THE REPEAL OF PREVAILING WAGE:
A Race To The Bottom

I. About the organized construction industry:

A. Employers employing 90,000 construction workers in fifteen crafts.

B. Labor organizations representing these workers, as well as 40,000 retirees.

C. These employers and labor organizations negotiate agreements that keep people off of government assistance.¹

1. Health Insurance. Because of transitory nature of construction work, merit shop construction workers lose employer-provided health care insurance when they are laid off or change employers. Organized construction employees have negotiated health care plans that ensures coverage during periods of unemployment and when workers switch employers.

2. Pension Plans. Organized construction employees have pension plans that are "portable" in the sense that they follow workers from employer to employer. That helps ensure that these workers become vested despite having many employers, each for perhaps very short periods of time.

D. These employers and labor organizations fund apprenticeship training.

1. In the organized construction industry, apprenticeship training is borne by signatory contractors employees through an hourly contribution to a training fund used to pay for training facilities, tools and equipment, instructors and a training coordinator. Open shop apprentices typically pay a higher share of the training costs through tuition payments and lower wages.²

¹Belman & Voos, Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin, Institute for Wisconsin's Future (Oct. 1995) at 4 ("In addition, with repeal [of the prevailing wage law], fewer construction workers are likely to receive paid health insurance. This could cause publicly-financed health care costs to rise, increasing the burden on state budgets."). See also Kelsay, Wray, & Pinkham, The Adverse Economic Impact from Repeal of the Prevailing Wage Law in Missouri (2004) at 102 ("It has been reported that benefit payments to union construction workers are substantially higher than to non-union workers (Petersen, 2000). Petersen reported that in 1992, health, welfare and pension plans in the construction industry paid $13.2 billion in benefits to active construction workers and retirees, of which the vast majority was paid to union members. Peterson further reports that the benefits paid per worker for union construction was $12,798, while the benefits paid per worker for nonunion construction was $434. * * * [U]nionized benefit programs account for 88 percent of all benefits in the industry. It is clear that union membership is a primary determinant of the probability of receiving benefits in the construction sector.") (citing Petersen, Health Care and Pension Benefits for Construction Workers: The Role of Prevailing Wage Laws, 39 Industrial Relations 246 (2000).

²Philips and Bilginsoy, Apprentice Training in Ohio at 3. See also Belman & Voos, Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin, Institute for Wisconsin's Future (Oct. 1995) at 10 ("Prevailing wage statutes provide incentives to maintain an effective apprenticeship training system in construction; these apprenticeship programs guarantee that construction employees have the needed skills and technical capacity to earn family supporting wages.").
2. The organized construction industry trains three out of every four apprentices.\(^3\)

3. In Ohio, the latest data available indicates that jointly-trusteed programs, i.e., union apprenticeship programs, trained 3866 of the 4600 apprentices (83.9\%) who had graduated, as of 2003, from apprenticeship classes that commenced between 1996 and 1998. Nearly 60\% of the apprentices who begin apprenticeship training in jointly-trusteed programs graduate, while less than 40\% in non-jointly trusteed programs do.\(^4\)

4. Jointly-trusteed programs graduate more apprentices than non-union programs in every construction occupation. Non union programs provided only 6\% of all graduating pipefitter apprentices, 8\% of all graduating carpenter apprentices, 7\% of all graduating sheet metal apprentices, only 6\% of graduating painter apprentices, and 17\% of all graduating bricklayer apprentices. No operating engineers or iron workers graduated from the non-union entering classes of 1989, 1990 and 1991 in Ohio.\(^5\)

II. Prevailing Wage Law Does Not Increase Cost.

A. "The problem for groups who urge wage law repeal to save taxpayers money is that they fail to offer any *credible* study that backs up their savings claims."\(^6\)

B. Claims of huge savings—usually between 20\% and 30\%, but sometimes as high as 40\%—are simply not credible. In Ohio, according to the U.S. Census of Construction Industries, wages and benefits account for only 27\% of total construction project costs.\(^7\)

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\(^3\)Philips, *Kentucky’s Prevailing Wage Law: Its History, Purpose and Effect* at 70 (October, 1999). See also Bilginsoy, *Apprenticeship Training in the U.S. Construction Industry* at 22 (Sept., 1998) ("[T]here is a wide discrepancy between the performances of the apprentices enrolled in the two types of programs. The majority of apprentices are in the joint programs, and an overwhelming number of the apprentices who reach journey-level status are trained in the joint programs. * * * The life span of non-joint programs is also much shorter than that of the joint programs."); Loomans & Seaman, *Apprenticeship Utilization in Washington State* at 9 (based on statistics from 1996-2001, 96\% of apprentices achieving journey-level status in Washington were from union apprenticeship programs).

\(^4\)See attached table.


C. "An overwhelming preponderance of the literature shows that prevailing wage regulations have no effect one way or the other on the cost to government of contracted public works projects. And as studies of the question become more and more sophisticated, this finding becomes stronger, and is reinforced with evidence that prevailing wage laws also help to reduce occupational injuries and fatalities, increase the pool of skilled construction workers, and actually enhance state tax revenues."  

D. The 2002 LSC Report is flawed.9

1. Weisberg, Analysis of Regression and Surveys in Ohio LSC Report on S.B. 102 on Claimed Cost Savings from Exempting School Construction from Prevailing Wage Requirements (2002) at 11. In a February 12, 2005 Executive Summary of his report, Professor Weisberg stated: "the effect of prevailing wage on costs is NOT statistically significant in any of the LSC Report's equations. In other words, the best statistical evidence from the LSC's own analysis is that prevailing wage has NO effect on school construction costs." Weisberg, Executive Summary (Feb. 12, 2005) at 1.

2. LSC acknowledged the flaws in its report. James Burley, the Legislative Services Commission Director, told reporters that he

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9 S.B. 102 Report: The Effects of the Exemption of School Construction Projects from Ohio's Prevailing Wage Law (Legislative Serv. Comm'n, May 20, 2002) (LSC's "statistical regression analysis" showed that the prevailing wage exemption for school construction saved 10.7% on all school construction, but only 1.2% on new construction, which was far less than proponents of the exemption had claimed).
"did not dispute Weisberg's analysis." Candisky, *Union studies dispute prevailing-wage claim*, Columbus Dispatch (July 21, 2002).

3. Professor Weisberg's conclusions have been confirmed by researchers at the University of Missouri. Kelsay, Wray, & Pinkham, *The Adverse Economic Impact from Repeal of the Prevailing Wage Law in Missouri* (2004) at 20 ("In short, the results of this [LSC] study are empirically meaningless.").

III. Repeal of the Prevailing Wage Law Would Have An Adverse Impact.

A. Wages will be reduced—not just on public works, but on all construction.10

B. Health care and pension benefits will be reduced across the construction industry.11

C. Apprenticeship training will be reduced.12

D. On-the-job injuries and fatalities will likely increase.13

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13Philips, *Kansas and Prevailing Wage Legislation* (1998) at 45 (After Kansas repealed its prevailing wage law, on-the-job injuries in the construction sector increased 19% and serious injuries increased 21.5%). See also Belman & Voos, *Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin*, Institute for Wisconsin's Future (Oct. 1995) at 5 ("In states that have repealed prevailing wage laws, occupational injuries have increased. This results in higher workers' compensation costs. Serious construction injuries increased in the states where prevailing wage laws were repealed. * * * This increase in injuries is due to a combination of factors—the use of inexperienced workers, a decline in training and cut-throat competition."); Kelsay, Wray, & Pinkham, *The Adverse Economic Impact from Repeal of the Prevailing Wage Law in Missouri* (2004) at 120; Philips, *Kentucky's
E. Productivity in the construction industry will be reduced and the quality of construction will go down.\textsuperscript{14}

F. The State and local governments will lose income and sales tax revenue\textsuperscript{15} and face increased demands on public services,\textsuperscript{16} resulting in an overall adverse impact on the state budget.\textsuperscript{17}


\textsuperscript{14}Kelsay, Wray, & Pinkham, \textit{The Adverse Economic Impact from Repeal of the Prevailing Wage Law in Missouri} (2004) at 124 ("[W]e conclude that at least for the time period 1980-93, any savings due to lower wages that might have been achieved in the absence of prevailing wage legislation were more than offset by lower productivity that accompanies payment of lower wages."). See also Belman & Voos, \textit{Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin}, Institute for Wisconsin's Future (Oct. 1995) at 4 ("Elimination of prevailing wage statutes leads to increased costs associated with the use of low-wage workers. Lower construction wages in repeal states have led to reduced levels of worker skill and efficiency, higher maintenance costs and a dramatic increase in project cost overruns.").

\textsuperscript{15}Philips, Mangum, Waitzman, & Yeagle, \textit{Losing Ground: Lessons from the Repeal of Nine “Little Davis-Bacon” Acts} (1995) at 17 ("[T]he tax revenue losses that result from lower construction wage levels are surprisingly large. Whatever the source of this decline, it has occurred in all states with prevailing wage laws, states with income taxes have lost tax revenues as a result of this decline in taxable income among construction workers. And, because this lost income means lost purchasing power, states that have repealed their prevailing wage laws have also lost some sales tax revenues. * * * Adding these two losses and bringing them to 1995 values using the consumer price index yields an estimated loss of $8.2 million in state taxes in Utah in 1991 evaluated in 1995 dollars."). See also Belman & Voos, \textit{Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin}, Institute for Wisconsin's Future (Oct. 1995) at 2 ("The decrease in wages to construction workers due to repeal of wage standards results in a major loss of tax revenue to state governments. In Wisconsin, repeal of the federal wage statute, the Davis-Bacon Act, would lead to a $11.6 million annual loss in tax revenues. Repeal of the state statutes in addition to the federal law would lead to an overall loss of $23 million.").

\textsuperscript{16}Belman & Voos, \textit{Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin}, Institute for Wisconsin's Future (Oct. 1995) at 9 ("Repeal of prevailing wage laws raises costs to taxpayers in other ways beyond the simple loss of state tax revenue. Use of low-wage labor on construction projects also imposes costs for medical care and other services needed by employees without benefits. States without prevailing wage laws experience escalated demands on public services, as low-wage workers lacking health care coverage and other benefits increasingly depend on publicly provided services.").

\textsuperscript{17}Belman & Voos, \textit{Prevailing Wage Laws in Construction: The Costs of Repeal in Wisconsin}, Institute for Wisconsin's Future (Oct. 1995) at 3 ("Repeal of the prevailing wage laws would hurt, not help, the Wisconsin state budget. This study shows that the decline in state income and sales tax revenues would exceed the minimal savings in construction costs to the state derived from decreasing worker wages.").
Distribution of New Apprentices Registered in Ohio Apprenticeship Programs between 1996 and 2003

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<thead>
<tr>
<th></th>
<th>No. of Apprentices</th>
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<tr>
<td>Joint Programs</td>
<td>233/39</td>
<td>79.9</td>
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<tr>
<td>Non-joint Program</td>
<td>5730</td>
<td>22.0</td>
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<td>All Programs</td>
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<td>100.0</td>
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New Apprentices Registered in Ohio Apprenticeship Programs between 1996 and 2003
(by gender)

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<td>97.8</td>
<td>127</td>
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<td>3.5</td>
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New Apprentices Registered in Ohio Apprenticeship Programs between 1996 and 2003
(by race)

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<th>Black</th>
<th>%Black</th>
<th>Other</th>
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<td>2047</td>
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<td>0.9</td>
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Note: “Other” includes Asian American, Native American, and Races not elsewhere classified


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<tr>
<th></th>
<th>No. of Apprentices</th>
<th>No. Cancelled</th>
<th>%Cancelled</th>
<th>No. Completed</th>
<th>%Completed</th>
<th>Still Active</th>
<th>%Still Active</th>
<th>No. Other</th>
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Note: “Other” includes suspended and reinstated apprentices.

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