\_\_\_\_  
Dick Monteith, Chair of the Board of  
Supervisors of the County of Stanislaus,  
State of California

ATTEST:  
Christine Ferraro Tallman  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
John P. Doering  
County Counsel

By   
Tom E. Boze  
Deputy County Counsel

# BUILDING TRADES BULLETIN

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June 20, 2011

## **Bob Balgenorth's Column Supporting PLAs Runs in Pro-Business Newspaper**

A column by SBCTC president Bob Balgenorth, endorsing the use of PLAs by local governments, appeared in the Friday, June 17, edition of the *Sacramento Business Journal*, a publication geared toward and read widely by business owners and pro-business interests in the region.

The column ran on the heels of an article in that paper about how anti-union forces are gathering signatures to qualify ballot measures for the 2012 ballot that would ban the use of PLAs in both the City and County of Sacramento, where political and business interests are exploring options for building a new sports arena in the years ahead.

The column explains how private-sector contractors, motivated by profit and efficiency, routinely use PLAs on major construction projects, and questions the motivations behind trying to ban local governments from seeking the same benefits.

The entire column, as it appears in current issue of the *Business Journal*, follows.

# The businesslike way to build — with PLAs

**W**e all know people who, when they are unhappy about what their city or county is doing, clamor for government to be run "more like a business."

Sometimes they are right. For example, when businesses, motivated by profit and efficiency, embark on a major construction project, many begin by negotiating a project labor agreement.

Some of the biggest contractors in the country — including Bechtel, Kiewit and Fluor — normally build projects with PLAs. They have been an accepted method of doing business since they were used to build the Hoover and Grand Coulee dams in the 1930s.



## ANOTHER VOICE

**BOB BALGENORTH**

PLAs have worked so well that businesses are still using them to build power plants, solar fields, hospitals, hotels, sports stadiums and all types of projects, including Disney World, the San Francisco Giants ballpark, the Trans-Alaska pipeline, and all of Toyota's American manufacturing plants, to name just a few.

Hundreds of private-sector projects worth billions of dollars are built with PLAs each year. Why do profit-driven businesses repeatedly use PLAs? Obviously, because they are cost-effective.

A PLA is a risk-management tool, which is negotiated before work on a project begins. Its purpose is to accomplish the goals of the owner, municipality, and/or general contractor for a specific project. Most PLAs include a process to resolve disputes on the project, and have no-strike clauses. They establish the hours of work, wages, benefits

and working conditions for the work force. Many municipal PLAs also have local-hire provisions, and other benefits desired by the community.

Businesses clearly love these guarantees provided by PLAs, because they continually seek them out. Many municipalities also use PLAs for their efficiency and community benefits.

So why would we want to hamstring our local governments from even being able to consider achieving these benefits? If PLAs make good business sense, what is the real agenda behind the effort to ban them? It's really an extension of what's going on in places like Wisconsin, where there is a malicious campaign to bash unions by spreading hateful misinformation.

The union-bashers say that the decent wages workers get from PLAs drive up the cost of projects, exclude non-union contractors, and force workers to join unions.

That's simply not accurate. Every contractor, union and nonunion is guaranteed by law the right to bid on public-works jobs. Federal law protects workers from being forced to join unions against their will.

PLAs don't exclude anybody. They simply hold union and nonunion bidders alike to the same negotiated and agreed-upon wages, benefits, quality standards and local hiring provisions.

**The union-bashers say that the decent wages workers get from PLAs drive up the cost of projects, exclude nonunion contractors, and force workers to join unions. That's simply not accurate.**

Nonunion contractors routinely bid on and win contracts. In fact, not only did nonunion contractors bid on the Metropolitan Water District's \$2 billion Eastside Reservoir project in Riverside County, more than 70 nonunion contractors actually worked on that project. Most PLAs have similar results.

Studies explain why profit-driven businesses, and governments, benefit from PLAs: higher productivity and quality workmanship more than offset the cost of good wages.

A Cornell University study from 2009 concluded that "PLAs are a valuable construction management tool for project planning and labor cost reduction," and further, "There is no evidence to support claims that project labor agreements either limit the pool of bidders or drive up actual construction costs."

Another 2009 study, this one from Michigan State University, which researched PLA use dating back to the massive public-works projects of the 1930s, found the record clearly shows that PLAs "improve construction projects and provide benefits to owners, contractors, construction labor, communities, and the public."

These studies show that the repeated misrepresentations about PLAs, that they increase costs and exclude non-union bidders, are flatly false.

But the market-driven behavior of private sector businesses, which turn to PLAs again and again, drives the point home most compellingly: PLAs work.

People clamor for government to be more efficient and businesslike.

Don't be misled, because a ban on PLAs would do precisely the opposite.

**BOB BALGENORTH** is president of the State Building and Construction Trades Council of California, which represents 350,000 construction industry workers.