

SMRCA Roving Roofer

April 2023

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Issue 2

Whitmer Signs Landmark Pro-Worker Bills

LANSING— Done and done.

It took a few extra legislative sessions to get the language right, but the Michigan House and Senate on March 21 worked out the final details of repealing the state's right-to-work law, and instituting a new statewide prevailing wage law. Gov. Gretchen Whitmer added her signature on March 24 to make the "Restoring Workers' Rights Bills" official.

"Today, we are coming together to restore workers' rights, protect Michiganders on the job, and grow Michigan's middle class," said Whitmer when she signed the legislation into law. "Michigan workers are the most talented and hard-working in the world and deserve to be treated with dignity and respect. These bills will protect health and safety, ensuring healthcare workers can put patient care ahead of profit, construction workers can speak up when there's a safety issue, and employees can call attention to food safety threats and other problems. Let's continue delivering for working people and ensuring Michigan is open for business."

The bills came together last month after some back and forth to settle details between the Democrat-led House and Senate, but there was never any doubt that the pro-labor bills would be adopted and signed. Dems, with thin majorities in both the House and Senate, wanted to get the key legislation done before their spring break. Whitmer signed:

Senate Bill 34, which repeals right-to-work for private sector workers in Michigan. Importantly, the bill appropriates \$1 million to the Department of Labor and Economic Opportunity to cover staffing, implementation and inquiry costs. That appropriation makes the law immune from a voter-backed petition referendum. (Although a ballot initiative to make a constitutional amendment to overturn the law is still possible, albeit with a much higher requirement of petition signatures).

House Bill 4004, which repeals right-to-work for the public sector workers. The bill is a paper tiger, however, in that the U.S. Supreme Court has imposed a virtual form of right-to-work on all public sector unions, barring them from collecting dues from workers who refuse to pay. If the Supreme Court ever issues a revised ruling banning freeloading workers from enjoying union benefits, Michigan's law will take effect.

House Bill 4007: A bill that will reinstate Michigan's prevailing wage law, which Republican lawmakers rescinded in 2018. The legislation includes a key \$75,000 appropriation that acts similarly to the above RTW monetary addition, which shields the law from the possibility of a takedown via a voter petition referendum.

"Today, our pro-worker Democratic majority...took historic action to undo the devastation caused by decades of attacks on workers' freedom," said Michigan AFL-CIO President Ron Bieber. "Since 2012, thousands of Michigan workers, labor leaders, and organizers across the state have been mobilizing and laying the groundwork for this moment. We applaud the swift action to undo the damage caused by Betsy DeVos, John Engler, Rick Snyder and their worker suppression agendas. Today, our legislative leaders are delivering on the promises they made and putting power back into the hands of Michigan workers."

Neither of the bills received a single Republican vote and thus were unable to pass with immediate effect; as a result they are expected to go into effect 90 days after the end of the legislative session later this year.

Michigan's right-to-work law was adopted in 2012 by ruling state Republicans and signed by then-Gov. Rick Snyder. The effort was prodded with the backing of the billionaire Devos family of Grand Rapids, and the signing of the RTW law took place behind closed doors in the state Capitol despite 12,000 people protesting outside.

Similarly, in 2018 money from the Devos family and others helped push a pair of petition drives that eventually led to the GOP-led Legislature repealing the state's prevailing wage law.

Passage of both the RTW repeal and implementing a new prevailing wage law were organized labor's top priorities in Michigan after Dems won razor-thin margins in the statewide election last November. Both laws were subsequently adopted along party lines. And the responses from Republican lawmakers and the Chamber of Commerce centered on their contention that the laws were about "worker freedom" and purportedly make Michigan a less-inviting place to do business.

Leading the charge with that argument was Michigan Chamber of Commerce Vice President Wendy Block, who said "right to work is better for hard-working Michiganders and our job providers, communities, and economy. It's about freedom and personal choice—the ability of employees to decide whether to pay dues or other equivalent fees to labor unions as a condition of employment and in how to spend their wages. It's about our economic competitiveness and retaining current jobs and attracting next generation jobs."

Someone should have asked Block at the Senate Labor sub-

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SOUTHEASTERN MICHIGAN ROOFING CONTRACTORS ASSOCIATION
8155 Annsbury, Ste 104 Shelby Twp, MI 48316 (586) 759-2140 www.smrca.org

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committee hearing last month that addressed RTW and prevailing wage whether her organization would allow companies to enjoy Chamber of Commerce membership if they didn't pay dues.

"This is a matter of freeloaders in the system being allowed to take advantage of bargaining for benefits without paying their fair share," said state Rep. Joey Andrews (D-St. Joseph). "I think we can all agree that fundamental fairness in bargaining is important."

Said State Rep. Regina Weiss (D-Royal Oak): "You don't have to choose to support business and they choose to screw over workers," she said "You can support business. You can support workers at the same time. And supporting workers also actually helps support investments into our economy."

The new law also precludes local units of government from enacting municipal-level right-to-work laws.

Organized labor has pointed to academic studies that consistently show prevailing wage raises wages while not increasing the costs of building things. Meanwhile workers in right-to-work states make less, have more limited access to health care, and have higher poverty and greater infant mortality rates.

"I don't understand why folks continuously get angry about the fact that we are trying to ensure that people in the state of Michigan can afford to live in the state," said Majority Floor Leader Abraham Aiyash (D-Hamtramck).

By Marty Mulcahy, Editor of The Building Tradesman—April 7, 2023

State Launches New Workplace Mental Health Hub

To further efforts to support mental health and wellbeing for more Michiganders, Gov. Gretchen Whitmer tasked the Michigan Department of Labor & Economic Opportunity department with establishing a dedicated workgroup to focus on mental health, trauma, and resiliency in the workplace. The workgroup released their findings and key strategies for employers to help build supportive workplaces by integrating employee mental health strategies that establish healthier workplaces, enhance employee wellbeing, and promote resilient companies.

As a result, the state of Michigan launched Michigan.gov/WorkplaceMentalHealth, a centralized workplace mental health hub to share resources and strategies aimed at helping employees and employers across the state address mental health in the workplace. You can find it at <https://bit.ly/MIMentalHealthintheWorkplace>.

Michigan Minimum Wage Increase 2023

On January 1, 2023, the minimum hourly wage rate in the state of Michigan increased from \$9.87 to \$10.10 per hour as set by Michigan's Improved Workforce Opportunity Wage Act of 2018 establishing the annual schedule of increases.

Effective January 1, 2023:

- The minimum hourly wage will increase to \$10.10 per hour.
- The 85% rate for minors aged 16 and 17 will increase to \$8.59 per hour.
- The tipped employee rate of hourly pay increases to \$3.84 per hour.
- The training wage of \$4.25 per hour for newly hired employees ages 16 to 19 for their first 90 days of employment remains unchanged.

New 2023 Law Re: Michigan Qualified Heavy Equipment Rental Taxes

Recent Michigan legislation now provides for a personal property tax exemption and imposition of a two percent excise tax on certain Qualified Heavy Equipment Rental Personal Property. While the property tax liability is being removed from the taxpayer, the tax liability is shifted to the end user through the addition of an excise tax. Michigan Gov. Gretchen Whitmer signed the act into law on March 23, 2022, Public Act 46, which created an exemption for those rental operators. According to the Michigan State Tax Commission, a "qualified renter" must claim the exemption annually by filing the approved form with their local assessor/assessing unit—city or township—where the rental business is located by February 20, 2023.

Equipment qualifying for the exemption includes any construction, earthmoving, or industrial equipment that is mobile and rented to customers by a qualified renter, including attachments or other equipment. It does not include handheld tools or equipment solely for industry-specific uses in oil and gas exploration, mining, or forestry. Once qualified for the new exemption, qualifying personal property will be exempt from ad valorem taxes, and rental operators will instead need to collect the specific tax as outline in Public Act 35 of 2022.

CAM Magazine March 2023

Upcoming Industry Trade Shows 2023

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|------------|--|
| July 12-14 | FRSA's 101st Annual Convention and the Florida Roofing & Sheet Metal Expo
Kissimmee, FL
www.floridarooft.com |
|------------|--|

2023 SMRCA Golf Outing

2023 SMRCA Annual Golf Outing will be held at
Links of Novi
on
Monday, May 22, 2023

Reserve your spot today!



2023 MiRCA Convention

2023 MiRCA Annual Convention
will be held at
Crystal Mountain Resort
August 3-6, 2023

Make your reservations today!



Birthday Wishes



Mark Stasa - Kerr, Russell & Weber, PLC
May 7

Mike Mass - Roofing Products of Michigan, Inc.
July 23

Marie Schena - Schena Roofing & Sheet Metal Co., Inc.
July 31

Happy Anniversary



Jim & Michelle Bieszki - Architectural Building Specialties, Inc.
June 4

Todd & Amanda Sova - National Roofing & Sheet Metal Co., Inc.
June 6

Heather & Chris Hadley - SMRCA
June 29



JATC Training Center Happenings

Journeyworkers upgrade classes to improve your skills, your worth, and our Brotherhood/Sisterhood is available at no cost to all Detroit LU 149 members.

Dues must be current in order to enter the Training Center.

If you are interested in any of these classes, contact Thomas Jaranowski at the Training Center, 248-543-3847, or TJaranowski@DetroitRoofers.org to make arrangements.

OSHA Adjusts Civil Penalty Amounts

The Occupational Safety and Health Administration's civil penalty amounts for violations of workplace safety and health standards increased in 2023 based on cost-of-living adjustments, according to osha.gov. The adjusted maximum penalty amounts took effect Jan. 17.

New maximum penalties for willful or repeated violations increased from \$145,027 per violation to \$156,259 per violation. Maximum penalties for serious and other-than-serious violations increased from \$14,502 per violation to \$15,625 per violation. Failure to abate violations are \$15,625 per day beyond the abatement date.

OSHA state-plan agencies must adopt maximum penalty amounts that are at least as effective as federal OSHA's penalty amounts.

Additional information is available at [osha.gov/penalties](https://www.osha.gov/penalties).

OSHA's Top 10 Most-Cited Violations in Construction for Fiscal Year 2022

1. Fall Protection—Duty to have fall protection: 4,456 violations
2. Ladders: 1,797 violations
3. Scaffolds—General requirements: 1,527 violations
4. Fall protection—Training requirements: 1,354 violations
5. Personal protective and lifesaving equipment—Eye and face protection: 1,208 violations
6. Personal protective and lifesaving equipment—Head protection: 628 violations
7. General safety and health provisions: 586 violations
8. Scaffolds—Aerial lifts: 481 violations
9. Excavations—Specific excavation requirements: 395 violations
10. Toxic and hazardous substances—Hazard communication: 382 violations

Newly Elected RIFP Trustees May 1, 2023—April 30, 2024

The election results are as follows:



RIFP Trustees

President	Brian Sylvain	North Roofing Company
Vice-President	Brian Moore	Schreiber Corporation
Treasurer	Dan Casey	T.F. Beck Company
Secretary	Roger LaDuke	LaDuke Roofing & Sheet Metal

Newly Elected SMRCA Board of Directors May 1, 2023—April 30, 2024

The election results are as follows:



SMRCA Board of Directors

President	Roger LaDuke	LaDuke Roofing & Sheet Metal
Vice-President	Dan Casey	T.F. Beck Company
Treasurer	Brian Sylvain	North Roofing Company
Secretary	Brian Moore	Schreiber Corporation
Director	Paul Schick	Newton Crane Roofing, Inc.
Director	Anthony Schena	Schena Roofing & S/M

Roofers Union Local #149/RIFP 38th Annual Scholarship Grant Program

In an effort to promote excellence in the roofing industry, Roofers Union Local #149 and the Roofing Industry Promotion Fund are working together to offer scholarship grants to eligible individuals.

The program offers four scholarship grants in the amount of \$1,000.00 each, to those eligible individuals who are attending or planning to enroll at an accepted college or university.

Scholarship Grants are possible through contributions by Roofers Union Local #149, the Roofing Industry Promotion Fund and the participating roofing contractor employer of the recipient's parent or guardian.



Information has been sent to SMRCA/RIFP Contractors. If you need information to submit an essay, please contact the SMRCA office or Roofers Union Local #149.

Top Concerns for Contractors in 2023

The Associated General Contractors of America's 2023 Construction Outlook National Survey shows supply chain issues, material costs, labor shortages and a recession are among contractors' top concerns for 2023, according to constructiondive.com.

Supply chain uncertainty in the industry has led to negative effects that ultimately result in higher costs and lower profits. Contractors also are less confident about private sector work as inflation and the potential for a recession continue to be issues.

"Even when we've had recessions or slow growth expectations for the economy, contractors are by nature optimists," says Ken Simonson, chief economist for Associated General Contractors of America. "But it is notable that in nearly all of these categories, particularly on the private side, contractors have lower net positive readings or deeper negative readings than they did in previous years."

Contractors' biggest concern for this year is the supply chain issue, which causes project delays, logistical problems and rising material prices. To respond to this issue in 2022, 70% of survey respondents said they accelerated purchases after winning contracts; about half turned to alternative suppliers or used alternative materials or products; and 22% stockpiled items before winning contracts.

Labor shortages are expected to persist. Sixty-nine percent of contractors said they expect to hire in 2023 and only 11% expect to reduce their staffs. In 2022, 72% of contractors increased base pay rates more than in 2021 and about one-third boosted bonuses and benefits to attract workers.

Still, 80% of contractors report they currently are having difficulty finding workers, and most respondents expect those challenges to continue. Also, 83% of contractors are concerned the labor shortage and resulting inexperienced skilled labor pool will affect the safety and health of their workers.

The survey shows contractors are more optimistic about infrastructure and other public work even though only 5% of respondents are working on new projects funded by the Infrastructure Investment and Jobs Act. Six percent have won bids but have not started work; 5% have bid on projects but have not won awards yet; and 21% said they plan to bid on projects but nothing suitable has been offered yet.

Cause for Concern

NLRB's proposed rulemaking for determining joint-employer status could negatively affect the roofing industry

During autumn 2022, the National Labor Relations Board issued a Notice of Proposed Rulemaking addressing the standard for determining joint-employer status under the National Labor Relations Act. NRCA has serious concerns the proposed rule would negatively affect the roofing industry and filed comments on behalf of members urging NLRB to withdraw or substantially modify the proposal.

The standard

The joint-employer standard is used to determine when two or more entities are jointly responsible for the terms and conditions of employment for the same group of employees. These terms and conditions include but are not limited to having the ability to hire, fire, discipline, supervise and/or direct employees. Joint employers are responsible for bargaining with any union representing joint employees and mutually liable for NLRA violations for which either entity is responsible. Thus, joint-employer status results in significant changes to an employer's liabilities and responsibilities under the law.

Under the current standard, entities only can be joint employers if they exercise direct and immediate control over the essential terms and conditions of employment. The standard provides clarity for businesses and protects them from unnecessary involvement in labor negotiations and disputes involving workplaces where they do not have any control. This is vital in the current complex and competitive markets in which businesses have contractual relationships with dozens or even hundreds of franchisees, vendors and contractors.

NLRB's proposed rulemaking seeks to greatly expand the standard for determining joint-employer status under the National Labor Relations Act. It would do so by expanding the definition of joint employer to include any employer that "possesses the authority to control (whether directly, indirectly or both), or exercises the power of control (whether directly, indirectly or both), one or more of the employees' essential terms and conditions of employment." According to NLRB, the modification is designed to explicitly ground the standard in established agency principles and provide relevant guidance to entities covered by the National Labor Relations Act.

Potential problems

NRCA is concerned the proposed change will significantly adversely affect roofing industry employers if implemented. A much broader standard that establishes joint employers through evidence of any potential indirect control, even if unexercised, of the terms of employment will inject a high degree of uncertainty into this area of the law. Moreover, the proposed rulemaking contains numerous ambiguous definitions of the terms of the new standard, further increasing the level of uncertainty for employers, with small businesses

likely to be affected most acutely.

In comments submitted to NLRB, NRCA highlighted two sections of the proposed rulemaking of greatest concern to the roofing industry. First, the proposed rulemaking fails to clearly specify the "essential terms and conditions of employment" that could possibly be used to constitute joint-employer status. The terminology is ambiguous and does not delineate the additional terms and conditions of employment regulated entities would need to consult to interpret and comply with the regulation.

Second, the proposed rulemaking would broaden the definition to such an extent that any evidence of potential control of employees by employers will be deemed sufficient to establish joint-employer status rather than the current threshold of substantial evidence. In fact, the proposed rulemaking appears to violate the Administrative Procedure Act, which holds that any agency regulatory action cannot be lawful if it is "unsupported by substantial evidence in a case."

The changes in the joint-employer standard brought about by these two components of the proposed rulemaking would make it difficult to properly delineate employees from independent contractors or subcontractors in many instances. This would be particularly problematic regarding multi-employer worksites in the roofing and construction industries that often involve relationships among many different entities working on a large project.

NLRB states the proposed rulemaking applies to five categories of employer relationships, including contractors/subcontractors, that are most likely to incur compliance costs under the new standard.

NLRB readily admits it "does not have the means to identify precisely how many businesses are impacted by contracting and subcontracting within the U.S. or how many contractors and subcontractors would be small businesses as defined by the Small Business Administration." However, the agency is apparently undeterred, stating these relationships are "potentially subject to application" of the broader standard despite not knowing the scope and effect on small businesses.

Looking out for you

NRCA believes NLRB is overstepping its authority in its interpretation of the law with the proposed rulemaking. NRCA's comments urge the agency to withdraw or dramatically modify the proposed rulemaking to address NRCA member concerns. Final changes to the standard likely would not take effect until the end of the year of early 2024. NRCA will keep you informed of any updates and continue working to protect the roofing industry from problematic and overreaching regulations.

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Spells the Best in Roofing Services

- S**AFETY A safe jobsite is assured because SMRCA crews complete the M.U.S.T. Safety Training and Drug Testing.
- M**ULTIPLE SERVICES A SMRCA Roofing Contractor has the ability to provide the roof you need because of our expertise in a variety of roofing applications and techniques.
- R**ELIABLE SMRCA Contractors are Union trained professionals bringing an Industry leading standard of service, quality and knowledge to every project.
- C**ONFIDENCE Projects completed by SMRCA Contractors provide a Michigan roofing contractor 2 year standard workmanship warranty.
- A**CCOUNTABILITY SMRCA Contractors are established companies with years of experience in providing responsive service, superior workmanship and exceptional value.

Call us today at 586-759-2140 to receive our free "Roofing Facts" brochure or contact one of the SMRCA Contractors below for a no-cost estimate on your next roofing project.

Southeastern Michigan Roofing Contractors Association Members

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www.lutzroofing.com

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