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Sent: Friday, June 17, 2005 12:31 PM
To: jbooze@gov.state.oh.us
Cc: rep93@ohr.state.oh.us; district37@ohr.state.oh.us
Subject: House Bill 66
Importance: High



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WILLIAM B. BURGETT
Chairman of the Board

June 17, 2005

The Honorable Bob Taft
Governor's Office
Vern Riffe Center
77 S High Street 30th Floor
Columbus, OH 43215

Via E-mail

Dear Governor Taft:

I am writing you with regard to a provision contained in House Bill 66 (As Passed by the Senate) that would effectively gut enforcement of Ohio's prevailing wage law, and to urge you to "line-item veto" that provision should it be contained in the bill that emerges from the General Assembly's Conference Committee.

The provision contained in the bill would presumably eliminate the ability of contractors and labor organizations to file a complaint with the Wage & Hour Bureau ("Bureau") of the Department of Commerce alleging a violation of the prevailing wage law, and to file a lawsuit when the Bureau has taken no action on the complaint within sixty days. In our view, this proposal would significantly gut enforcement of the prevailing wage law.

6/21/2005

It is my understanding that this proposal was included in the substitute bill in response to some perceived abuse of the "interested party" provisions of the prevailing wage law in Northwest Ohio. It has been rumored that there has recently been a glut of frivolous "interested party" lawsuits in that area of the state. The facts, however, simply *do not support* that allegation. The Bureau has reported that there have only been 28 "interested party" lawsuits filed around the state since 2001. It is my further understanding that the interested parties have prevailed in virtually every one of these lawsuits. Thus, these lawsuits can hardly be considered a "glut," and successful lawsuits can hardly be considered "frivolous."

Moreover, the Bureau has reported that the number of administrative complaints filed has dropped from 475 in 2001 to 238 in 2004. Approximately 50-60% of these have been filed by "interested parties." Significantly, about 70% of these "interested party" administrative complaints have been found to be valid, *i.e.*, there has been an underpayment of wages. Thus, it cannot legitimately be argued that "interested parties" are flooding the Bureau with frivolous administrative complaints. In sum, there is simply no factual basis for the drastic action proposed by the Senate.

Moreover, approval of this provision will have disastrous consequences. This provision would essentially leave enforcement of the prevailing wage law to complaints filed by underpaid employees pursuant to R.C. 4115.10. As you might expect, such employees are usually very reluctant to report their employers because doing so usually results in the loss of employment. Relying solely on disgruntled former employees for enforcement will likely give rise to an atmosphere of rampant cheating. Thus, the elimination of the "interested party" provisions of the prevailing wage law may effectively amount to a repeal of the law itself.

Finally, there is also a budgetary implication for the "interested party" provisions of the budget bill that I do not believe have been adequately considered. Since 2001, the Department has collected over \$600,000 in funds for its penalty enforcement fund. Although I have not been given a breakdown on the cases in which a penalty is imposed, we again note that between 50 and 60% of the prevailing wage administrative complaints are filed by "interested parties." Given that approximately 70% of those complaints *have been found to be valid*, it can be assumed that a significant portion of the money collected by the Department for its penalty enforcement fund is at risk.

Prevailing wage is the backbone of a productive construction work force in Ohio. In my opinion if this change in prevailing wage is allowed to become law it will have a severe negative impact on our ability to attract young people into the construction industry and will ultimately reduce quality of construction within the state of Ohio. In my 55 years in the construction industry I have seen the union workforce increase productivity considerably through the elimination of featherbedding and their commitment to improve training programs.

Sincerely,

KOKOSING CONSTRUCTION CO., INC.



William B. Burgett
Chairman of the Board

WBB/bp

6/21/2005

cc: President Bill Harris
Speaker of the House, Jon Husted