PREVAILING WAGE LAWS

THE MECHANICAL ELECTRICAL SHEET METAL ALLIANCE

The Mechanical Electrical 'Sheet 'Metal Alliance,

The **Alliance represents** 12,000 **union-employing construction contractors within the**
Mechanical Contractors Association of America (MCAA)
National Electrical Contractors Association (NECA)
Sheet Metal and Air Conditioning Contractors' National Association (SMACNA)

The establishment of the Mechanical Electrical Sheet Metal Alliance is a reflection of the stability and success of unionized construction in the mechanical electrical and sheet metal contracting fields. Alliance firms remain successful and profitable in the highly competitive private and public construction market because they produce high quality and cost-effective construction. Union contractors epitomize the very best of the free enterprise system, providing good pay; excellent pension plans and extensive health care coverage for employees and their families; and superior training and safety programs yielding a highly skilled and notably stable workforce.

The results from a study conducted in 1994 by the Construction Labor Research Council (CLRC) reflect the growing resurgence of unionized construction in the mechanical, electrical and sheet metal contracting fields and provide the latest market data regarding the status of union-employing contractors in the three specialty trades.

Included in the CLRC findings:

- Mechanical, electrical and sheet metal contract work represents 25 percent of the total construction industry volume. General contractors represent a 30 percent share.
- Alliance contractors hold a market share of 60 percent for non-residential construction.
- Alliance contractors represent an increasingly larger share of industry employment. Some 540,000 union electricians, pipefitters, plumbers and sheet metal workers are employed through Alliance contractors. In the past 20 years, the union-employing contractors' portion of overall industry employment has risen from just under 25 percent to almost 30 percent.

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- Alliance contractors are training some 90,000 apprentices annually-a number sufficient to replace those leaving the industry or retiring, while also preparing for continued growth. The average Alliance craftworker works about 1800 hours per year-a number similar to that of the other full-time workers in the U.S.

In a joint statement, the Alliance noted that "This research clearly indicates that union-employing contractors' craftsmen are better trained-and equally as competitive-as open shop contractors. This means that owners are able to make their contractor selections based on the most critical factor-Which contractor is best qualified to handle the project and perform in a cost-effective manner?

The Mechanical Electrical Sheet Metal Alliance contractors are proud to be part of a group that provides high quality, cost-effective construction for the nation utilizing sound economic principles while at the same time maintaining a philosophy regarding safety, training and benefits for employees that contributes in a positive way to the future of this nation.

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EXECUTIVE SUMMARY

The economic logic for prevailing wage statutes is as valid today as in the many decades since enactment — to take wage competition out of the contract bidding process and to emphasize contractor efficiency, worker skill and projea quality. Created over one hundred years ago to prevent governments at all levels from having a negative impaa on local wages and construction conditions, the various prevailing wage statutes keep the government from pushing down wages in a competitive bidding process.

As a primary purchaser of construction services, spending more than $60 billion annually, state and federal governments have the potential to use government monopoly bargaining power to depress local, state and national wage rates and benefits as well as disrupt prevailing working conditions and rules. Preventing these potential disruptions to prevailing local wages and practices has been the basic purpose behind a century of beneficial and economically sound prevailing wage statutes in the United States.

Key Facts for Emphasis and Discussion on Local, State and Federal Prevailing Wage Statutes are:

- Long before the turn of the century prevailing wage statutes were a widespread contracting practice by state and local governments. Requiring the payment of locally prevailing wages on government construction was common before the federal government adopted its prevailing wage law in 193 1

- The goal of government when procuring construaion services should bc to seek a neutral effect to the greatest extent possible on the local economy.

- The wages established for each government construction project arc not automatically the union wage rate as more than 71 percent of DOL wage determinations issued in 1994 were based upon non-union scales of labor.

- Construction industry injury rates in the nine prevailing wage law repeal states have risen by 15 pcrccnt since rcpcal occurred. Further the rate of jobsite injuries decreases substantially as employee length of service incrcascs. Skilled trained craftworkers have substantially lower workforce turnover rates and lower injury rates.

- Minority participation in union-managcmcnt sponsored training programs is more than double the participation mtc in programs sponsored by non-union contractors and non-union contractor organizations.

- It is a myth that rhc repeal of prevailing wage statutes would lower black unemployment relative to white unemployment by opening up jobs for less skilled black labor. Thcrefotc, it is no surprise that almost all groups representing minorities and women support prevailing wage laws.

- In the 9 states that have rcpcalcd prevailing wage laws over the past two decades:

  → Apprenticeship training opportunities were reduced by 40 pcrccnt and ultimately eliminated, forcing government to establish training alternatives.

  → The availability of skilled workers dcdincd as the most qualified and productive workers abandoned construction for higher paying jobs in other industries.

  → Injuries and deaths increased in construction jobs as less reputable contractors and more unskilled high turnover workers became involved.

  → Workers' wages and benefits declined rapidly and severely.

- The Republican created federal statute received rcncwcd supporr under Prcsidcnt Dwight Eisenhower and his administration during construction of the interstate highway system.

laws. Florida, which passed its prevailing wage law in 1933, was the first state to rcpcal.

The Federal Statute Mirrors Local and State Concerns

In 1927 Representative Robert Bacon (R-NY) introduced legislation to require that locally prevailing wage standards be met in Federal construction projects of $5,000 or mote. The popularity of the legislation grew rapidly as in district after district traveling firms hiring unskilled laborers followed large government contracts to grossly under bid local contracting firms, suppliers and related businesses by underbidding locally prevailing wages in the larger metropolitan and suburban areas of the country. In his own district Representative Bacon testified that a major Federal project was lost to a non regional firm that trucked in over a thousand unskilled workers, housed them in squalid shacks and paid them substandard wages far below those prevailing for the locality, region or state. In Bacon's view, the least Government could do, when contracting , was "to comply with the standards of wages and labor prevailing in the locality where the building construction is to take place." His legislation did not seek to inflate wages artificially, but to assure that Government rcspcacd the existing local standards.

While Bacon's initial effort failed in its first year of introduction, it was reintroduced in 1928 with stronger backing from President Coolidge and the Secretary of Labor James J. Davis. The Department of Labor issued a statement in 1928 in strong support of prevailing wage laws asking, 'is the Government willing for the sake of chc lowest bidder co break down all labor standards and have its work done by the cheapcst labor that an bc secured and shipped from State to State?" Davis thought that the Federal government should not lower standards throughout the nation and when in 1930 hc became a U.S. Senator from Pennsylvania the first bill hc introduced in the Senate was the prevailing wage legislation. With the cndorscmcnt of the Hoover Administration, contracting industries and organitcd labor the bill passed on a unanimous consent motion and became law on March 3, 1931. A year later problems resulting from insufficient enforcement moved President Hoover to issue Executive Order No. 5776 to establish penalties for ignoring the Act, to define worker classifications and to make payroll record keeping mandatory and open to inspection by government officials.

In 1935 Senator David Walsh (D-MA) conducted oversight hearings on the Act and led the effort to amend the law. The Davis-Bacon amendments, which were passed without discussion included:

- lo&ring the threshold to $2,000 from $5,000,
- expanding coverage to all Federal construction,
- providing for withholding of contraaor funds to pay established wages left unpaid,
- requiring the Comptroller General to post a debarment list of firm violating the Act ,
- providing employees a right of action and/or intervention,
- establishing prcdctcrmincd wage rates for each classification.

The Act remained little changed or challenged until the 1950s when the Federal government began expanding its appliation to approximately 50 Federal programs and to more areas of government contracting. A Republican-created statute the Act received renewed support under President Dwight Eisenhower and his administration. Importantly, little objection was hard to the cost impaa of Davis-Bacon Act as applied to he interstate highway program. The position of the Congress at that time was best stated by Representative Russell Mack (R-WA) on the House floor, "the Act simply keeps wages at the prevailing rate, it does not raise wages but it does prevent wage cutting and it s wage cutting and labor standard lowering that we wish to prevent."

Fringe Benefit Coverage

A major change occurred in 1964 when the Congress apandcd the coverage of Davis-Bacon to include fringe benefits. It was argued that absent a requirement to include prevailing fringe benefits as well as prevailing wages the law would allow contractors to

THE NEED FOR PREVAILING WAGE STATUTES

The purpose of prevailing wage statutes is to take wage competition out of the contract bidding process and to emphasize contractor efficiency, worker skill and project quality Crcatcd to prevent govcmmcnts at all lcvcls from causing a negative impact on local wages and construction conditions, the various prevailing wage statutes disallow the government from pushing down wages in a competitive bidding process. As a primary purchaser of construction services, the state and federal govcmmcnts hold the potential to usc monopoly bargaining power to force down local, state and national wage rates, benefits and disrupt prevailing working conditions and rules. This potential harm to prevailing local wages and practices is the major reason behind the more than 100 years of prevailing wage statutes in the United States.

The Tenth Amendment to the Constitution restricts the ability of the Federal government to dictate contract terms for the states. Therefore, state work does not come under the Federal prevailing wage law. If the states desire prevailing wage legislation, it must bc enacted through state legislation.

The major points for retaining and enforcing prevailing wage statutes include:

- maintaining fair wage and benefit levels,
- encouraging quality training programs, and
- quality construction.

WAGES AND BENEFITS

Govcrnmcnc has the ability as the primary purchaser of construction services to drive down wage and benefit lcvcls below those prevailing on average in localitics. This is also true of state government and to a lesser cxtcnt local government procurement decisions. For more than a century the state and local governments have been prcvcntcd from using the tax dollars ofstatc and local citizens co drive down the wages of taxpayers in the community whcrc the construction project is located. When government enters the construction markets through government-funded contracts, its monopoly power if misused may depress the market for wages, benefits and related market factors unfairly and disrupt the local economy for suppliers and a wide range of construction related firms. The goal of the government when procuring construction services should bc co seek a neutral effect to the greatest cxtcnt possible on the local economy.

The prevailing wage laws in the states and localities, as well as at the federal level,

achieve this goal not by setting specific wage lcvcls; but by providing that contractors must base their bids upon a level of wages and fringe benefits that arc typical to the local area, set through private-sector market forces. In this way, all contractors bid for government funded projects based upon a common labor cost, and competition is focused upon management, quality, timeliness and productivity. Thii is fair to workers, contractors, chc government and the communicics whcrc rhc construction is located.

The wages established for each government construction project arc not automatically the union wage rate but result from the government survey of the typical wages and benefits paid for construction work in each community regardless of whether those workers arc union mcmbcrs. According to the Department of Labor, more than 71 percent of wage determinations issued in 1994 were based upon non-union scales of labor, a union wage only prevails if most construction workers in a community arc union mcmbcrs. This is most common in the area of heavy and highway construction, whcrc the majority of workers arc covered by collective bargaining agrccmcnts.

John T. Dunlop, Ph.D., Sccrctary of Labor under Prcsidcnt Ford and Harvard University professor, has concluded after decades of study, that paying prevailing wages on government construction projects is at least neutral with respect to costs. The nation's preeminent economist on construction, Dunlop has observed that productivity is so much greater among high-wage. high-skill workers that often projects using such workers cost LESS than

construction fell by more than half in rhc nine states that repealed their prevailing wage laws. States that retained their prevailing wage laws did not lose ground in apprenticeship training and states *that* never had prevailing wage laws had relatively low training rates in construction throughout the period.

The repeal of prevailing wage laws had the effect of reducing training and retraining as well as directly hindering the formation of a skilled labor force. When unions dcdincd in the wake of repeal, only state government could have picked up the pieces of first rate apprenticeship training programs. The cost of expanded state-financed, government administered vocational training is a substantial but hidden cost of repealing prevailing wage laws. So far, it is a hidden cost that few repeal states have been willing to pay.

Dr. Bernard Anderson, Assistant Secretary of Labor, for Employment Standards Administmtion testified before the U.S. Senate February 15.1995 that prevailing wage laws cncoumgc apprenticeship training by awarding contracts to firms with skilled training program and by creating a financial incentive for contractors co fund and support apprenticeship training by allowing them to pay employees in registered apprcnticeship programs less than the prevailing wage otherwise required for the job. Significantly, to the extent repeal of prevailing wage law would diminish support for apprenticeship programs, it would also limit a vehicle which has been used increasingly by women and minorities to gain access to skilled and relatively high-paying construction jobs.

Dr. Anderson testified that without the prevailing wage statutes, it may bc significantly more difficult to maintain a sufficient pool of skilled construction workcrs in this country. This is in contrast to the direction wc should bc heading in this time of growing global competition and increased demand for high-skilled workers.

In the 9 states where prevailing wage laws have been repealed, the availability of skilled workers has dcdincd as the most qualified workers abandoned construction for higher paying jobs in other industries. More importantly, apprenticeship training opporcunitics were reduced and uicimatcly eliminated due to a government preference for low bid contractors most frequently cutting costs by offering meager if any apprenticeship training, health benefits and pension plans. The number of contractors providing training, health and retirement benefits declined rapidly and severely after state prevailing wage repeal action. The negative impact on training is illustrated by the fact that in states without prevailing wage laws a low apprentice-to-journeyman ratio is the norm. In addition, workplace injuries and deaths increased on repeal state construction projects as unskilled, untrained workers replaced a skilled workforce, educated on workplace safety and health, in certified training progmms.

The results of a rcccnt study of unionized construction in the mechanical/electrical and sheet metal contracting fields demonstrate the over reliance the *con*struction industry has on union-management training to provide a skilled workforce. Just' three union-management training efforts train more than 90,000 apprentices annually - a number sufficient to replace :hosc leaving the industry or retiring, while also preparing for continued growth. The Mechanical/Electrical/Sheet Metal Alliance, representing the Mechanical Contractors Association of America (MCAA), the National Electrical Contractors Association (NECA) and the Sheet Metal & Air Conditioning Contractor National Association (SMACNA) is composed of contractor members making expenditures of $175 million annually for apprenticeship and journeymen upgrade training. The contract work done by these Alliance member firms represent 25 percent of the total construction industry volume and 60 percent of nonresidential construction.

A rcccnt study by the Bureau of Labor Statistics (BLS) '1993 Survey of Employer-Provided Training" also supports with documentation the dominant role union Alliance contractors play in training a skilled industry workforcc. The survey of Alliance industry local labor-management joint apprcnticeship training committees (JATC) rcvcalcd that :hc JATCs have more than $62 million invested in training schools and equipment.

The BLS survey findings indicated that only 60 percent of all construction csrablishmcnrs provided formal training of any kind in 1993, ranking behind establishments in finance, insurance and real estate, where roughly 75 pcrccnr of all establishments provided training.

While according to a recent BLS report nearly 100 percent of union Alliance contractors provide safety and health training to their employees, less than a third of all construction industry firms do like wise. This statistic helps explain the large differences in safety and productivity of the union Alliance contractor on public or private work. Increased injury rates lead to increased costs for contractors, who must pay higher worker's compensation premiums. And, as consumers of construction services, local, state, and federal govcrnments pay a share of those higher worker's compcnsation premiums.

MINORITY PARTICIPATION IN APPRENTICESHIP PROGRAM TRAINING

Concerning the participation of women and minoritics in construction apprenticeship and training programs, studies demonstrate that repealing prevailing wage laws will bc most harmful to just these industry workers. GAO found that "since 1973, the proportion of minorities in apprenticeship programs has risen by nearly 50 percent to 22.5 percent of apprentices.. .about the same as their rcprcscntation in the labor force." Minority participation in union apprenticeship programs — the surest route to high-wage, high-benefit construction work — is "substantially higher" than non-union programs "both in terms of percentages and absolute nurnbcrs," according to a study by Dr. Clinton C. Bourden of Harvard and Dr. Raymond E. Lcvit of MIT. Further, the proportion of minoriry graduates of union apprenticeship programs is even higher because more minorities (and non-minorities) drop out of non-union programs.

According to the Department of Labor, in 199 1the percentage of minorities employed by contractors working on federally-funded projects was higher than the percentage of minorities employed by non-federal contractors in high-skilled classifications covered by Davis-Bacon: craftworkers, operators and laborers.

Over 95 pcrant of all minority graduates of governmcnr registered apprenticeship training programs arc found in union contracting firms. Minority participation in union-management sponsored training programs is more than double the participation rate in programs sponsored by non-union contractors and non-union contractor organizations.

Former Secretary of Labor, John T. Dunlop, Ph.D., noted the essential role of certified apprenticeship and training programs — and implicitly warned of the risks of repeal of prevailing wage laws — when he said:

> *My experience teaches that formal training programs arc essential to recruit and train minorities for the construction industry. Indeed, this is how progress has been made. Over the past decade, substantial progress has been made in recruiting minorities* and *now women into the ranks of the trades ad also in placing them into bona fide craft apprentice programs. That system deserves the support of our government.*

Without prevailing wage protections, unscrupulous contractors will underbid legitimate business people by hiring workers at rock-bottom wages and having them do work that should be done by apprentices and fully-skilled craftspcrsons. The result, Dr. Dunlop maintains, is that

> *minorities* and *women who have achieved cmployment in the building trades and are currently enrolled in bona fide craft apprentice programs will be replaced with lower pat2 and untrained worker.*

Before the nine states repealed their prevailing wage statutes, participation by minority group members — male and female non-whites — in construction apprenticeships mirrored the minority populations in each state.

In the repeal states before the repeal of their prevailing wage laws, minorities accounted for almost 20 perant of all construction apprentices. After repeal, minority participation fell to 12.5 percent of all construction apprentices. Thus, after these repeals, minorities became significantly under-represented in construction apprenticeships.

One reason for this decline is that union apprenticeship programs usually enrolled dozens of apprentices. Non-union apprenticeship programs tied to single employers tended to bc smaller, often involving no more than one, two, or three apprentices. Affirmative

action and increased autbmacion efforts.

Cost overruns arc a hidden cost of repealing prevailing wage laws. In Utah, rhc overruns resulted from an over-heated bidding process in which contractors, uncertain about each other's labor costs and confronted with the entry of many start-up construction companies, shaved their bids in a desperate effort to obtain government contracts. After the rcpcal, winning bids on state jobs came in lower than ever before, but the final job costs were a higher percentage of original estimates than ever before. Having underbid jobs, contractors and subcontractors would arrange change orders to get the jobs done or simply walk away from badly underbid jobs and leave the state to pick up the pieces. In Utah, cost overruns on the construction of state roads tripled in the 10 years after repeal, compared with the 10 years before.

Therefore low bid, low wage government procurement does not automatically and proportionately translate to contract savings as claimed by those seeking repeal of prevailing wage statutes. For example, if someone is paid half the wage previously paid someone else, but-the person takes twice as long *to* do the job, using the low wage worker you haven't saved a penny. And if the job is'donc so poorly chat it requires hiring someone else to bring it up to standard, costs arc more, not less.

Repeated studies have proven that there is a direct correlation between wage levels and productivity - char well-trained workers produce more value per hour than poorly trained, low-wage workers. For example, a recent study of 10 states whcrc nearly half of all highway and bridge work in the U.S. is done showed that when high wage workers were paid double that of low-wage workers, they built 74.4 more miles of roadbed and 32.8 more miles of bridges for $557 million less.

Furthermore, most analyses fail co take into account the spin-off economic impact of maintaining prevailing wages. When workers' income goes down, they have less money to spend purchasing goods and making investments. When businesses close or cut back as a result, tax rtvcnucs to the federal government decline and social cxpcnditurcs rise. When construction projects go to outside firms undercutting local prevailing wages and benefits, community and state economies arc harmed. It is simply questionable economics co assume char driving wages and benefit standards down will bc of any benefit in increasing construction productivity, reducing government construction costs or in stimulating local economies.

Prevailing wage laws promote productive investment in human capital and in quality infrastructure construction. As the Wall Street Journal and the Business Roundrablc recently noted, there arc scvcrc shortages of skilled work in construction in many areas of the country. When wages are cut, the industry's ability to attract and afford to train qualified individuals to work in high quality construction projects is hindered,

Quality high productivity construction results only when workcts are well ttaincd in their skill specialty. It takes a significant financial commitment to training, schooling and apprenticeship to gain proper experience. Studies and jobsitc experience provide evidence that prevailing wage statutes assure the government of higher quality construction services as employers who are required to pay at least the locally prevailing wage are likely to hire more competent and productive workers. This results in better workmanship, less waste, reduced need for supervision, and fcwcr mistakes requiring corrective action. This also may lead to fcwcr cost overruns and more timely completion of public construction — and, in chc long-term, lower rehabilitation and repair needs.

In addition, prevailing wage laws deter contractors from fragmenting construction task-s to utilize low-wage, and low-skill or pick-up crews. This could result in a trade-off of long-term social benefits for short-crm profits. Without prevailing wage statutes and in hc absence of a collective bargaining agreement, contractors would not bc likely or financially able to provide training, whether formally through a certified program of certified apprenticeship training or through an uncertified program. Rapid technological advances in construction equipment, materials and design processes have also increased the need for quality-based skill training of construction cmployccs. Prevailing wage laws support quality training programs designed to meet the high skill needs of chc future construction market place. By supporting local and state prevailing wage standards, government procurement supports a proper functioning labor marker whcrc contractors compete over more efficient management techniques and quality construction rather than low contract bids.

CONCLUSION

The economic logic for prevailing wage statutes is as valid today as in the many decades since enactment — to take wage competition out of the contract bidding process and to emphasize contractor efficiency, worker skill and projca quality. Crated over one hundred years ago to prevent governments at all levels from having a *negative* impact on local wages and construction conditions, the various prevailing wage statutes disallow the government from pushing down wages in a competitive bidding process in order to "level the playing field' between a wide variety of bidders. In the 9 states that have repealed prevailing wage laws over the past two decades:

- Apprenticeship training opportunities were reduced by 40 percent and ultimately eliminated; forcing government to establish *training* alternatives,
- The availability of skilled workers declined as the most qualified and productive workers abandoned construction for higher paying jobs in other industries,
- Injuries and deaths increased in construaion jobs as less reputable contractors and more unskilled high turnover workers bcamc involved,
- Workers' wages and benefits declined rapidly and severely.

As a primary purchaser of construaion services, spending more than $60 billion annually, state and federal governments have the potential to use government monopoly bargaining power to depress local, state and national wage rates, and benefits as well as disrupt prevailing working conditions and rules. Preventing these potential disruptions to prevailing local wages and practices has been the basic purpose behind a antury of beneficial and economically sound prevailing wage statutes in the United States.

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