

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANSThe meeting was called to order by Senator Paul Hess at
Chairperson3:00 a.m./p.m. on March 12, 1984 in room 123-S of the Capitol.All members were present except:
Senator Talkington

Committee staff present:

Research Department: Mary Galligan, Sherry Brown
Committee Office: Doris Fager

Conferees appearing before the committee:

John Myers, Governor's Office; Charles Carey, Mechanical Contractors of Kansas; Al Hearrell, Topeka; Jim Brown, Topeka; Dennis Fair, Manhattan; John R. Bueltel, Topeka; James Mlynek, National Electrical Contractors' Association; Bill Williams, Heavy and Highway Contractors; Bob West, National Electrical Contractors' Association; Tom Marshall, Attorney, Kansas City; Wayne Maichel, AFL-CIO; Jack Shriver, State Representative; Art Griggs, Attorney, Department of Administration; Dr. Robert Harder, Secretary, Department of Social and Rehabilitation Services; Dr. Gerald Hannah, SRS.

HB 2797 - Prevailing Wage Bill

Mr. Myers distributed copies of his presentation (Attachment A). He then reviewed his presentation and the bill.

Senator Bogina distributed a presentation he had made on February 8, 1984 (Attachment B). He asked Mr. Myers if Subsection 3(b) on page 3 of the bill specifies a procedure that is now being done. Mr. Myers said it is, with one exception. Presently, the contracts refer to K.S.A. 44-201, asking that contractors agree to meet the provisions of that act.

In answer to a question concerning the per diem rate, Mr. Myers said this is not specific, but the Governor issued an Executive Order to try to determine how this could be determined.

Senator Bogina asked if the taxpayers won't be paying more for their sewers, streets and schools under HB 2797. Mr. Myers said he did not believe it would be a large increase. He added that, at the present time, whenever federal moneys are used, the Davis-Bacon Act is applied. Senator Bogina asked if Mr. Myers would agree that the only place the prevailing wage is specified is in Davis-Bacon or KDOT. Mr. Myers agreed.

Senator Bogina further questioned Mr. Myers concerning the argument that the state would not receive quality workmanship unless the provisions of HB 2797 are followed. Mr. Myers noted that this corresponds with the argument that the objective of paying prevailing wages is to attract the best workers. There was then discussion about a project at Emporia State University, and the fact that Davis-Bacon should have been included because of federal funds being used. Mr. Myers agreed with Senator Bogina that the performance specifications would have been the same in either case, but that there is a difference in assessment as to whether the quality of workmanship would have been the same.

Senator Hein asked Mr. Myers if he would have any objection to language on Line 121 being eliminated. He suggested it might read only similar kind of work instead of also including similar projects. Mr. Myers said there would be no major problem with that change.

HB 2797 - Continued

Senator Gaines discussed with Mr. Myers the fact that the bill should specify the average wage should be computed by what is paid by both public workers and private workers. Both agreed that this should be the intent of the law.

Senator Bogina asked why the state has not developed a specific schedule of wage rates for KDOT. Mr. Myers indicated that most of the KDOT projects have been partially federally funded, and there was no need for a state wage rate, but that there is a decrease in federal funds, and HB 2797 is needed. Senator Bogina noted that federal revenue-sharing was dropped some time ago.

It was revealed during the discussion that 36 states have prevailing wage laws, but each state handles the law differently.

There were questions about the amendment in subsection (e) on page 3. It was noted this was in the existing law, had been deleted in another section, and was reinserted at this point. Some members of the committee questioned the fact that first class cities had not been included in this subsection.

Senator McCray asked if the new definition of the prevailing wage in HB 2797 is a matter of equity and fairness. Mr. Myers said that was the reason this was amended on the House floor, and noted that new Section 3 makes the definition much clearer.

There was an extended discussion concerning the method of determining the prevailing wage, particularly where there has been no similar work done in a particular locality.

Mr. Carey introduced Mr. Hearrell, Mr. Brown, Mr. Fair and Mr. Bueltel, indicating that these gentlemen are proponents of HB 2797. Mr. Mel Huxtable, Lawrence, sent this statement: "Quality of the work is more important, and without the prevailing wage the quality will go down and down.

Mr. Carey said there have been several statements in the press, etc., which he feels are not accurate. He suggested that America must learn to respect blue collar workers, because if we do not, they will live up to our disrespect.

Mr. Carey distributed his testimony (Attachment C) and read his presentation. There were questions from committee members, including one from Senator Werts concerning the fact that the prevailing wage criteria is not now being applied, and whether current work is inferior because that is not being done. Mr. Carey said it has been his experience that the lower wage workers perform constantly less quality work than those who have higher wages. There were several questions from Senator Bogina concerning the difference in the proposal before the committee and the present law. Mr. Carey said the intent of the present law is the same, but the amendments to HB 2797 will clarify the law.

Mr. West presented his written statement (Attachment D) and answered questions from committee members. Following these questions, Mr. West said his association is opposed to a repeal of the present bill. Senator Bogina asked if there is a difference between the current per diem wages and prevailing wages. Mr. West answered that there is a difference between what is currently in effect and what is being proposed by the bill as amended.

HB 2797 - Continued

Senator Hein asked if those paying lower wages are taking advantage of their employees. Mr. West said he did not think so, but there are those who could be unscrupulous. Senator Hein further asked if those who pay lower wages are producing "shoddy" work. Mr. West answered that he is not familiar with specific projects, but reports he has had do not indicate that. When asked by Senator Werts if it would be appropriate to establish a prevailing cost for goods used, Mr. West said the cost of materials will remain constant for all contractors during the bidding.

Mr. Williams appeared as a proponent of the amended bill. He read from his prepared statement (Attachment E). He then said he had been advised there is a serious effort on the part of numerous Senators to amend HB 2797 to repeal the present law, and he stressed his organization is opposed.

Senator Steineger asked if Kansas did not have some sort of prevailing wage statute on a major project, would it be possible for an out of state contractor to come in and bring in laborers. Mr. Williams answered in the affirmative.

When asked by Senator Gaines if he would be satisfied if the Governor's executive order were rejected and leave the present statute on the books, Mr. Williams said he would be satisfied, but there have been numerous lawsuits filed on a KDOT project in Wichita for utilizing K.S.A. 44-201 in lieu of Davis-Bacon. The Supreme Court upheld KDOT, and it was as a result of that case that Governor Carlin issued the executive order to establish a method of determining prevailing wage.

In answer to questions from Senator Werts, Mr. Williams said there is some likelihood employees might be paid more than prevailing wage, because his group believes in productivity. He further agreed that, if a person can underbid him by getting quality work at a lesser cost, that person should not be eliminated from bidding on a project.

Mr. Marshall distributed his written testimony and read from that statement (Attachment F). During ensuing discussion, Senator Hein expressed concern that HB 2797 would bring about a statement of an actual wage rate, which is exactly adverse to what the Courts have struck down for lawyers, etc. He further expressed concern that the prevailing wage will become the market place. In addition, Senator Hein questioned how prevailing wages for bridge construction, for instance, could be determined in the private sector, since all bridge construction is undertaken by public entities.

Mr. Maichel read from his prepared testimony (Attachment G). There were no questions from committee members.

Mr. McCallum appeared as an opponent to HB 2797. He explained to the committee that the City of Manhattan is located in two counties, and there is a problem when localities are discussed, because work on the same project does sometimes cross county lines. He suggested there should be additional background and definitions on what "locality" means.

Mr. McCallum continued by stating that Fort Riley is included in wage determinations in Riley County, and that this affected wages in the City of Manhattan for several years. Since the work at the Fort is different and the wage rate was much higher when it was included, the City was successful (at the Federal level) in getting the Fort removed from the wage rate determination.

HB 2797 - Continued

Mr. McCallum reminded the committee that Jeffrey Energy Center is in Pottawatomie County, the other county in which Manhattan is located. He suggested that, when you include that in the determination of Manhattan wage scales, there are problems. Mr. McCallum asked the committee to review how to define county lines. He suggested that the committee might help make a recommendation to determine the definition of "localities". He further suggested that Manhattan would like guidelines on the status of Military Reservations in determination of wage scales, because Manhattan is not the only locality with that situation. He said if certain definitions were cleared up, the concept of HB 2797 is not objectionable. Senator Gaines asked if it would be agreeable to lift out of the old statute "each such city shall be considered a locality." Mr. McCallum said he thought that would be fine.

Senator Bogina asked if, under current law, contracts have been let by the City of Manhattan for road work wherein there were state moneys involved. Mr. McCallum said there have been several of those projects, and the records show that under state and federal moneys projects done by the same contractor under different guidelines, the wages have been 15% to 20% higher.

No action was taken on HB 2797.

HB 3002 - Imprest funds, payments to correct payroll errors

Representative Shriver explained that there is a problem where some state employees are not getting their checks since the change to the new payroll system. (KIPPS) He cited the University of Kansas as an example. He explained the amendment and asked that it be reported favorably.

Motion was made by Senator Steineger and seconded by Senator McCray to report HB 3002 favorably for passage. The motion carried by roll call vote.

SB 579 - Appropriations FY 1985, SRS Institutions
SB 578 - Appropriations FY 1984, SRS Institutions

Senator Bogina first reviewed the subcommittee report on systemwide recommendations. There were questions from committee members following his review.

SB 578 - Youth Center At Topeka (FY 1984)

There were no questions from committee members following Senator Bogina's report on this section.

SB 579, Section 2 - Youth Center at Topeka

During his review of the subcommittee report on this section, Senator Bogina explained that YCAT's projection of the population was less than what the Governor had used in his food projections, etc. He added that is the reason for asking for a thorough review of those projections.

SB 578, Youth Center at Beloit

There were no questions following Senator Bogina's report on this section.

SB 579, Section 3 - Youth Center at Beloit

Following Senator Bogina's review of the subcommittee report on this section, committee members were given opportunity to question him.

SB 579 - Continued

SB 578 - Continued

SB 578, Youth Center at Atchison

Senator Bogina presented the subcommittee report on this section, and committee members were given opportunity to question him.

SB 579, Section 4 - Youth Center at Atchison

Following Senator Bogina's presentation of the subcommittee report on this section, there were questions concerning the addition of a food service worker. Senator Bogina said this person is needed to supplement part time staff people which have been used for food service workers.

SB 578, Kansas Neurological Institute

Senator Bogina reviewed the subcommittee report on this section. Senator Werts asked why the subcommittee re-appropriated salary money rather than lapse it. He replied that it was re-appropriated to 1985 and FY 1985 appropriation was reduced.

SB 579, Section 5 - Kansas Neurological Institute

Following Senator Bogina's review of the subcommittee report, there were questions from committee members. There were questions concerning subcommittee recommendation No. 2, and the shift to over-21 population. There was concern about the additional funds not having been recommended by the Governor.

Secretary Harder was asked if he could explain the fact that the Governor had not recommended the additional funding for the additional positions. He said that the educational program would be paid out of categorical aid, so the total dollars are not accurate. He noted, also, that there has been, over the last couple of years, an indication given to the Governor about the kind of shifting that is taking place, and he has not been fully convinced of those shifts. Senator Hess asked why the extra \$100,000 should not be used for local facilities to take the adults out of the institution and place them in the community. Secretary Harder said he is not opposed to that, but that he has a situation where it is necessary to operate two programs--one for children and one for adults.

When asked how many people at KNI could be moved to a residential setting, Dr. Harder said it would be about 10%.

SB 578, Larned State Hospital

There were no questions following Senator Bogina's presentation of the subcommittee report on this section.

SB 579 - Section 6, Larned State Hospital

There was discussion concerning Senate Subcommittee Recommendation No. 7; and Dr. Harder said he concurs with the Governor's recommendations.

SB 578 - Osawatomie State Hospital

Following Senator Bogina's presentation of the subcommittee report on this section, committee members were given opportunity to question him.

SB 578 - Continued

SB 579 - Continued - Section 7, Osawatomie State Hospital

Senator Bogina presented the subcommittee report on this section. There was discussion about recommendation No. 10. Senator Bogina noted this brings the number of beds for the Substance Abuse program back to the current level.

Commenting on recommendation No. 11, Senator Bogina explained that the Fee Fund is short, and the projected fees for FY 1985 will not be forthcoming. In addition, third party payment is not as high as it has been.

SB 578 - Rainbow Mental Health Facility

There were no questions following Senator Bogina's review of the subcommittee report on this section.

SB 579, Section 8 - Rainbow Mental Health Facility

Senator Bogina reviewed the subcommittee report on this section. There was an extended discussion regarding subcommittee recommendation No. 9. Committee members questioned both Senator Bogina and Dr. Harder about various aspects of the Rainbow facility.

Motion was made by Senator Doyen and seconded by Senator Gaines to delete recommendation No. 9. The motion carried by voice vote, with Senator Bogina voting "No."

SB 578 - Parsons State Hospital and Training Center

There were no questions following Senator Bogina's presentation of the subcommittee report on this section.

SB 579, Section 9 - Parsons State Hospital and Training Center

Following Senator Bogina's review of the subcommittee report on this section, there were questions concerning recommendation No. 2. Senator Bogina indicated this was in the Secretary's request, but was not in the budget the Governor adopted.

In connection with recommendation No. 8, Senator Bogina said that currently LMHTs are being taken from their regular duties to supplement the special education program. It was the subcommittee's thought that the program would be better served and they would be performing tasks they were trained and assigned to do.

SB 578 - Norton State Hospital

There were no questions following Senator Bogina's review of the subcommittee report on Norton State Hospital.

SB 579, Section 10 - Norton State Hospital

Senator Bogina reviewed the subcommittee report on this section. There were questions concerning the people at this hospital who are eligible for special education. Dr. Hannah indicated these have been transferred from KNI, and it was thought there could be an administrative transfer at Norton, and at some point bring them back. However, that is not the case, and a special education program is needed for them.

SB 578 and SB 579 - Continued

SB 579, Section 11 - Division of Mental Health and Retardation Services

There was discussion about recommendation No. 6. Senator Bogina said the Governor recommended 37% for the 649 program, and the subcommittee is attempting to get as much as possible into it, because the statutory maximum is 50%. There was a lengthy discussion about staying under the budget recommended by the Governor.

Motion was made by Senator Gaines and seconded by Senator Doyen to amend the subcommittee report in recommendation No. 6 to add only \$441,412.

Dr. Harder said that, from the standpoint of phasing down hospital beds, as suggested by the Legislature, the only way that can be done is to make sure there is a community program that can absorb the patients in the hospitals. He reminded the committee that SRS has worked to lower hospital population. He continued by stating that a plateau has been reached at this point, and this cannot be altered unless there are additional resources in the communities to absorb institutionalized people.

Mr. Klotz agreed that residential beds are needed. He said the Legislature has made it clear that all people must be served regardless of ability to pay. All services are expanding--not just residential. He said that both mental retardation and mental health have tried to get increased insurance coverage, to get the private sector to pay its fair share, to increase the mill levy, etc.

Dr. Hannah said last summer's interim study committee recommended getting community programs to the place where something can be done with patients who do not need to be in institutional care.

Ms. Miller indicated that data had been collected to indicate that 45% of community facilities are local funds. She said she did not think the request in state aid is an undue share of total costs.

The committee indicated that the motion would be voted upon, in the light that it might be reconsidered during consideration of the Omnibus Appropriations Bill.

The motion carried by voice vote, with Senator Bogina voting "No."

SB 579 - Section 10 - Norton State Hospital

Senator Gaines asked that the committee refer to Section 10 and the suggestion that vehicles be taken to the KDOT maintenance shop at Norton. He asked if the committee felt the hospital should be charged for labor if this is done. He added that he does not feel gas tax could be used for that purpose. It was the concensus of committee members to amend the subcommittee report to include Senator Gaine's suggestion.

The committee directed the Chairman to write to the Secretary of KDOT informing him of the above decision.

SB 578 - Topeka State Hospital

There were no questions from committee members following the review of the subcommittee report by Senator Bogina.

SENATE COMMITTEE ON WAYS AND MEANS, March 12, 1984, 3:00 p.m. - 8

SB 578 and SB 579 - Continued

SB 579, Topeka State Hospital - Section 12

There was discussion concerning Subcommittee Recommendation No. 8 following Senator Bogina's review of the report.

SB 578, Winfield State Hospital and Training Center

There were no questions following the subcommittee report on this section.

SB 579, Winfield State Hospital and Training Center, Section 13

There was a brief discussion following the review of the subcommittee report by Senator Bogina.

Motion was made by Senator Bogina and seconded by Senator Warren to adopt all the above subcommittee reports as amended. The motion carried by voice vote.

SB 578 - Kansas Fish and Game Commission

Senator Bogina distributed a proposed amendment to SB 578 and the section concerning the Kansas Fish and Game Commission (Attachment H). He noted that the funding on this project would be 80% federal money, 10% KDOT and 10% Fish and Game Commission.

Motion was made by Senator Bogina and seconded by Senator Werts to include the above proposed amendment. Following a brief discussion concerning this item, it was decided to delay discussion and decision until the Omnibus Appropriations Bill is reviewed by the committee. The motion and second were withdrawn.

Motion was made by Senator Bogina and seconded by Senator Werts to report SB 578 and SB 579 as amended favorably for passage. The motion carried by roll call vote.

The meeting was adjourned by the Chairman.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590

John Carlin Governor

Testimony to
Senate Ways and Means Committee
by John Myers
March 12, 1984

Thank you, Mr. Chairman and Committee Members, for the opportunity to testify in support of House Bill No. 2797. The Governor is supportive of ensuring that Kansas law retain the provision which mandates that persons employed on public projects be paid "fair compensation" for their labors. He believes that House Bill 2797 fulfills such a provision, and that it is an improvement over the law which currently exists.

House Bill 2797 provides for a mechanism, to be established by the Secretary of Human Resources, so that the prevailing wage in each locality of the State can be determined. It further requires that bids on public work projects "shall specify" the prevailing wage. These provisions of House Bill 2797 allow for enforcement of the law, as opposed to current law which is outdated and vague.

I would also point to the change in House Bill 2797 of the definition of "locality." This bill excludes from the law the requirement that special determinations of the "prevailing wage" be made for cities of the first and second class. The Governor supports House Bill 2797 which calls for only a county-wide determination.

The Governor urges your support of House Bill 2797 and appreciates your consideration of his views on this important legislation.

A
3-12-84
3:00 P.M.

STATE OF KANSAS

AUGUST BOGINA, JR., P. E.
SENATOR, TENTH DISTRICT
JOHNSON COUNTY
13513 WEST NINETEETH PLACE
LENEXA, KANSAS 66215



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIRMAN JOINT COMMITTEE ON STATE BUILDING
CONSTRUCTION
CHAIRMAN CORRECTIONS SYSTEM REVIEW COMMISSION
MEMBER EDUCATION
LOCAL GOVERNMENT
PUBLIC HEALTH AND WELFARE
WAYS AND MEANS

FEBRUARY 8, 1984

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. I BECAME INVOLVED WITH THE INTRODUCTION OF HB 2797 PRIMARILY BECAUSE OF THE INCIDENT OF THE DAVIS-BACON WAGE DETERMINATION IMPACT UPON THE ROOF REPAIR PROJECT AT EMPORIA STATE UNIVERSITY. THIS PRONOUNCED NEGATIVE IMPACT AND SUBSEQUENT RESEARCH HAS PROVEN THAT WE MUST BE CONCERNED ABOUT THE EFFECT OF THE GOVERNOR'S EXECUTIVE ORDER NO. 84-68 AND THE HIDDEN TAX BURDEN THIS WILL EXERT UPON THE CITIZENS OF KANSAS.

DURING THE 1982 SESSION, THE LEGISLATURE MADE APPROPRIATIONS FROM THE FEDERAL REVENUE SHARING FUND TO REPLACE THE BRENKELMAN HALL ROOF AT E.S.U. THE ARCHITECTURAL DIVISION OF THE DEPARTMENT OF ADMINISTRATION PREPARED BIDDING DOCUMENTS FOR A COMBINED PROJECT OF THIS ROOF AND FIVE SMALLER ROOFS. ERRONEOUSLY THE BIDDING DOCUMENTS FAILED TO SPECIFY THAT THE DAVIS-BACON PREVAILING WAGE REQUIREMENTS WOULD BE IN FORCE BECAUSE OF THE PRESENCE OF THOSE FEDERAL FUNDS. THE PROJECT WAS ADVERTISED AND A BID AWARDED FOR ALL SIX ROOFS. THE CONTRACTOR COMPLETED ONE ROOF, HAD PURCHASED MATERIALS FOR AND HAD BEGUN WORK ON THE BRENKELMAN HALL ROOF, WHEN A PICKET APPEARED ON THE JOB SITE PROTESTING THE ABSENCE OF DAVIS-BACON WAGES. IT IS INTERESTING AND SOMEWHAT QUESTIONABLE AS TO HOW THE PICKET KNEW FEDERAL REVENUE FUNDS WERE APPROPRIATED FOR THAT ROOF, BECAUSE IT IS DOUBTFUL THAT MANY, IF ANY, LEGISLATORS WHO WERE ACTIVE IN RECOMMENDING THAT APPROPRIATION WOULD HAVE BEEN AWARE OR REMEMBERED THIS FACT. AFTER IT WAS DETERMINED THAT THE PICKET PROTEST WAS CORRECT, THE DIVISION OF ARCHITECTURAL SERVICES REQUESTED A "WAGE DETERMINATION UNDER THE DAVIS-BACON AND RELATED ACTS" FROM THE U.S. DEPARTMENT OF LABOR. THIS WAGE DETERMINATION FOR LYON

B-84
3-12-84
3:00 P.M.

COUNTY, KANSAS, WOULD HAVE CAUSED THE CONTRACT TO INCREASE BY 32.41%. IN THIS CASE THIS PROBLEM IS SOLVED WITH THE PASSAGE OF SB 577, WHICH WOULD LAPSE THE FEDERAL REVENUE SHARING FUNDS AND APPROPRIATE EDUCATION BUILDING FUNDS. WHEN REPRESENTATIVES OF THE ADMINISTRATION WERE QUESTIONED ABOUT THE OBVIOUS EXCESSIVE RATES, THEY ANSWERED THAT THE "DETERMINATION" WAS ERRONEOUS. WHEN THEY WERE ASKED WHY THEY DID NOT APPEAL THE "DETERMINATION", THEY ANSWERED IT WOULD NOT HAVE DONE ANY GOOD TO DO SO. THE GOVERNOR HAS REQUESTED THE LAPSE AND REAPPROPRIATION OF FUNDS IN THE EMERGENCY SUPPLEMENTAL BILL (SB 577), THEREFORE HE MUST AGREE THAT THIS SITUATION IS INTOLERABLE.

THE E.S.U. ROOF PROJECT FIASCO IS REAL, THE EVENTS AT THE JOINT BUILDING CONSTRUCTION COMMITTEE HEARING ON JANUARY 6, 1984, ARE ACCURATE AND SB 577 HAS PASSED THE SENATE. I SUBMIT, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THAT THIS SCENARIO IS WHAT ACTUALLY WILL HAPPEN TO EVERY STATE, CITY, COUNTY, TOWNSHIP, SCHOOL DISTRICT, COMMUNITY COLLEGE, WATER DISTRICT, FIRE DISTRICT PUBLIC WORKS PROJECT IN OUR STATE, IF HB 2797 IS NOT PASSED. ALSO THE WAGE RATES OF EACH STATE, COUNTY AND MUNICIPAL EMPLOYEE ENGAGED IN PUBLIC WORKS CONSTRUCTION, RECONSTRUCTION OR REPAIR COULD BE AFFECTED.

I HAVE TABULATED THE ANNUAL PUBLIC IMPROVEMENT EXPENDITURES, WHICH WERE OBTAINED FROM AUTHENTIC SOURCES. THE AMOUNTS SHOWN ARE DELIBERATELY CONSERVATIVE. I HAVE HAD PERSONAL CONTACTS WITH CONTRACTORS ACROSS THE STATE TO ASSESS THE IMPACT OF THE DETERMINATION OF A "PREVAILING WAGE" FOR PUBLIC WORKS PROJECTS. THE KANSAS DEPARTMENT OF TRANSPORTATION HAS, FOR SOME TIME, INCLUDED A PREVAILING WAGE DETERMINATION IN THE BID DOCUMENTS FOR ALL NON-FEDERAL HIGHWAY PROJECTS. IN MANY CASES THE DAVIS-BACON WAGES ARE ALSO THE STATE PREVAILING WAGE RATES. WHERE THEY ARE NOT THE SAME, THE DAVIS-BACON WAGES WILL AFFECT THE STATE DETERMINATION BECAUSE THEY ARE INCLUDED IN THE COMPILATION. DURING MY ENGINEERING CAREER, I HAVE HAD A CERTAIN AMOUNT OF EXPERIENCE PREPARING DESIGNS AND SPECIFICATIONS FOR DAVIS-BACON RELATED PROJECTS. IN EVERY CASE THE PUBLISHED

RATES WERE IN EXCESS OF THOSE THAT ACTUALLY EXISTED IN THE AREA. THEREFORE, EVEN IF AN HONEST ATTEMPT IS MADE TO DETERMINE THE PREVAILING WAGES IN EACH "LOCALITY", THE DAVIS-BACON RATES WILL HAVE A PROFOUND INFLUENCE OR ACTUALLY DICTATE THE STATE DETERMINATIONS.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I HAVE DETERMINED A WEIGHTED AVERAGE, USING EMPIRICAL MEANS, OF ADDITIONAL CONSTRUCTION COSTS OF PUBLIC WORKS THAT COULD OCCUR IF HB 2797 IS NOT PASSED. BASED UPON KDOT BIDS OF PROJECTS AND OTHER FACTORS, I BELIEVE WE COULD EXPECT A 17% OVERALL INCREASE IN COSTS. APPLYING THIS RATE TO THE ANNUAL AMOUNT OF PUBLIC WORKS PROJECTS RESULTS IN \$94,400,000 ADDITIONAL COSTS OR IN MOST CASES THAT MUCH LESS CAPITAL IMPROVEMENTS. IF YOU BELIEVE 17% IS TOO HIGH, TRY 10% OR EVEN A RIDICULOUSLY LOW 1%.

IF INCREASED TAXES FOR CAPITAL IMPROVEMENTS AREN'T CONVINCING, THE ECONOMIC RIPPLE EFFECT COULD BE MEANINGFUL. ECONOMISTS HAVE DETERMINED THAT FOR EACH ONE MILLION DOLLARS OF NEW CONSTRUCTION, 63 NEW JOBS ARE DEVELOPED SOMEWHERE IN THE STATE. THIS FACT WOULD RELATE TO 5,920 NEW JOBS (94×63), BASED UPON MY CALCULATIONS. THERE COULD BE NEW TAXPAYERS FUELING OUR ECONOMY.

DURING THE PAST INTERIM, I HAD THE PRIVILEGE OF CHAIRING THE COMMITTEE CHARGED WITH THE TASK OF DETERMINING THE INFRASTRUCTURE NEEDS OF OUR STATE UNTIL THE YEAR 2000. THE COMMITTEE FOUND THAT MOST STATE AGENCIES HAVE NOT PROJECTED THEIR MAINTENANCE NEEDS BEYOND A FIVE YEAR PROGRAM. USING THOSE FIVE YEAR PROJECTIONS PLUS THE INFORMATION OF NEEDS TO THE YEAR 2000 FURNISHED BY THOSE AGENCIES THAT HAD DEVELOPED THIS PLANNING PROCESS, IT WAS DETERMINED THAT AN EXPENDITURE OF \$3.98 BILLION WOULD BE NECESSARY TO MAINTAIN THE CAPITAL IMPROVEMENT SUPPORT OF OUR STATE GOVERNMENT. IF WE USE THIS AMOUNT AND THE 17% FACTOR, 577 MILLION ADDITIONAL DOLLARS MUST BE PAID BY OUR TAXPAYER AND 36,350 NEW JOBS WILL BE LOST IF HB 2797 IS NOT PASSED. THESE INFRASTRUCTURE DEMANDS DO NOT INCLUDE THE LOCAL UNITS OF GOVERNMENT WHO HAVE MANY FACILITIES THAT ARE, BECAUSE OF AGE, "WEARING OUT" AND WILL SOON REACH THE END OF THEIR USEFUL LIFE. THEREFORE, ANY FACTOR ONE WOULD CARE TO USE WILL RESULT IN A VERY SIGNIFICANT IMPACT UPON THE TAXPAYERS IN OUR STATE NOW AND

IN FUTURE GENERATIONS.

DO NOT BE MISLED OR BELIEVE THAT THE QUALITY OF THESE PROJECTS WILL BE DIMINISHED BECAUSE THE DETAILED PLANS AND SPECIFICATIONS WILL GOVERN THE CONSTRUCTION AND PERFORMANCE OF THE END PRODUCT REGARDLESS OF THE WAGE RATE. THE CONSTRUCTION SPECIFICATIONS FOR THE BRENKELMAN HALL ROOF PROJECT WOULD HAVE BEEN EXACTLY THE SAME EXCEPT FOR THE INSERTION OF THE PREVAILING WAGE RATE DETERMINATION. ALSO THE KDOT SPECIFICATIONS AND END PRODUCTS WILL NOT CHANGE UNDER EITHER CASE.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THERE IS ABSOLUTELY NO QUESTION THAT ALL CONSTRUCTION COSTS IN THE STATE WILL INCREASE IF THE PROVISIONS OF THE 1890'S STATUTE 44-201 ET SEQ ARE ALLOWED TO BE IMPLEMENTED. ALSO, I BELIEVE, THAT THERE IS OVERRIDING PROOF THAT A VOTE AGAINST HB 2797 IS AN AGREEMENT THAT THE TAXPAYERS OF KANSAS SHOULD BE SADDLED WITH THIS UNNECESSARY ADDITIONAL COST FOR THEIR NEEDED MUNICIPAL AND GOVERNMENTAL FACILITIES. THE CITIZENS OF OUR STATE EXPECT THEIR ELECTED OFFICIALS TO NOT ADD TO THEIR TAX BURDENS BY INCREASING THE COSTS OF THOSE NEEDED PUBLIC WORKS PROJECTS. THEY, THE BLUE COLLAR WORKERS, WHITE COLLAR WORKERS, FARMERS, FACTORY WORKERS, EXPECT US TO HELP DEVELOP JOBS AND OUR ECONOMIC FUTURE AND NOT DETRACT FROM THEIR OPPORTUNITY TO BE A PART THAT FUTURE. THEY HAVE A RIGHT TO EXPECT THIS, THEY DESERVE NO LESS. I URGE YOUR FAVORABLE SUPPORT OF AND VOTE ON HB 2797.

THANK YOU.

TABULATION AND CALCULATIONS

SENATOR GUS BOGINA

Construction Contracts For Public Works In Kansas
(Most Recent Year Available)

State Highway (now federal)	\$ 84,500,000
Regents Institutions	23,870,000
State Hospitals & Institutions	9,190,000
Fee Funds	4,100,000
General Fund	20,750,000
Unified School Districts	52,000,000
Community Colleges	7,200,000
Cities and Counties	345,000,000
(roads and streets, sanitary sewers, storm drainage, municipal buildings)	
Quasi-Municipal	5,500,000
(water districts, fire districts)	
Miscellaneous	3,000,000
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TOTAL	\$555,110,000

(Data obtained from state appropriations, State Board of Education, League of Municipalities and County Engineers Association.)

Approximate Labor Costs In Construction Projects
(As Percentage of Bid Price)

Roadway and Paving (new)	24%
Renovation, Reconstruction, Repair	35%
Bridge Restoration	65%
Building Construction	40%

Contract Cost Increases Because Of Davis-Bacon Influence

Road, Bridge, Street, Highway (new)	15-38.5%
Renovation, Reconstruction, Repair	22-45%
Buildings	8-25%

(Information from a cross section of actual bids across the state during the past year.)

EMPORIA STATE UNIVERSITY

1200 COMMERCIAL / EMPORIA, KANSAS 66801 / TELEPHONE 316-343-1200



December 22, 1983

Mr. David Monical, Principal Analyst
Legislative Research Department
Statehouse, Room 545N
Topeka, KS 66612

Re: Federal Revenue Sharing Fund Appropriation - "Replace Breukelman Hall Roof" (11004-65)

Dear David:

As I indicated to you on the phone yesterday, a problem has arisen in connection with the Breukelman Hall reroofing project.

When discussions were underway earlier this fiscal year concerning several reroofing projects on campus, it was decided to combine them all into one contract in order to secure the most favorable bid. This was done; the specifications were prepared; the contract was signed in late summer; and work began this fall. Unfortunately, no provision was made in the specifications for the payment of prevailing wages on the Breukelman Hall project since it was financed with Federal revenue sharing funds.

After the first portion of the project was completed and work commenced on Breukelman Hall, pickets appeared at the edge of the campus. Shortly thereafter, the weather closed the entire project down. Since then, we have been in contact with the office of the Director of Architectural Services and various other state offices. No solution seems to be emerging. Therefore, we feel the need to involve the Joint Committee on State Building Construction.

Since becoming aware of the problem, we have requested the U.S. Department of Labor's prevailing wage determination for the Emporia vicinity. A copy of that determination is attached. They determined that the prevailing wage for beginning roofers in Lyon County was \$14.66/hr. (not including fringe benefits). After receipt of this determination, we surveyed the only two legitimate built-up roofing contractors as to the wages they pay their employees. Those responses are listed below:

COMPANY:	Geo. Groh & Sons	Emporia Roofing
Position	Wage	Wage
Roofer & Sheetmetal Laborer	\$5.25/hour	\$5.50-5.75/hour
Sheetmetal Laborer	\$5.85/hour	----
Roofing Laborer	\$5.41/hour	----
Roofing Laborer (beginning)	----	\$5.00/hour
Journeyman Level Roofer	----	\$6.75-8.00/hour
Roofing Foreman	\$6.00-8.00/hour	----

It is our understanding that the roofing contractor, Weathercraft, Inc., is paying his employees comparable wages to those listed above. Furthermore, Weathercraft has advised us that his labor costs would likely nearly double if he were required to pay the wages as determined by the Department of Labor. Listed below are the current contracted project costs and the labor costs included in each portion.

CCR No.	Project Title	As Originally Contracted		Total Project Cost With Change Order #1 & Proposed Change Order #2
		Labor Cost*	Total Project Cost	
A-4579	Replace Breukelman Hall Roof	\$ 44,885	\$129,096	\$155,893
A-4290(d)	Reroof Portion of Physical Education Bldg.	10,907	25,807	29,349
A-4574	Reroof Plumb Hall	26,318	64,848	65,348
A-4769	Reroof Portion of W.A.W. Library	5,413	19,886	19,886
A-4635	Reroof Married Student Apts "B" and "C"	19,260	47,192	47,192
A-4805	Reroof Morse Hall Northeast	10,949	45,554	45,554
TOTAL		\$117,732	\$332,383	\$363,222

*These labor costs identified by the contractor in a routinely requested cost breakdown after the contract is awarded.

A doubling of the labor costs on Breukelman Hall alone would cost at least \$44,885 extra. There is a possibility that the Davis-Bacon Act could be interpreted such that the prevailing wage determination would not only apply to the Breukelman Hall work, but also to the entire project. Such an interpretation would appear to cost at least an extra \$117,732.

Listed below are the balance of funds that we expect to have available in each of the project accounts upon completion of this contract (after change order #2 is processed and assuming that there are no payments for wage adjustments).

Mr. Monical
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December 22, 1983

CCR No.	Project Title	Expected Balance	Funding Source
A-4579	Replace Breukelman Hall Roof	\$14,107	Federal Revenue Sharing - Line Item Appropriation
A-4290	Reroof Physical Education Building	43,651	Educational Building Fund - Line Item Appropriation
A-4574	Reroof Plumb Hall	-0-	Educational Building Fund - Major Repairs, Special Maintenance & Remodeling
A-4769	Reroof Portion of W.A.W. Library	-0-	Educational Building Fund - Major Repairs, Special Maintenance & Remodeling
A-4635	Reroof Married Student Apts "B" and "C"	-0-	Residence Hall Maintenance & Equipment Reserve Fund
A-4805	Reroof Morse Hall Northeast	-0-	Residence Hall Maintenance & Equipment Reserve Fund
	TOTAL	\$57,758	

If the federal wage determination stands as is and its applicability is limited to the Breukelman Hall reroofing, the expected balance in Projects A-4579 and A-4290 would cover the required wage increase. However, legislative approval would be needed to transfer funds from the physical education building project to the Breukelman Hall project. Obviously, there are insufficient funds to cover the required wage increase should it be determined Davis-Bacon applies to the entire job.

Attached are some of the options that could be selected at this stage, and some of the pros and cons of each option. Since some of the options listed require legislative action, we felt that it might be appropriate for these options to be reviewed at the January 6 meeting of the Joint Committee on State Building Construction. If you concur, would you please make the necessary arrangements for it to be placed on the agenda, or advise us further in this matter.

Sincerely,

W. G. Clark
Walter G. Clark
Business Manager

ls

Enclosures

cc: Senator Bogina
Warren Corman
Dan Carroll

U. S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WASHINGTON, D. C. 20210

WAGE DETERMINATION UNDER THE DAVIS-BACON AND RELATED ACTS

SPECIAL PROJECT DECISION

The case is before the Department of Labor pursuant to a request for the wage rates prevailing as of July 13, 1983 in Lyon County, Kansas. On the basis of evidence and other data assembled by the Department of Labor for this area, it appears that the prevailing wage rates and fringe benefits payments in this locality were as shown on the attached schedule.

The contracting officer shall require that any class of laborers and mechanics which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination, and a report of the action taken shall be sent by the Federal agency to this office. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the contracting officer shall be referred to the undersigned for determination.

/s/ Sylvester E. Green

Director, *ACTING*
Bureau of Government
Contract Wage Determinations
Employment Standards Division

Department, Agency or Bureau: Dept. of Administration Division of Architectural Services	Decision No: S- S-83-KS-376
Location of Project (City or Other Description): Emporia State University	Date of Issuance: November 30, 1983
State: Kansas County: Lyon	Reflects Wage Rates as of: July 13, 1983
Description of Work: Reroof various buildings - Emporia State University, Emporia, Kansas State of Kansas Project Nos. A-4574, A-4579, A-4635, A-4769.	

FOR DEPARTMENT OF LABOR USE

Response To Request

Use area determination issued for this area

The attached decision noted below is applicable to this project

Decision Number

Date of Decision

Expires

Supersedes Decision Number

Approved

RECEIVED BY

DEC 2 11 31 AM '83

STATE ARCHITECT

Requesting Officer (typed name and signature)

HARLAN C. COUNTER

Department, Agency, or Bureau

DEPT. OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES

Phone Number

913/233-9367

Date of Request

NOVEMBER 17, 1983

Exx. Advertising Date

JUNE 24, 1983

Exx Bid Opening Date

JULY 13, 1983

Prior Decision Number (if any)

Est. \$ Value of Contract

Under 1/2 Mil. 1 to 5 Mil.
 1/2 to 1 Mil. Over 5 Mil.

Type of Work

Bldg. Highway
 Resid. Heavy

Location of Project (city or other description)

EMPORIA STATE UNIVERSITY

County

LYON

State

KANSAS

Address to which wage determination should be mailed. Must be complete and include ZIP Code. (Print or type)

HARLAN C. COUNTER - CHIEF ARCHITECT
CONTRACT DOCUMENT SECTION
DIVISION OF ARCHITECTURAL SERVICES
625 POLK STREET
TOPEKA, KANSAS 66603-3288

Wage Survey by Agency Attached

YES NO

Wage Survey by Agency In Progress

YES NO

Description of Work (Be specific) (Print or type)

Reroof Various Buildings - Emporia State University
Emporia, Kansas

STATE OF KANSAS PROJECT NO'S
A-4574, A-4579, A-4635, A-4769

CHECK OR LIST CRAFTS NEEDED (Attach continuation sheet if needed)

- Asbestos workers
- Boilermakers
- Bricklayers
- Carpenters
- Cement masons
- Electricians
- Glaziers
- Ironworkers
- Laborers, (specify classes)
- Building Constr'n
- Lathers
- Marble & tile setters, terrazzo workers
- Painters
- Piledrivers
- Plasterers
- Plumbers
- Roofers
- Sheet metal workers
- Soft floor layers
- Steamfitters
- Welders--rate for craft
- Truck drivers
- Power equipment operators, (specify types)

Other crafts

LYON COUNTY, KANSAS

BUILDING CONSTRUCTION

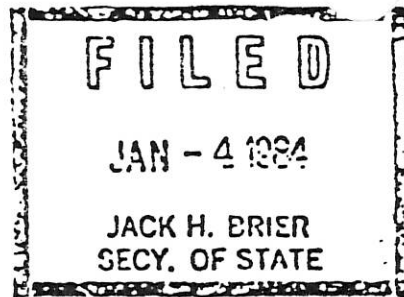
	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	\$12.45	\$1.00	\$.75		\$.05
Electricians	15.15	1.15	3%+.85		.13
Laborers, general	8.23	1.00	.50		.05
Painters:					
Brush, Roller	13.25	.95			
Spray	13.75	.95			
Plumbers & Pipefitters	15.83	1.30	1.00		.04
Roofers	14.66		1.15	a	.14
Pitch	15.76		1.15	a	.14
Sheet Metal Workers	14.68	3%+.90	1.89		.14
Truck Drivers:					
Station wagons, pickups, flat beds and dump	11.04	.70	.50		
5 tons or less	11.19	.70	.50		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTE:
a - after 6 months of employment \$.26; after 5 years; \$.52.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)."

STATE OF KANSAS



OFFICE OF THE GOVERNOR
State Capitol
Topeka 66612-1590

John Carlin Governor

EXECUTIVE ORDER NO. 84-68

CONCERNING PAYMENT OF WAGES

Executive Department
State House
Topeka, Kansas

WHEREAS, the State of Kansas supports the principle that persons employed on public projects shall be paid fair compensation for their labors; and

WHEREAS, this principle has been embodied in the statutes of the State of Kansas since 1891; and

WHEREAS, in contracts for public works, K.S.A. 44-201 mandates government entities to require contractors to pay the current rate of per diem wages to their laborers; and

WHEREAS, no provision has been made in the statutes to determine the appropriate rate of wages for public works projects in the various localities of this State.

NOW, THEREFORE, pursuant to the authority vested in me as as Governor and chief executive of the State of Kansas and Article 1, Section 4 of the Constitution of the State of Kansas, I do hereby order and direct the Secretary of Human Resources to provide me information as to the ability of the State of Kansas to devise appropriate means and methodologies to determine the wages required by K.S.A. 44-201 for the various localities in this State, including costs, specific methodology and viable alternative methods to make such a determination. Such reported information shall be submitted for my review and approval and shall include a recommended method for periodically determining the wages required to be paid on public works projects in the various

John Carlin
Executive Order No. 84-68
Page Two

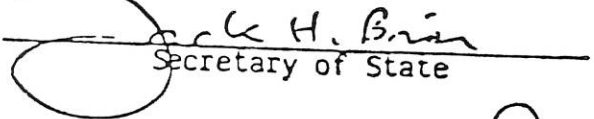
localities of this State.

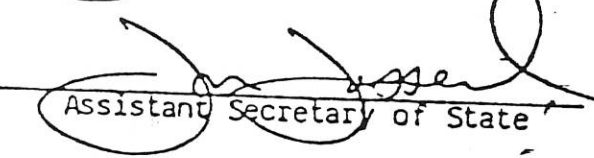
This document shall be filed with the Secretary of State as Executive Order No. 84-68, and shall become effective immediately.

THE GOVERNOR'S OFFICE

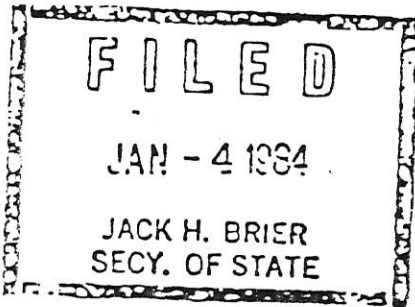
By the Governor




Secretary of State


Assistant Secretary of State

January 4, 1984



state employment service office. Upon registering, such crew chief shall furnish to such office a list of names and social security numbers of all migrant workers he serves in his capacity as crew chief and the names of those for whom recruitment is being done.
History: L. 1974, ch. 202, § 3; July 1.

44-128. Availability of information furnished. Any information filed with the local Kansas state employment service office pursuant to the provisions of K.S.A. 44-127 shall be made available to the public upon request.
History: L. 1974, ch. 202, § 4; July 1.

44-129. Violation of act. Any violation of this act shall be a class C misdemeanor. Any crew chief found to be in violation of this act shall cease to operate as a crew chief in this state for a period of two (2) years.
History: L. 1974, ch. 202, § 5; July 1.

Article 2.—EIGHT-HOUR DAY ON PUBLIC WORK

44-201. Eight-hour day; exceptions; payment of current rate of per diem wages where work performed. "The current rate of per diem wages" for the intents and purposes of this act shall be the rate of wage paid in the locality as hereinafter refined to the greater number of workmen, laborers or mechanics in the same trade, occupation or work of a similar nature. In the event that it be determined that there is not a greater number in the same trade, occupation or on similar work paid at the same rate, then the average rate paid to such laborers, workmen or mechanics in the same trade, occupation, or work shall be the current rate. The "locality" for the purpose of this act shall be the county wherein the physical work is being performed: *Provided*, That where cities of the first or second class are located in said counties, each such city shall be considered a locality.

Eight hours shall constitute a day's work for all laborers or other persons employed by or on behalf of the state of Kansas or any municipality of said state, except in cases of extraordinary emergency which may arise, in time of war, or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life. Laborers or other persons so employed, working to exceed eight hours

per calendar day, shall be paid on the basis of eight hours constituting a day's work. Not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers or other persons so employed.

And laborers and other persons employed by contractors or subcontractors in the execution of any contract or contracts with the state of Kansas or any municipality thereof shall be deemed to be employed by or on behalf of the state or such municipality so far as the hours of work and compensation herein provided are concerned.

That the contracts hereafter made by or on behalf of the state of Kansas or by or on behalf of any county, city, township or other municipality of said state with any corporation, person or persons which may involve the employment of laborers, workmen or mechanics, shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight (8) hours in any one calendar day except in cases of extraordinary emergency (as defined in this act); such contract shall contain a provision that each laborer, workman or mechanic employed by such contractor, subcontractor or other person about or upon such public work shall be paid the wages herein provided: *Provided further*, That the provisions of this act in regard to hours worked per calendar day shall not apply to the construction, reconstruction, maintenance, or the production of local materials for: Highways, roads, streets, and also the structures and drainage in connection therewith; sewer systems; waterworks systems; dams and levees; canals; drainage ditches; airport grading, drainage, surfacing, seeding, and planting.

History: R.S. 1923, 44-201; L. 1931, ch. 214, § 1; L. 1947, ch. 286, § 1; April 7.

Source or prior law:

L. 1891, ch. 114, § 1; L. 1913, ch. 220, § 1.

Revision note, 1923:

Revised and written into two sections combining the provisions of L. 1919, ch. 134. Laws 1919, ch. 134, relating to first-class cities, omitted as being covered by 44-201, 44-202.

Revisor's Note:

L. 1913, ch. 220, § 1 was also amended by L. 1923, ch. 157, § 1, see 44-203.

Research and Practice Aids:

- States—108½.
 Hatcher's Digest, Master and Servant §§ 6 to 8;
 Workmen § 1.
 C.J.S. States §§ 119, 125 et seq.

Law Review and Bar Journal References:

- Annotation No. 13 cited in 1955-56 survey of Kansas law, Earl B. Shurtz, 5 K.L.R. 210, 227 (1956); Robert J. Fowks, 5 K.L.R. 277, 282 (1956).
 Survey of labor law, Robert J. Fowks, 10 K.L.R. 255 (1961).
 Mentioned in "Survey of Kansas Law: Municipal Corporations," Richard H. Seaton, 27 K.L.R. 269, 274 (1979).

CASE ANNOTATIONS**Annotations to L. 1891, ch. 114, § 1:**

1. Section not applicable to work done under contract. *Billingsley v. Comm'rs of Marshall Co.*, 5 K.A. 435, 436, 49 P. 329.
2. Provisions of this section not applicable to employees at penitentiary. *The State, ex rel., v. Martindale*, 47 K. 147, 27 P. 852. Questioned: *State v. Ottawa*, 84 K. 100, 105, 113 P. 391.
3. Ordinance requiring street service or pecuniary consideration invalid, when. *In re Ashby*, 60 K. 101, 107, 55 P. 336.
4. Section held valid as to employees of state or its agents. *In re Dalton*, 61 K. 257, 59 P. 336.
5. Employee accepting regular wages estopped from claiming extra pay. *Beard v. Sedgwick County* 63 K. 348, 65 P. 638.
6. Employees of contractor making city improvements come under this section. *The State v. Atkin*, 64 K. 174, 67 P. 519. Affirmed: *Atkin v. Kansas*, 191 U.S. 207, 24 S.Ct. 124, 48 L.Ed. 148.
7. Provisions of this section applicable to a school district. *The State v. Wilson*, 65 K. 237, 69 P. 172.
8. Section applies to employees operating Ottawa water and electric-light plant. *The State v. Ottawa*, 84 K. 100, 107, 113 P. 391.
9. Occasions when employees worked more than eight hours exceptions. *The State, ex rel., v. Construction Co.*, 99 K. 838, 840, 162 P. 1175.

Annotations to L. 1931, ch. 214, § 1:

10. Provisions regulating wages not basis for criminal liability; section discussed. *State v. Blaser*, 138 K. 447, 448, 450, 452, 26 P.2d 593.
11. Section discussed in holding 19-242 constitutional. *State v. Rogers*, 142 K. 841, 849, 52 P.2d 1185.
12. Purpose and object of act discussed in workmen's compensation case. *Workman v. Kansas City Bridge Co.*, 144 K. 139, 140, 58 P.2d 90.
13. Act held inapplicable to prisoners under 62-2109. *Dice v. Board of County Commissioners*, 178 K. 523, 524, 289 P.2d 782.
14. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 113, 114, 115, 116, 353 P.2d 641.
15. Section construed and held constitutional. *Andersen Construction Co. v. Weltmer*, 223 K. 808, 809, 557 P.2d 1197.
16. Section construed; requirement that contractor pay the "current rate of per diem wages" without enumerating specific wage rates held proper. *Andersen Constr. Co. v. Weltmer*, 224 K. 191, 577 P.2d 1197.
17. Municipality not prohibited from specifying

wage rated above "floor" set hereunder and incl them in specifications and contract. *Andersen Construction Co. v. City of Topeka*, 228 K. 73, 74, 75, 78, 79, 80, 81, 82, 612 P.2d 595.

44-202. Same; penalty. Any officer of state of Kansas or any municipality the having charge of or control over any public work, who shall violate the provisions of the next preceding section, upon conviction thereof be deemed guilty a misdemeanor and punished by a fine any sum not exceeding five hundred dollars or by imprisonment in the county jail for exceeding sixty days, or by both such and imprisonment.

History: R.S. 1923, 44-202; Dec. 27.

Source or prior law:

L. 1891, ch. 114, § 1; L. 1913, ch. 220, § 1.

Revision note, 1923:

See Revision Notes, 1923 under 44-201.

Research and Practice Aids:

Hatcher's Digest, Criminal Law § 1; Master and Servant § 8.

CASE ANNOTATIONS

1. History of section discussed in construing 44-202. *States v. Blaser*, 138 K. 447, 453, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 115, 353 P.2d 641.

44-203. Same; eight-hour day; exceptions. That eight hours shall constitute a day's work for all laborers, workmen, mechanics or other persons now employed by or on behalf of the state of Kansas, or by or on behalf of any county, city, township or other municipality of said state, except in case of extraordinary emergency, which may arise in time of war or in cases where it may be necessary to work more than eight hours on any calendar day for the protection of property or human life: *Provided*, That in all such cases the laborers, workmen, mechanics or other persons so employed and working shall be paid on the basis of eight hours constitute a day's work: *Provided further*, That not more than the current rate of per diem wages shall be paid to laborers, workmen, mechanics, and other persons so employed by or on behalf of the state of Kansas, or by or on behalf of any county, city, township or other municipality of said state.

And laborers, workmen, mechanics and

other persons employed by contractors or subcontractors in the execution of any contract or contracts with the state of Kansas, or with any county, city, township or other municipality thereof, shall be deemed to be employed by or on behalf of the state of Kansas, or of such county, city, township or other municipality thereof: *Provided further*, That any cities of the second or third class owning or operating municipal light and water plants be and the same are hereby exempted from the provisions of this act: *Provided further*, That this act shall not apply to township or county work in dragging or grading dirt roads: *Provided further*, That the provisions of this act in regard to hours worked per calendar day shall not apply to the construction, reconstruction, maintenance, or the production, of local materials for: Highways, roads, streets, and all the structures and drainage in connection therewith; sewer systems, waterworks systems, dams and levees, canals, drainage ditches, airport grading, drainage, surfacing, seeding and planting.

History: L. 1891, ch. 114, § 1; L. 1913, ch. 220, § 1; L. 1923, ch. 157, § 1; R.S. 1923, 44-203; L. 1947, ch. 286, § 2; April 7.

Revisor's Note:

Laws of 1923, ch. 157, § 1; amended L. 1913, ch. 220, § 1, which was also revised in 1923 and appears as 44-201, as amended by L. 1931, ch. 214, § 1.

Research and Practice Aids:

Hatcher's Digest, Master and Servant §§ 6 to 8; Municipal Corporations §§ 185, 186.

CASE ANNOTATIONS

1. History of section discussed in construing 44-201. *State v. Blaser*, 138 K. 447, 454, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 113, 114, 115, 353 P.2d 641.

44-204. Contracts of state or municipality, basis. That all contracts hereafter made by or on behalf of the state of Kansas, or by or on behalf of any county, city, township, or other municipality of said state, with any corporation, person or persons, for the performance of any work or the furnishing of any material manufactured within the state of Kansas, shall be deemed and considered as made upon the basis of eight hours constituting a day's work; and it shall be unlawful for any such corporation, person or persons to require or permit any laborer, workman, mechanic or other person to work

more than eight hours per calendar day in doing such work or in furnishing or manufacturing such material, except in the cases and upon the conditions provided in sections 44-201 and 44-203 of the Session Laws of 1947.

History: L. 1891, ch. 114, § 2; R.S. 1923, 44-204; L. 1947, ch. 286, § 3; April 7.

Research and Practice Aids:

Hatcher's Digest, Master and Servant § 8; Municipal Corporations §§ 185, 186.

CASE ANNOTATIONS

1. Cited in discussing criminal liability under 44-201. *State v. Blaser*, 138 K. 447, 448, 453, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 115, 353 P.2d 641.

44-205. Penalty for violating 44-203 and 44-204. That any officer of the state of Kansas, or of any county, city, township or municipality of said state, or any person acting under or for such officer, or any contractor with the state of Kansas, or any county, city, township or other municipality thereof, or other person violating any of the provisions of this act, shall for each offense be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment not more than six months, or both fine and imprisonment, in the discretion of the court.

History: L. 1891, ch. 114, § 3; May 20; R.S. 1923, 44-205.

Research and Practice Aids:

Hatcher's Digest, Criminal Law § 1; Master and Servant § 8; Municipal Corporations §§ 185, 186.

CASE ANNOTATIONS

1. Cited in discussing criminal liability under 44-201. *State v. Blaser*, 138 K. 447, 453, 26 P.2d 593.
2. Article analyzed, discussed and construed; private citizen cannot maintain mandamus, when. *Topeka Bldg. & Construction Trades Council v. Leahy*, 187 K. 112, 115, 353 P.2d 641.

Article 3.—PAYMENT OF WAGES

44-301.

History: R.S. 1923, 44-301; L. 1931, ch. 215, § 1; Repealed, L. 1973, ch. 204, § 15; July 1.

Source or prior law:

L. 1893, ch. 187, § 1; L. 1915, ch. 165, § 1.

Revisor's Note:

New act, see 44-313 et seq.

CASE ANNOTATIONS

1. Employee may waive right by making settlement. *Howell v. Machine Co.*, 86 K. 537, 121 P. 366.

MEMORANDUM

TO: Joint Committee on State Building Construction
FROM: James A. Wilson, Senior Assistant Revisor
RE: K.S.A. 44-201 to 44-205, inclusive (Eight-Hour Days on Public Work Law) -- Summary of Statutory History

L. 1891, Ch. 114, Sections 1 to 4

The law generally provided in section 1 that eight hours would constitute a day's work for workers employed by or on behalf of the state or any local government except "in cases of extraordinary emergency which may arise in time of war or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life. . . [except] that in all such cases the [worker] shall be paid on the basis of eight hours constituting a day's work. . . ."

It provided further that not less than the "current rate of per diem wages in the locality where the work is performed" was to be paid persons so employed. Workers employed by contractors or subcontractors under contracts with the state or any local government would be "deemed to be employed by or on behalf of "such entities.

Section 2 provided that all contracts with the state or any local government for "the performance of any work or the furnishing of any materials manufactured within. . . Kansas" would be considered to be made on the basis of a day's work constituting eight hours. It was declared unlawful to "require or permit" workers under such contracts to work more than eight hours per day, except under the conditions permitted by section 1.

Section 3 imposed a penalty upon any officer of the state or any local government or any other person violating any provisions of the act. The penalty was a fine of from \$50 to \$1,000 or up to six months' imprisonment, or both.

The remaining substantive section provided an exemption for existing contracts.

L. 1913, Ch. 220, Section 1

This act amended section 1 of the 1891 enactment to provide an exemption for cities of the second and third class which own and operate municipal light and water plants. This language appears in the current provisions of K.S.A. 44-203.

Laws of 1923

The law was amended twice in 1923. The first amendment was by the enactment of the Revised Statutes of 1923. The Revision Commission had rewritten and consolidated the law into two sections which appear now as K.S.A. 44-201 and 44-202. K.S.A. 44-202 declared that violations of K.S.A. 44-201 would constitute a misdemeanor and prescribed the penalty therefor.

The second amendment was by L. 1923, ch. 157, section 1, which inserted an additional exemption. Township or county work in dragging or grading dirt roads was exempted. This language appears in the current provisions of K.S.A. 44-203. The conflict was resolved by publishing both acts.

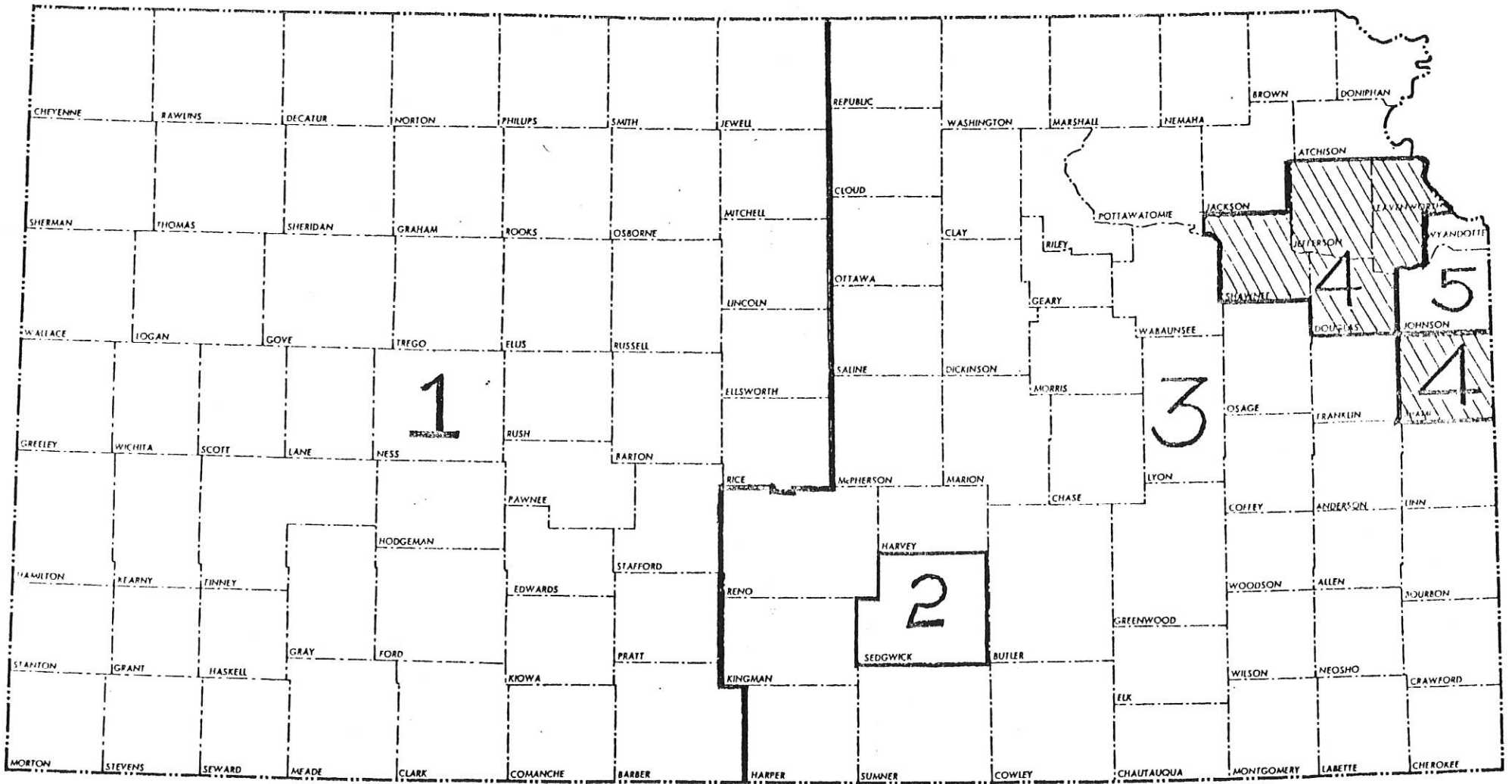
L. 1931, Ch. 214, Section 1

This act amended K.S.A. 44-201 to insert the current definitions of the "current rate of per diem wages" and "locality." The section was also amended by inserting commas so that it slightly expanded or clarified the exceptions to read: . . . except in cases of extraordinary emergency which may arise, in time of war, or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life."

L. 1947, Ch. 286, Sections 1 and 2

This act amended both K.S.A. 44-201 and 44-203 (the "twin" sections occasioned by the 1923 enactments) to provide that the provisions of the law regarding hours worked per calendar day would not apply, generally, to construction and maintenance, or the production of local materials for, roads and highways, sewer and waterworks systems, dams, levees, canals, drainage ditches and airport runway areas.

KANSAS



SUPERSEDEAS DECISION

STATE: Kansas

COUNTIES: Barber, Barton, Cheyenne, Clark, Comanche, Decatur, Edwards, Ellis, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greely, Hamilton, Haskell, Hodgeman, Jewell, Kearny, Kiowa, Lane, Lincoln, Logan, Meade, Mitchell, Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Rice, Rooks, Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Thomas, Trego, Wallace, and Wichita

DECISION NO.: KS83-4028

DATE: April 15, 1983

Supersedes Decision No. KS82-4009 dated March 26, 1982, in 47 FR 13105

DESCRIPTION OF WORK: Highway Projects (does not include bridges over navigable waters, Tunnels; Building structures in rest area projects; Railroad construction) and Water and Sewer Line Construction

AREA I

	Basic Hourly Rates	Fringe Benefits
Asphalt Paver Screed Operator	\$6.26	
Asphalt Paving Machine Operator	6.80	
Ashphalt Plant Operator	7.10	
Asphalt Raker	6.00	
Backhoe Operator	7.78	
Batching Plant Scaleman	5.32	
Blowing Mechanism or Mulch Seeder Operator	6.00	
Brick, Block and Stonesetter	8.20	
Bulldozer Operator (Push Cat)	7.55	
Carpenter	8.00	
Carpenter (rough)	6.16	
Concrete Finisher	6.94	
Crane or any Machine Power Swing	7.75	
Crusher and Screening Plant Operator	6.58	
Distributor Operator	6.485	
Electrician	7.94	
Form Liner and Setter	5.60	
Front End Loader Operator	6.49	
Laborer (Construction)	5.064	
Mechanic	7.29	
Mechanic Helper	7.00	
Motor Grader Operator (finish)	7.31	
Motor Grader Operator (rough)	6.70	
Motor Scraper Operator	7.55	
Painters (Structural Steel & Bridge)	8.00	
Paving Equipment Operator	7.71	
Post Driver and/or Auger Operators	6.50	
Reinforcing Steel Setter	6.67	
Roller/Compactor Operator (self- propelled)	6.00	
Rotary Broom Operator	6.00	
Rotomill Operator	6.975	
Sandblaster (Structural Steel & Bridge)	8.00	
Serviceman (Equipment)	5.947	
Spreader Box Operator (self-propelled)	6.00	

Tank Heater Attendant
 Tractor Operator (80 HP or less)
 Tractor Operator (80 HP or more)
 Trenching Machine Operator
 Truck Driver (Single Axle)
 Truck Driver (tandem Axle)
 Truck Driver (triple Axle & Semi)

Basic Hourly Rates	Fringe Benefits
\$4.25	
5.25	
5.655	
6.50	
4.87	
5.38	
6.00	

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Kansas

COUNTY: Sedgwick

DECISION NO.: KS83-4029

DATE: April 15, 1983

Supersedes Decision No. KS82-4010 dated March 15, 1982, in '47 FR 13106

DESCRIPTION OF WORK: Highway Projects (does not include bridges over navigable waters, tunnels; Building structures in rest area projects; Railroad construction) and Water and Sewer Line Construction

AREA II

	Basic Hourly Rates	Fringe Benefits
Asphalt Paver Screed Operator	\$7.75	
Asphalt Paving Machine Operator	7.33	
Asphalt Plant Operator	7.00	
Asphalt Raker	6.50	
Backhoe Operator	7.85	
Bulldozer Operator (Push Cat)	8.85	
Carpenter	8.86	
Carpenter (rough)	7.85	
Concrete Central Mix Plant Operator	7.88	
Concrete Finisher	8.508	
Concrete Saw Operator	6.03	
Crane or any Machine Power Swing	8.435	
Distributor Operator	6.75	
Electrician	11.50	
Form Liner and Setter	8.078	
Front End Loader Operator	7.696	
Laborer (Construction)	5.25	
Mechanic	8.00	
Mechanic Helper	7.50	
Motor Grader Operator (finish)	8.30	
Motor Grader Operator (rough)	7.650	
Motor Scraper Operator	7.75	
Painters (structural steel & bridge)	8.00	
Paving Equipment Operator	3.00	
Pavement Breaker Tamper Operator (self-propelled)	5.00	
Reinforcing Steel Setter	6.55	
Roller/Compactor Operator (self- propelled)	7.75	
Rotomill Operator	5.75	
Sandblaster (structural steel & bridge)	8.00	
Servicemen (equipment)	7.425	
Tractor Operator (80 HP or less)	6.859	
Tractor Operator (80 HP or more)	7.733	
Truck Driver (single axle)	6.65	
Truck Driver (tandem axle)	6.292	
Truck Driver (triple axle and Semi)	8.00	

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))."

SUPERSEDEAS DECISION

STATE: Kansas

AREA III Pg. 1 of 2

COUNTIES: Allen, Anderson, Atchinson, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Doniphan, Elk, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Kingman, Labette, Linn, Lyon, Marion, Marshall, McPherson, Montgomery, Morris, Nemaha, Neosho, Osage, Ottawa, Pottawatomie, Reno, Republic, Riley, Saline, Sumner, Wabaunsee, Washington, Wilson, and Woodson

HIGHWAY CONSTRUCTION - Geary, Riley, Labette and Saline Counties ONLY

DATE: April 15, 1983

DECISION NO. KS83-4030

Supersedes Decision No. KS82-4011 dated March 15, 1982, in 47 FR 13107
 DESCRIPTION OF WORK: Highway Projects (does not include bridges over navigable waters, tunnels; Building structures in rest area projects; Railroad construction) and Water and Sewer Line Construction.

AREA III

Asphalt Paver Screed Operator
 Asphalt Paving Machine Operator
 Asphalt Plant Operator
 Asphalt Raker
 Backhoe Operator
 Batching Plant Scaleman
 Blowing Mechanism or Mulch Seeder Operator
 Brick, Block and Stonesetter
 Bulldozer Operator (Push Cat)
 Carpenter
 Carpenter (rough)
 Concrete Central Mix Plant Operator
 Concrete Finisher
 Concrete Saw Operator
 Crane or any Machine Power Swing
 Crusher and Screening Plant Operator
 Distributor Operator
 Electrician
 Form Liner and Setter
 Front End Loader Operator
 Laborer (Construction)
 Mechanic
 Mechanic Helper
 Motor Grader Operator (finish)
 Motor Grader Operator (rough)
 Motor Scraper Operator
 Paving Equipment Operator
 Piledriverman
 Post Driver and/or Auger Operator
 Reinforcing Steel Setter
 Roller/Compactor Operator (self-propelled)
 Rotary Broom Operator

Basic Hourly Rates	Fringe Benefits
7.00	
9.00	
9.50	
7.33	
7.44	
4.75	
5.00	
6.28	
7.70	
7.88	
6.685	
7.30	
7.978	
6.121	
7.83	
5.00	
7.09	
8.27	
6.57	
9.17	
5.79	
7.70	
6.13	
11.23	
7.72	
7.70	
9.00	
6.87	
7.00	
5.76	
8.14	
5.00	

DECISION NO. KS83-4030

AREA III Pg. 2 of 2

Rotomill Operator
 Sandblaster (Structural Steel & Bridge)
 Serviceman (equipment)
 Spreader Box Operator (self-propelled)
 Steelworker (Structural)
 Tractor Operator (80 HP or less)
 Tractor Operator (80 HP or more)
 Trenching Machine Operator
 Truck Driver (Single Axle)
 Truck Driver (Tandem Axle)
 Truck Driver (Triple Axle and Semi)
 Welder

	Basic Hourly Rates	Fringe Benefits
	5.00	
	4.54	
	7.99	
	7.70	
	10.15	
	6.152	
	6.12	
	5.35	
	5.683	
	6.18	
	8.04	
	7.98	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract c clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. KS83-4030 - MOD. #1

(48 FR 16409 - March 15, 1983)	Basic Hourly Rates	Fringe Benefits
Allen, Anderson, Atchinson, Bourbon, Brown, Butler, Chase, Chautaugua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Doniphan, Elk, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Kingman, Labette, Linn, Lyon, Marion, Marshall, McPherson, Montgomery, Morris, Nemaha, Neosho, Osage, Ottawa, Pottawatomie, Reno, Republic, Riley, Saline, Sumner, Wabaunsee, Washington, Wilson, and Woodson Counties, Kansas		
ADD: Painters (structural steel & bridge)	\$7.25	

SUPERSEDEAS DECISION

AREA 4

STATE: KANSAS

COUNTIES: Douglas, Jefferson,
Leavenworth, Miami and Shawnee

DECISION NO.: KS83-4066

DATE: September 9, 1983

Supersedes Decision No. KS83-4015 dated February 4, 1983 in 48 FR 5443.

DESCRIPTION OF WORK: Highway Construction.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
<u>CARPENTERS & PILEDRIVER- MEN:</u>			<u>LABORERS (Cont'd):</u>		
Zone 1	\$11.20	1.80	<u>Zone 2</u>		
Zone 2	16.05	2.67	Group 1	\$ 8.45	2.30
Zone 3	SEE MOD. # 1 15.04	1.80	Group 2	8.60	2.30
<u>CEMENT MASONS:</u>			Group 3	8.70	2.30
Zone 1	SEE MOD. # 2 14.97	1.95	Group 4	8.85	2.30
Zone 2	12.50	1.05	<u>Zone 3</u>		
Zone 3	12.20	1.05	Group 1	9.05	2.05
<u>ELECTRICIANS:</u>			Group 2	9.20	2.05
Zone 1	16.18	10%+ 2.51	Group 3	9.30	2.05
Zone 2	15.55	3%+ 2.13	Group 4	9.45	2.05
<u>IRONWORKERS</u>			<u>Zone 4</u>		
<u>LINE CONSTRUCTION:</u>			Group 1	8.00	2.30
<u>Zone 1:</u>			Group 2	8.15	2.30
Lineman	18.28	3-1/2% +1.06	Group 3	8.25	2.30
Lineman Operator	17.02	3-1/2% +1.06	Group 4	8.40	2.30
Groundman Powderman	12.68	3-1/2% +1.06	<u>POWER EQUIPMENT OPERATORS</u>		
Groundman	12.05	3-1/2% +1.06	<u>Zone 1: Leavenworth</u>		
<u>Zone 2:</u>			<u>County</u>		
Lineman	15.97	3-1/2% +.65	Group 1	14.00	3.77
Cable Splicers	16.77	3-1/2% +.65	Group 2	13.75	3.77
Groundman	9.67	3-1/2% +.65	Group 3	SEE MOD. # 2 13.05	3.77
Powderman	13.19	3-1/2% +.65	Group 4		
Line Truck & Equip- ment Operator	13.19	3-1/2% +.65	a	9.03	3.77
<u>LABORERS:</u>			b	12.05	3.77
<u>Zone 1</u>			<u>Zone 2: Jefferson,</u>		
Group 1	7.65	2.30	<u>Miami, Douglas</u>		
Group 2	7.80	2.30	<u>& Shawnee Cos.:</u>		
Group 3	7.90	2.30	Group 1	12.87	2.70
Group 4	8.05	2.30	Group 2	12.62	2.70
			Group 3	12.37	2.70
			Group 4	12.02	2.70
			Group 4A	12.12	2.70

	Basic Hourly Rates	Fringe Benefits
<u>TRUCK DRIVERS</u>		
<u>Zone 1: Leavenworth & Miami Counties:</u>		
Group 1	\$12.66	3.50
Group 2	12.66	3.50
Group 3	13.17	3.50
Group 4	13.32	3.50
Group 5	12.44	3.50
<u>Zone 2: Douglas, Shawnee and Jefferson Counties</u>		
Group 1	9.40	1.75
Group 2	9.50	1.75
Group 3	9.65	1.75

SEE MOD. # 1

ZONE DESCRIPTIONS

CARPENTERS AND PILED RIVERMEN:

- Zone 1: Douglas, Shawnee and Jefferson Counties
- Zone 2: Leavenworth County
- Zone 3: Miami County

CEMENT MASONS:

- Zone 1: Leavenworth and Miami Counties
- Zone 2: Douglas and Shawnee Counties
- Zone 3: Jefferson County

ELECTRICIANS:

- Zone 1: Leavenworth County (Delaware, High Prairie & Kickapoo Townships) City of Leavenworth & Fort Leavenworth Military Reservation
- Zone 2: Douglas, Jefferson, Miami, Shawnee and the remainder of Leavenworth County

LINE CONSTRUCTION:

- Zone 1: Leavenworth County, north of Fairmont Strainger, and Tanganoxie Townships
- Zone 2: Douglas, Jefferson, Miami, Shawnee Counties, and remainder of Leavenworth County

LABORERS:

- Zone 1: Jefferson County
- Zone 2: Douglas and Shawnee Counties
- Zone 3: Leavenworth County
- Zone 4: Miami County

ZONE DESCRIPTIONS - (Cont'd)

TRUCK DRIVERSZone 1:

- Group 1 - One Team; Station Wagons; Pickup Trucks; Material trucks, single axle; Tank Wagon Drivers, single axle
- Group 2 - Material Trucks; Tandem; Two Teams; Semi-trailers; Winch Trucks-Fork Trucks; Distributor Drivers and Operators; Agitator and Transit Mix Tank Wagon Drivers, single axle; Tank Wagon Drivers; Tandem or Semi-trailer; Insley Wagons; Dump Trucks; Excavator, 5 cu. yds. and over; Dumpsters; Half-tracks; Speedace; Euclids and other similar excavating equipment
- Group 3 - A-frame; Lowboy; Boom Truck Drivers
- Group 4 - Mechanics and Welders
- Group 5 - Oilers and Greasers

Zone 2:

- Group 1 - Pickups; Panel Trucks; Station Wagons; Flat Beds; Dump and Batch Trucks, single axle
- Group 2 - Tandem Trucks; Warehousemen or Partsmen; Mechanic Helpers and Servicemen.
- Group 3 - Lowboys; Semi-trailers; all Transit Mixer Trucks (single or tandem axle); A-frame and Winch Trucks when used as such; Euclid, End and Bottom Dump; Tournarockers, Atheys, Dumpsters and similar off-road equipment and mechanics on such equipment

CLASSIFICATION DEFINITIONS

LABORERS

- Group 1: Board Mat Weavers and Cable Tiers; Georgia Buggy (manually operated); Mixerman-on skip lift; Salamander Tenders; Track Men; Tractor Swamper; Truck Dumper; Wire Mesh Setter; Water Pump, up to 4 inches and all other General Laborers
- Group 2: Air Tool Operators; Cement Handlers (bulk); Chain Saw; Georgia Buggy (mechanically operated); Grademen; Hot Mastic Kettlemen; Crusher Feeder; Joint Man; Jute Man; Mason Tender; Material Batch Hopper and Scale Man; Mixer Man; Pier Hole Man working 10 feet deep; Pipelayer-drainage (concrete and/or corrugated metal); Signal Man (crane); Truck Dumper-Dry Batch; Vibrator Operator; Wagon and Churn Drill Operator
- Group 3 - Asphalt Raker; Barco Tamper; Concrete Saw; Creosote Material, handling and applying; Nozzle Burner (cutting torch and burning bar)
- Group 4 - Conduit Pipe; Water and Gas Distribution Lines; Tile and Duct Line Setter; Form Setter and Liner on concrete paving; Powderman; Sandblasting and Gunite Nozzleman; Sanitary Sewer pipe Layer; Steel Plate Structure Erectors

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORSZone 1: Leavenworth County;

Group 1 - Asphalt Paver and Spreader; Asphalt Plant Console Operator; Auto Grader; Back Hoe; Blade Operator, all types; Boiler, 2; Booster Pump on Dredge; Boring Machine (truck or crane mounted); Bulldozer Operator; Clamshell Operator; Compressor Maintenance Operator, 2; Concrete Plant Operator, Central Mix; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dragline Operator; Dredge Engineman; Dredge Operator; Drillcat with compressor mounted on cat; Drilling or Boring Machine; Rotary, self-propelled; High Loader-Fork Lift; Locomotive Operator, standard gauge; Mechanics and Welders; Maintenance Operator; Mucking Machine; Pile Driver Operator; Pitman Crane Operator; Pump, 2; Quad-trac; Scoop Operator, all types; Scoops in Tandem; Self-propelled Rotary Drill (Leroy or equal-not Air Trac); Shovel Operator; Side Discharge Spreader; Sideboom Cats; Skimmer Scoop Operator; Slip-form Paver (CMI, REX, or equal); Throttle Man; Truck Crane; Welding Machine Maintenance Operator, 2; Hoisting Engine, 2; Active Drums

Group 2: "A" Frame Truck; Asphalt Hot Mix Silo; Asphalt Plant Fireman, drum or boiler; Asphalt Plant Mixer Operator; Asphalt Plant Man; Asphalt Roller Backfiller Operator; Chip Spreader; Concrete Batch Plant, dry power operated; Concrete Mixer Operator; Skip Loader; Concrete Pump Operator; Crusher Operator; Elevating Grader Operator; Greaser, hoisting engine, 1 drum; Latourneau Rooter; Multiple Compactor; Pavement Breaker, self-propelled of the Hydra-hammer or similar type; Power Shield; Pug Mill Operator; Stump Cutting Machine; Towboat Operator; Tractor Operator, over 50 H.P.

Group 3: Boilers, 1; Chip Spreader (Front Man); Churn Drill Operator; Compressor Maintenance Operator, 1; Concrete Saws, self-propelled; Conveyor Operator; Distributor Operator; Finishing Machine Operator; Fireman, Rig; Float Operator; Form Grader Operator; Pump; Pump Maintenance Operator, other than Dredge; Roller Operator, other than high type asphalt; Screening and Washing Plant Operator; Self-propelled Street Broom or Sweeper; Siphons and Jets; Sub-grading Machine Operator; Tank Car Heater Operator, combination boiler and booster; Tractor, 50 H.P. or less without attachments; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator, 1

Group 4:

a - Oilers

b - Oiler driver, all types

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORSZone 2: Jefferson & Miami Counties:

Group 1 - Asphalt Paver & Spreader; Backhoe; Boring Machine; Blades, all types; Clamshell; Concrete Mixer Paver Operator; Concrete Plant Operator (automatic); Crane; Truck Crane; Pitman Crane; Hydro Crane or any machine with power swing; Derrick or Derrick Trucks; Dragline Operator; Dredge Operator; Dozer; Ditching Machine; Euclid Loader; Hoist, 2 active drums; Loader, all types; Mechanic or Welder; Mixermobile; Multi-unit Scraper; Piledriver Operator; Power Shovel Operator; Quad Track; Scoop Operator, all types; Sideboom Cat, Cherry Picker; Skimmer Scoop Operator; Pushcat Operators

Group 2 - Asphalt Plant Operator; Elevating Grader Operator

Group 3 - A-frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Backfiller Operator; Barber Green Loader; Boiler, other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator, Skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator, concrete; Fireman, other than asphalt; Flex Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist, 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than Dredge Screening and Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator, over 50 H.P.; Self-propelled Roller Operator, other than Asphalt Siphons and Jets; Subgrading Machine Operator; Tank Car Heater Operator; Combination Booster and Boilers; Towboat Operator; Vibrating Machine Operator, not hand

Group 4 - Concrete Gang Saw, Self-propelled (con-cut); Conveyor Operator; Harrow, disc. Seeder; Oiler; Tractor Operator, 50 H.P. or less without attachments

Group 4A - Oiler; Motor Crane

POWER EQUIPMENT OPERATORSZone 3: Douglas & Shawnee Counties:

Group 1 - Asphalt Paver and Spreader; Backhoe, Boring Machine; Blades, all types; Clamshell; Concrete Mixer Paver Operator; Concrete Plant Operator (automatic); Crane; Truck Crane; Pitman Crane; Hydro Crane or any machine with power swing; Derrick or Derrick Trucks; Dragline Operator; Dredge Operator; Dozer; Ditching Machine; Euclid Loader; Hoist, 2 active drums; Loaders, all types; Mechanic or Welder; Mixer-Mobile; Multi-unit Scraper; Piledriver Operator; Power Shovel Operator; Quad Track; Scoop Operators, all types; Sideboom Cat, Cherry Picker; Skimmer Scoop Operator; Pushcat Operators

Group 2 - Asphalt Plant Operator; Elevating Grader Operator

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS

Zone 3: Douglas & Shawnee Counties (Cont'd):

Group 3 - A-frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Backfiller Operator; Barber Green Loader; Boiler, other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator, skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator, concrete; Fireman, other than asphalt; Flex Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist, 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than Dredge Screening and Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator over 50 H.P.; Self-propelled Operator, other than asphalt siphons and jets; Subgrading Machine Operator; Tank Car Heater Operator; Combination Booster and Boilers; Towboat Operator; Vibrating Machine Operator, not hand

Group 4 - Concrete Gang Saw, self-propelled (con-cut); Conveyor Operator; Harrow; Disc. Seeder; Oiler; Tractor Operator, 50 H.P. or less without attachments

Group 4A - Oiler; Motor Crane

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION #KS83-4066-Mod.#1
(48 FR 40838-September 9, 1983)

Douglas, Jefferson, Leavenworth, Miami and Shawnee Counties, Kansas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters: Zone 3	\$15.14	\$ 1.80
Truck Drivers: Zone 1 (Leavenworth & Miami Cos)		
Group 1	12.76	3.75
Group 2	12.96	3.75
Group 3	13.27	3.75
Group 4	13.42	3.75
Group 5	12.54	3.75

DECISION #KS83-4066-MOD#2
(48 FR 40838-September 9, 1983)

Douglas, Jefferson, Miami, Leavenworth and Shawnee Counties, Kansas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Cement Masons: Zone 1	\$15.17	\$1.95
<u>POWER EQUIPMENT OPERATORS:</u>		
<u>Zone 1: Leavenworth County</u>		
GROUP 1	14.10	3.92
GROUP 2	13.85	3.92
GROUP 3	13.15	3.92
GROUP 4		
a	9.13	3.92
b	12.15	3.92

SUPERSEDEAS DECISION

AREA #5

STATE: Missouri & Kansas

COUNTIES: Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Cos., Missouri; Johnson & Wyandotte Cos., Kansas

DECISION NO: MO83-4043

DATE: June 3, 1983

Supersedes Decision NO. MO82-4013 dated April 9, 1982 in 47 FR 15497.

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories) and heavy and highway construction in Johnson & Wyandotte Cos., Kansas only.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.29	4.26	Electricians (Cont'd):		
Boilermakers	16.12	2.825	Cass Co., Mo. not including Pleasant Hill:		
Bricklayers & Stonemasons	14.44	3.98	Electricians	16.18	10%+ 2.51
Carpenters:			Zone 2 - Henry, Johnson & Lafayette Cos., Mo. & remainder of Clay, Jackson, Platte & Cass Cos., Mo.:		
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas:			Electricians (contracts exceeding 2000 man hrs.)	16.18	10%+ 2.51
Carpenters, Lathers, Millwrights & Pile-drivermen	15.05	2.07	Electricians (contracts not exceeding 2000 man hrs.)	15.18	10%+ 2.51
Zone 2 - Henry County, Mo.:			Zone 3 - Ray Co., Mo:		
Carpenters & Lathers	13.55	2.07	Electricians (contracts exceeding 2000 man hrs)	16.18	10%+ 2.51
Millwrights & Pile-drivermen	15.05	2.07	Electricians (contracts not exceeding 2000 man hrs.)	14.58	10%+ 2.51
Zone 3 - Johnson Co., Mo.:			Zone 4 - Johnson & Wyandotte Cos., Kansas	16.18	10%+ 2.51
Carpenters & Lathers	14.075	2.07	Elevator Constructors	16.53	2.465 +a
Millwrights & Pile-drivermen	15.05	2.07	Elevator Constructors' Helpers	70%JR	2.465 +a
Cement Masons (Building Construction):			Elevator constructors' Helpers (Prob.)	50%JR	
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas:			Glaziers	14.72	2.66- 15.46
Cement Masons	15.075	1.95	Ironworkers:		
Zone 2 - Henry & Johnson Cos., Mo.	13.98		Zone 1 - Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Cos., Mo.	16.25	4.25
Cement Masons (Heavy & Highway Construction):			Zone 2 - Johnson & Wyandotte Cos., Kansas	16.135	4.25
Johnson & Wyandotte Cos., Kansas	15.17	1.95			
Electricians:					
Zone 1 - Western half of Clay & Jackson Cos., Mo. not including Blue Springs; Northern half of Platte Co., Mo.; Northwestern portion of					

Laborers:

Building Construction:

Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas:

	Basic Hourly Rates	Fringe Benefits
Group 1	12.30	1.85
Group 2	12.45	1.85
Group 3	12.60	1.85

Zone 3 - Henry & Johnson Cos., Mo.:

Group 1	9.575	2.55
Group 2	9.675	2.55
Group 3	9.90	2.55

Site preparation & grading, Heavy & Highway Construction:

Zone 4 - Johnson & Wyandotte Cos., Kansas:

Group 1	12.02	3.30
Group 2	12.82	3.30

Line Construction:

Zone 1 - Cass, Clay, Jackson, Platte & Ray Cos., Mo.; Wyandotte & remainder of Johnson Cos., Kansas:

Linemen	18.28	3-1/2% +1.06
Linemen Operator	17.02	3-1/2% +1.06
Groundman	12.05	3-1/2% +1.06

Zone 2 - Western 3/4 of Johnson Co., Kansas:

Lineman	15.50	3-1/2% +.65
Cable Splicers	16.28	3-1/2% +.65
Groundman	9.56	3-1/2% +.65
Powderman	12.81	3-1/2% +.65
Line Truck & Equipment Operators	12.81	3-1/2% +.65

Zone 3 - Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Cos., Mo.; Wyandotte Co. & Johnson Co.-that portion east of Monticello, Olathe & Spring Hill Townships Kansas:

Line Construction (Tele-

Line Construction: (Con'd)

including C.A.T.V. Work):

Cable splicers; air pressure technicians; central office equipment man

Basic Hourly Rates	10.96	Fringe Benefits	3%+.45
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Telephone lineman & installer repairman; C.A.T.V. terminator; equipment operator (1/4 yd. backhoe & larger & D-4 crawlers & larger:

Basic Hourly Rates	10.39	Fringe Benefits	3%+.45
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Equipment operator (trenchers & all other equipment) Groundman-winch driver Groundman

Basic Hourly Rates	9.11	Fringe Benefits	3%+.45
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Basic Hourly Rates	7.87	Fringe Benefits	3%+.45
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Basic Hourly Rates	6.36	Fringe Benefits	3%+.45
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Line Construction (Railroad & Cross Country Transmission Lines):

Zone 4 - Wyandotte Co. & Johnson Co.-that portion east of Monticello Olathe & Spring Hill Townships:

Lineman	15.62	3-1/2% +1.06
Lineman Operator	14.45	3-1/2% +1.06
Groundman, Powderman	10.75	3-1/2% +1.06
Groundman	10.03	3-1/2% +1.06

Pole Treating:

Pole treating specialist

Basic Hourly Rates	16.35	Fringe Benefits	3-1/2% +1.06
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Pole treating inspector

Basic Hourly Rates	15.62	Fringe Benefits	3-1/2% +1.06
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Pole treating truck driver

Basic Hourly Rates	10.75	Fringe Benefits	3-1/2% +1.06
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Pole treating groundman

Basic Hourly Rates	10.03	Fringe Benefits	3-1/2% +1.06
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Marble & Tile Setters

Basic Hourly Rates	16.55	Fringe Benefits	10%
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Marble & Tile Setters Finishers

Basic Hourly Rates	14.40	Fringe Benefits	
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	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
Painters:			Roofers:		
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman AFB), Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas:			Roofers	16.48	2.71
Brush & Tapers	15.04	1.40	Sheet Metal Workers	16.65	2.63
Spray	16.04	1.40	Soft Floor Layers	11.21	11 $\frac{1}{2}$ + 1.95
Zone 2 - Johnson Co., Mo. (Whitman AFB only):			Sprinkler Fitters	17.83	2.81
Brush	14.25		Sprinkler Fitters (Henry, Johnson & Lafayette Cos., Mo.)	16.67	2.83
Spray	15.25		Terrazzo Workers:		
Plasterers:			Terrazzo Workers	15.31	10 $\frac{1}{2}$
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos., Kansas	17.25		Terrazzo Workers Finishers	13.58	
Zone 2 - Henry & Johnson Cos., Mo.	12.51		Terrazzo Base Machine	13.93	
Pipefitters	17.44	3.22	Truck Drivers:		
Plumbers	17.96	2.70	Building Construction:		
Power Equipment Operators:			Group I	14.085	2.75
Building Construction:			Group II	14.135	2.75
Group I	15.46	3.75	Group III	14.21	2.75
Group II	15.11	3.75	Group IV	14.335	2.75
Group III:			Group V	14.235	2.75
(a)	10.05	3.75	Group VI	14.435	2.75
(b)	13.21	3.75	Group VII	14.285	2.75
(c)	10.85	3.75	Group VIII	14.185	2.75
(d)	13.46	3.75	Truck Drivers:		
Group IV	15.71	3.75	Site preparation & grading, Heavy & Highway Construction:		
Group V	15.36	3.75	Zone 1 - Johnson & Wyandotte Cos., Kansas		
Group VI	15.96	3.75	Group I	12.66	3.50
Group VII:			Group II	12.86	3.50
(a)	15.21	3.75	Group III	13.17	3.50
(b)	14.96	3.75	Group IV	13.32	3.50
(c)	12.96	3.75	Group V	12.44	3.50
Group VIII	16.46	3.75	FOOTNOTES: a - Employer contributes 8% of basic hourly rate for over 5 yrs. of service & 6% of basic hourly rate for 6 mos. to 5 yrs. service as Vacation Pay Credit. Also 7 paid holidays.		
Group IX	15.96	3.75			
Site preparation & grading, Heavy & Highway Construction:					
Zone 1 - Johnson & Wyandotte Cos., Kansas:					
Group I	14.10	3.92			
Group II	13.85	3.92			
Group III	13.15	3.92			
Group IV:					
(a)	9.13	3.92			
(b)	12.15	3.92			
Group V	14.35	3.92			

CLASSIFICATION DEFINITIONS

LABORERS - (Building Construction Zone 1):

Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)

Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man

Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

LABORERS: (Zone 3):

Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; signal men; all other general laborers

Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders or pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man

Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tampers; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer or sewer work; man working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS: (Site Preparation)

Group 1 - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; loading trucks under bins, hoppers and conveyors track men and all other general laborers, Air tool operators; cement handler (bulk or sack); chain or concrete saw; deckhands; dump man on earth fill; grade checkers cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; puddlers (paving only); crusher feeder; men handling creosote ties or

CLASSIFICATION DEFINITIONS - (Cont'd)

LABORERS: (Site Preparation) (Cont'd):

creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used

Group 2 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gun-nite nozzlemen; rubbing concrete; air tool operator in tunnels; Manhole builder (brick or block); dynamite and powder man

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

Group III -

- (a) Oilers
- (b) Fork lift-masonry
- (c) Oiler driver
- (d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h.p.

Group IV -

Clanshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl. jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft. of boom or over (incl. jib)

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd):Group V

Hoists-each additional drum over 1 drum

Group VI

Crane or rigs, over 200 ft. of boom

Group VII

Ready Mixed Concrete Plants;

(a) Crane operator

(b) Loader operator & plant man

(c) Conveyor Operator

Group VIII

Master Mechanic

Group IX

Crane-tower or climbing

POWER EQUIPMENT OPERATORS: (Site Preparation)

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydraulic hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

CLASSIFICATIONS DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Site Preparation - Cont'd):

Group IV

(a) Oilers

(b) Oiler driver, all types

Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over; men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

TRUCK DRIVERS - (Building Construction):

Group I - Warehousemen and stock man

Group II - Flat beds; pick-ups; drum trucks, under 10 yds.

Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers

Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumfter, euclid, etc.); double bottom units (20 tons capacity and over)

Group V - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers

Group VI - Mechanics

Group VII - Transit mix, 5 yds. and over

Group VIII - Transit mix, under 5 yds.

TRUCK DRIVERS - (Site Preparation)

Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle

Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers, single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment

Group III - A-frame, lowboy, and boom truck driver

Group IV - Mechanics and welders

Group V - Oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

Summary of the
"Effect of the Davis-Bacon Act
on Construction Costs in Non-Metropolitan Areas
of the United States"

This report, performed by the Department of Economics at Oregon State University under a grant from the American Farm Bureau Federation, estimated the effect of the Davis-Bacon Act on construction costs in rural areas.

The researchers obtained data by sampling 100 rural counties and by similarly selecting 537 federally-funded and private projects for non-residential buildings. They located contractors on 385 of these projects. The researchers then interviewed contractors for cost and project characteristic information. Useable information was returned for 215 projects, of which 113 were subject to Davis-Bacon and 102 were privately funded.

The results of the data show that the impact of the Davis-Bacon Act increased construction costs in ranges between 26 percent and 38 percent depending on the economic climate.

The Act raises costs primarily by raising wages; however, costs are raised in other ways as well. Work assignments to a particular trade -- not being able to pay a helper classification -- also may have increased costs.

In the sample, contractors on 25 percent of public projects said they had to raise wages above the normal rate due to Davis-Bacon. The average increase due to Davis-Bacon was 34.1 percent for carpenters and 45.2 percent for laborers. In addition, other low-wage contractors may have been discouraged from bidding on the project. The effect was that wages were significantly higher on the Davis-Bacon projects. Depending on the trade, wage rates ranged from 12.9 percent to 23.2 percent higher on the public projects.

The data indicates that Davis-Bacon works contrary to actual intent of the law -- that the Act is not preserving jobs for local contractors. Only 28 percent of the contractors on Davis-Bacon projects were from the same county in which the project was located, compared to 47 percent of the private projects (matched for size and type of project).

That the Davis-Bacon Act increases the cost of public non-residential buildings in rural areas is fairly certain. However, regional estimates show that the 26 percent - 38 percent increase is not uniform. The results apply to non-metropolitan areas only and should not be generalized to urban areas.

Part of the increased costs on the public projects may be due to other government programs which cannot be easily disentangled readily from the effect of Davis-Bacon. Furthermore, repeal of the Act does not mean a 26 - 38 percent reduction in costs unless state prevailing wages are also repealed.

This study is significant in that it is the first known study to measure the impact of the Davis-Bacon Act on public construction projects in rural areas. It is also the most comprehensive economic and statistical study on the effects of Davis-Bacon since the GAO study in 1978. Most of all, this demonstrates, through a purely academic study, that Davis-Bacon is inflationary.

FACTS - KANSAS PREVAILING WAGE
KSA 44-201

Governors States +
Feb - 8 - 1984

For your information, attached is a copy of Governor John Carlin's Executive Order No. 84-86 concerning payment of wages. This executive order, along with a problem at Emporia State University with roofers wages has prompted some legislators to call for the repeal of Kansas' 92 year old prevailing wage law, K.S.A. 44-201.

The federal government and numerous states, like Kansas, have all agreed that prevailing wage laws are important. They are important because they provide crucial benefits to a number of different constituencies including workers, their communities, contractors, and the taxpayers themselves.

If there were no prevailing wage rates, unscrupulous contractors would have every incentive to slash wages in order to become the successful bidder on public works jobs. In the construction industry work is funneled to contractors through a system of competitive bidding -- that is, the lowest bidder will automatically be awarded the project. Labor is generally the only component of construction costs over which a contractor can hope to exercise any significant degree of control.

Coupled with this basic characteristic of government contracting are various economic attributes of the construction industry itself, which make conditions extremely unstable for workers and contractors alike.

First, employment is "casual" in the construction industry, with workers moving from contractor to contractor as one project is finished and another is begun. This casual nature of employment exists because construction contractors, most of whom do business as small firms, do not employ a stable, permanent workforce.

In addition, construction employment varies considerably from season to season.

Again, it must be emphasized, with these pools of unemployed construction workers, unscrupulous contractors will not hesitate to lower wages in order to undercut the bids of fair contractors who truly desire to maintain adequate labor standards. The general lack of stable, long-term employment relationships makes this kind of wage cutting especially likely.

Local communities and taxpayers also derive important protections from prevailing wage laws. The old adage, "you get what you pay for," certainly holds true in the construction industry. Construction projects -- particularly those in the public sector such as dams, power plants, highways, and schools -- require highly skilled labor. There is no doubt, without prevailing wage laws, that wages of construction workers could be cut all the way down to the minimum by hiring unskilled people. But would this really save the taxpayers any money? The answer is no. First, unskilled workers will certainly take longer to do a job than skilled workers. Therefore, productivity would be down and the cost to the taxpayer would rise. Second, if the government wants quality construction projects, with fewer long-run maintenance costs, then it must attract skilled workers. And in order to attract qualified, well-trained construction workers, it is almost always necessary to pay no less than the local prevailing wage rate.

An argument often used against prevailing wage laws is that they are inflationary -- that they cause construction wages to rise more rapidly than they otherwise would, and thus drive up the cost of public construction.

In fact, the exact opposite is true. Rather than pushing up prices, wage increases in the construction industry have remained fairly constant the last few years.

Clearly, wage increases are not driving up prices in the construction industry. The real increase in cost in the construction industry has been material and equipment cost and real estate and interest rates. Therefore, it makes no sense to try to solve the problem of inflation in construction costs by repealing prevailing wage laws.

Another strong argument for Kansas having a prevailing wage law is the fact it helps keep Kansas taxpayers' money in Kansas. A fair wage law in Kansas prevents out-of-state unscrupulous contractors from bringing their cheap labor into Kansas and taking the wages earned by these workers and the profits out of Kansas. These workers don't pay taxes in Kansas, don't buy car tags in Kansas; in other words, Kansas taxpayers' dollars leave Kansas.

In regards to the problem of the roofers at Emporia State, the following should be considered. If Governor Carlin's Executive Order had been in effect when the contract was awarded, the State of Kansas Department of Human Resources (not the federal government) would have completed a wage survey in Lyons County and the true prevailing wage rate of roofers would have been known.

In summary, workers, fair contractors and taxpayers all want and need prevailing wage laws. That is why we must not allow 44-201 to be repealed.

RECEIVED JAN 26 1984



KANSAS
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PHONE (913) 357-1824

January 25, 1984

Senator August Bogina, Jr.
Chairperson, Joint Committee on
State Building Construction
Room 143-N, State Capitol
Topeka, KS 66612

Dear Senator Bogina:

In a 1978 staff report to the Wichita City Commission it was stated, "The original intent of the state prevailing wage legislation was to insure some measure of equality for laborers and mechanics and to prevent some of the abuse which formerly occurred such as extremely long work days. The initial legislation was passed in 1891." These long working days and low wage abuses were due to immigrant labor forces that were faced with no choice but to accept the standards set by the employers.

The 1880 conditions that were addressed by state legislation no longer exist, and the last 90 years have seen management and labor progressing together with give-and-take relations made possible through the evolution of labor unions. This relationship probably accounts for the fact that this 1981 law has received little or no attention, plus the fact that in 1931 federal legislation established the Davis-Bacon Act.

The Davis-Bacon Act provides that on contracts involving federal funds the prevailing wage rates for laborers and mechanics will be based on similarly classified laborers in the same area. Like our own state law, the 1931 law may have outlived its usefulness and has become an inflation factor.

In a Comptroller's General Report to Congress regarding repeal of the Davis-Bacon Act the report said, "The General Accounting Office believes that the Davis-Bacon Act is no longer needed and should be repealed." The report cites significant changes in economic conditions and workers' protection laws since 1930. The report says, "The Act was intended to discourage itinerant contractors from successfully bidding on Government projects by hiring cheap labor from outside the project area, thus disrupting the prevailing local wage structure. Since the Act was passed, the Congress has enacted a number of other laws to protect the wages of construction workers, including requiring that minimum and overtime rates be paid and prohibiting contractors from requesting kickbacks of wages."

Senator August Bogina
January 25, 1984
Page two

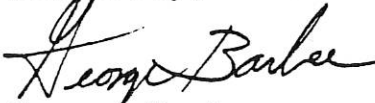
The GAO report describes inadequacies, problems and obstacles in the Department of Labor's attempts to develop wage rates and further states, "Incorrect rates are inflationary on the local and national economy."

These statements apply to any plan to determine prevailing wage rates and it seems unwise to create these inflationary problems in Kansas by implementing an antique law whose need has passed.

The Kansas Consulting Engineers are usually involved in a project when it becomes time to submit an engineer's estimate for the cost of the project. Engineers usually do not refer to the specific wage rates, but do look at similar projects that have recently been completed and study the unit prices for cost of materials used in those projects. For example, if the price per foot for pipe installation including the cost of pipe was "x" number of dollars per foot, that factor would be used in estimating the cost for a similar project. Wage rates certainly are a factor in determining those unit prices, so if a prevailing wage rate is used on a previous job the price becomes a floor or a minimum unit price. This certainly leads to inflation because the next unit price would, by necessity, need to be higher to include such factors as wage rate increases for merit pay and seniority.

For the reasons above, Kansas Consulting Engineers would be in favor of repealing K.S.A. 44-201.

Sincerely,


George Barbee
Executive Director

kaw

MECHANICAL CONTRACTORS Association of Kansas, Inc.

Phone 913-354/1130

500 Kansas Avenue, Topeka, Kansas 66603



March 12, 1984

TO: Senate Ways and Means Committee, Chairperson Hess; Vice-Chairperson Harder; Members: Bogina, Doyen, Hein, Talkington, Werts, Gaines, McCray, Steinegar, Warren

FROM: Charles D. Carey, Jr., Executive Driector

RE: FOR HB2797 as amended by House Committee of the Whole, K.S.A. 44-201.

Chairperson Hess and Members of the Committee, on behalf of the majority of the Members of the Mechianical Contractors Association of Kansas I wish to express our support for HB2797 as amended.

This amendment 1) Up-dates K.S.A. 44-201 for current rate of pay language, 2) defines locality so confilcting and overlapping wage standards will be eliminated, 3) clarifies "greater number" as "majority" and provides for average rate in absence of a majority, 4) requires a Kansas Wage rate determination for localities so local units of government won't have to choose Federal Davis Bacon because there is nothing else to use, 5) lists the wage rates in specifications so contractors and subcontractors can knowingly comply with K.S.A. 44-201. In the past contractors and subcontractors were put in the unreasonable position of contracturally agreeing to paying "unknown" prevailing wages rates.

The "prevailing wage for public work" concept is as right in 1983 as it was in 1891. Government has a moral obligation to its blue collar workers not to participate in their exploitation by encouraging wage levels below the norm for the community. This norm may be either at the union or nonunion level. Those who say Kansas prevailing wage rates will only establish the union scale are incorrect. A case in point, I invite you to contact Dan Carroll, Attorney at Division of Architectural Services to learn that even the hated Federal Davis-Bacon survey can and has established, from a not too long ago survey, the nonunion wage level in Salina. Ask Dan about a chiller replacement project bid December 21, 1983.

True, if no one protests or requests a survey it is unlikely that the current wage norm will be known or used. This isn't the fault of the law. This is apathy for implementation of the law.

My contractors do not oppose competing with each other using the same wage basis. They compete with each other's contractor expertise, not by gaining a competitive advantage by paying their workers less than the norm. The contractor who can only compete by paying his employees less is really trying to avoid competition. He wants an advantage.

Of course, we all want the taxpayers to get the most for their construction money, however, many believe that this priority should not be at the expense of "underpaying" the worker.

Senators, before accepting as fact the exaggerated, extrapolated and predicted cost increases blamed on K.S.A. 44-201, I ask you to consider the following:

1. Federal Money when involved establishes the wage rate whether there is or is not a K.S.A. 44-201.

2. There is no assurance that the contractors paying the lowest wages will always or even often be the low bidder. The exaggerated predictions are based on the false assumption that all work will be done by low paying contractors.

3. There is no assurance that contractors paying below the prevailing wage will pass-on all of this difference to the State in their overall bids.

4. Many factors determine the lowest total project bid, not just wage rates. Some other factors are: contractors' management expertise, labor saving equipment, lower percent of overhead and profit markup based on greater volume of work and availability of a pool of already trained and qualified workers.

5. The smart estimator will just try to get under his "prevailing wage paying competition" and use the savings out of labor's hide to improve his own profitability.

6. The prime contractor may subcontract 70 or 80% of the work to specialty or system subcontractors who pay prevailing wages and who consistently follow the type of plan and specification work primarily covered by K.S.A 44-201. There will be no savings from the workers of these subs to pass on to the State.

7. Actual labor cost savings per unit of productivity cannot be projected from hourly wage rate differences alone. The low paid worker who acts busy for fear of being fired can be a very high priced worker per unit of work accomplished. Doing the job correctly the first time may have a much greater effect on making the actual labor cost less than lower wage rates.

8. Contractor B who pay only \$5.00/hour has little incentive to make a large capital investment in labor saving equipment to save manhours. Contractor A who pays much higher wages has a much greater incentive to make a large capital investment, to save manhours. In addition, the contractor with efficient labor saving equipment and fewer manhours is able to get in and out during good weather, etc. and actually use a smaller number of manhours per job and do more jobs per year. So, he may be able to operate at a lower profit markup and with a lower total labor cost.

Now to take the greater number of manhours used by contractor B multiplied by the difference between the prevailing wage rate and contractor B's lower wage rate will of course show an exaggerated, but incorrect labor cost savings.

It is erroneous projections like the above example that are misleading and incorrect.

Hopefully, the above will be sufficient to cause you to vote for HB2797 as AMENDED by the House.

Charles D. Carey, Jr.

Thank you,

TESTIMONY
BEFORE THE
SENATE WAYS & MEANS COMMITTEE

MARCH 12, 1984

BY

ROBERT A. WEST

NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

Mr. Chairman and Members of the Committee:

My name is Robert West, and I appear before you today as a representative of the members of the Kansas Chapters, National Electrical Contractors Association. Our association represents some 60 electrical contractors in this state; our membership is comprised of both union and non-union firms.

N.E.C.A. stands in favor of H.B. 2797 as amended. The bill as amended establishes an equitable system to determine prevailing wages for public works projects, and if a fair survey is comprised and conducted by the Department of Human Resources, our membership fully supports the passage of this bill.

We do not, however, feel that the Kansas prevailing wage law should be repealed. As I mentioned, our membership has union and open shop firms, and without exception, they favor the continuance of a prevailing wage law in Kansas, if fair surveys, and subsequently, fair enforcement can be administered.

Time and time again in visiting with our members across the state, their major fear in seeing the prevailing wage law repealed is that the "market price will prevail" at the expense

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of their employees. Due to the competitive bid nature of our business, and the low-dollar bid being the successful bidder, if just one contractor finds means to cut his price by unscrupulously reducing his labor costs, the market price has been established. Other contractors must either meet those prices or close their doors.

The only flaw is that this market is set not by the business acumen of a contractor, but by that contractor's ability to perhaps take advantage of the laborers who work for him.

Our contractors cannot support these type of tactics. They are small businessmen who are as aware as anyone of our free enterprise system and the need to deliver a competitive product within that system. At the same time, our members attempt to treat their employees fairly, whether union or non-union, and not exploit the services those employees give them.

Within this framework lies the reason our industry supports H.B. 2797 as amended and would be against the repeal of K.S.A. 44-201. If fair surveys are conducted and administered, the theory of the market prevailing should continue to be upheld, not at the possible expense of the work force, but through the business ability of the contractors who service the public.

Thank you for the opportunity to share with you our concerns on House Bill 2797.

My name is Bill Williams. I live in Kansas City and represent the Heavy Constructors Association, a certified chapter of the Associated General Contractors of America.

House Bill #2797 originally sought to repeal the existing statute 44-201 which became law in the late 1890's. The compromise reached in the House causing 2797 to be amended to its present form is acceptable to us.

However, I have been advised that there is a serious effort on the part of numerous Senators to amend this bill again to its original form of outright repeal. We are opposed to repeal of 44-201.

The statute sets a floor of wages paid by contractors on public projects. It was created for the benefit of employees, not contractors. It was, and is an expression of public policy that payment of low wages shall not give a contractor an advantage in bidding or securing a public contract.

The Federal government and numerous states, like Kansas, have agreed that prevailing wage laws are important. They are important because they provide crucial benefits to a number of different constituencies including workers, their communities, and the taxpayers themselves.

These laws were enacted to prohibit wage differentials

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from becoming a major competitive advantage in bidding on government construction contracts and to avoid a depression of local labor markets by outside contractors who paid low wages to imported laborers. They insured that the economic power of the government as an employer would not contribute to the depression of local wage conditions. Most of the reasons for mandating a prevailing wage law are still valid today, if the prevailing wage is fairly determined and is the actual wage paid in a community. The result of setting a fair prevailing wage by county should be a maintenance of the status quo for Kansas, neither causing an inflationary effect nor deflating the local labor market. The effect of not pegging a prevailing wage would be to invite some of the abuses which led to the original laws and to make wages a major determinant in the awarding of contracts.

If there were no prevailing wage rates, certain contractors would have every incentive to cut wages in order to become the successful bidder on public works jobs. In the construction industry work is awarded to contractors through a system of competitive bidding -- that is, the lowest responsible bidder will be awarded the project. Labor is one of the few components of construction costs which a contractor can exercise any significant degree of control.

Local communities and taxpayers also derive important protections from prevailing wage laws. The old adage, "you get what you pay for," certainly holds true in the construction industry. Construction projects -- particularly those

in the public sector such as dams, power plants, highways, and schools -- require highly skilled labor. There is no doubt, without prevailing wage laws, that wages of construction workers could be cut substantially by hiring unskilled people. Would this really save the taxpayers money? The answer is no. First, unskilled workers certainly take longer to do a job than skilled workers. Therefore, productivity would be reduced and the cost to the taxpayer would rise. Second, if the government wants quality construction projects, with fewer long-run maintenance costs, then it must utilize skilled workers. In order to use qualified, well-trained construction workers, it is necessary to pay no less than the local prevailing wage rate.

An argument often used against prevailing wage laws is that they are inflationary -- that they cause construction wages to rise more rapidly than they otherwise would, and drive up the cost of public construction.

In fact, the opposite is true. Wage increases are not driving up prices in the construction industry. The real increase in cost in the construction industry has been material, equipment cost, real estate, and interest rates. Therefore, it makes no sense to try to solve the problem of inflation in construction costs by repealing prevailing wage laws. Cost of living continues to rise despite strong lids on salaries, wages, and fringe benefits. There is an old adage, "If it's not broke, don't fix it".

Skill, Integrity and Responsibility is the motto of the Associated General Contractors. Free enterprise is working without the exploitation of the workers. Let's not penalize our citizens who have acquired their skills, purchased homes, raised their families in our state, by allowing employers to reduce the wages of the employees. Seldom do those reductions of wages benefit the taxpayer, only the employer.

Thank you.

My name is Thomas H. Marshall. I am an attorney with the law firm of Blake and Uhlig, P.A., in Kansas City, Kansas. Our firm has been involved in several court cases involving the interpretation and application of the provisions of K.S.A. 44-201 and we are therefore quite interested in the legislation which is currently pending before this Committee, Senate Bill 2797, concerning the repeal of the language of 44-201 regarding the current rate of per diem wages and the addition of clear language regarding the payment of prevailing wages on state projects.

Our firm is involved in two class actions. The first is entitled Baker and DeHart v. R.D. Andersen Construction Co., pending in the District Court of Shawnee County concerning eight (8) different projects in several counties and the second is Stein v. Anco Construction Co. involving the Allied Health Center at Washburn University. Both of these cases involve 44-201 and are attempts, on behalf of employees of contractors doing business with the state, to recover payment of wages which were not paid in compliance with the statute.

We have reviewed the language of the pending bill, which I understand was passed by the House and is now before this committee for consideration, and, based upon that review, I would like to offer the following comments.

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First, in my opinion, the revised language contained in Section 3 of the bill clarifies and explains the purpose and intent of the legislation more effectively than that which is found in the existing law. There should be no serious problem for contractors, employees or the courts in determining the policies which underlie this bill.

Second, the requirement of the bill that wages be determined prior to the letting of a contract for bids solves a serious problem for contractors who may wish to bid the work. Under the new language, a contractor may reasonably rely upon the wages published and know that if those rates are paid to employees, compliance with the law and the contract have been achieved. This will eliminate the tremendous problems which exist under the current law of determining what the prevailing wage is for a particular locality without the benefit of any guidance from the state which is requiring that the prevailing wage, whatever it is, shall be paid on state construction. Certainly contractors and, unquestionably, employees themselves are ill-suited for making these sorts of determinations and therefore both are left to their own devices under existing law.

Third, the Secretary of the Department of Human Resources appears to receive a grant of authority sufficient to allow for the proper determination of prevailing wages

for each county in the state prior to the letting of a contract for bids. A complaint commonly heard under the existing law is that no agency or administrative tribunal is charged with the responsibility of determining the wage in the first instance. It will also foreclose arguments that the state has attempted to unlawfully delegate authority when it adopts other specifications of the prevailing wage, such as the federal Davis-Bacon wages. These arguments were put forward in connection with the successful effort of the City of Topeka to specify compliance with 44-201 on the "Discovering Apes" construction project at the City Zoo several years ago as well as the problems encountered by the Kansas Department of Transportation when it specified that Davis-Bacon wages would be paid by contractors on some 32 highway projects. Each of these instances resulted in court cases taken through the appellate process for the purpose of obtaining judicial interpretations of certain less-than-clear provisions of the existing law.

Fourth, the expanded definitions provided for the critical terms in the statute, namely "locality" and "prevailing wage", appear to be reasonable and enforceable. One of the serious problems addressed by the district court and then the Court of Appeals in Baker and DeHart concerned determination of whether or not the statute required comparison of workers' wages who were employed on projects

similar to the project in question. The pending language clearly and concisely provides exactly the guidance that the trial court in Baker and DeHart lacked. In short, the definitions appear to be legally sound and pragmatically enforceable.

Lastly, the results which should be achieved in the event that Senate Bill 2797 is enacted into law are that the working people of this state whose wages purport to be determined under the provisions of the new law will encounter a situation where enforcement of their rights will not be frustrated as they have been under the terms of the current law. In all of the research which I have done in connection with the existing law, I have been unable to uncover a single instance since 1891 in which an employee who claimed to have been underpaid was ever able to successfully collect the wages to which the employee was entitled. Under the proposed language, it appears that the legislature can remedy this most serious grievance.

In conclusion, I feel that the state will have certainly acted to avoid considerable uncertainty on the part of those who must do business with the state concerning the wages to be paid employees on state construction projects. The language of Senate Bill 2797 avoids many of the points of vagueness under the current law and the

enactment of the bill will operate not only to the benefit of contractors in determining the wages which will be required on state jobs but will more importantly operate to the benefit of workers employed on such state projects by insuring that they are paid in accordance with the legislative intent upon which this language is based. I strongly urge that this bill be recommended for passage by the Senate.

Thank you for your consideration on these remarks.

MARCH 12, 1984

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS WAYNE MAICHEL, AND I REPRESENT THE KANSAS AFL-CIO.

WE APPEAR BEFORE YOUR COMMITTEE, MR. CHAIRMAN, IN SUPPORT OF H.B. 2797. I EMPHASIZE THAT WE SUPPORT H.B. 2797 AS AMENDED BY THE KANSAS HOUSE OF REPRESENTATIVES.

ONE OF THE MAJOR CONCERNS OF LEGISLATORS IN THE HOUSE OF REPRESENTATIVES WAS THAT HIGHER WAGES FROM SOME OTHER AREA WOULD BE IMPOSED ON THEIR LOCAL COMMUNITIES. THE HOUSE AMENDMENT CLARIFIED THIS ISSUE BY DEFINING LOCALITY AS THE COUNTY WHEN THE WORK IS BEING PERFORMED.

A NUMBER OF CONFEREES APPEARED BEFORE THE HOUSE WAYS AND MEANS COMMITTEE ON H.B. 2797. AMONG THOSE WERE CONFEREES THAT TESTIFIED THAT DOING AWAY WITH PREVAILING WAGE LAWS WAS A BENEFIT TO TAXPAYERS. SOME CONFEREES TESTIFIED THAT WITHOUT PREVAILING WAGE LAWS THERE WOULD BE A SAVINGS OF 10 TO 25% IN CONSTRUCTION COSTS.

WE DISPUTE THOSE ARGUMENTS AND SUBMIT TO YOU THAT KANSAS NEEDS A STRONG PREVAILING WAGE LAW. ATTACHED TO MY TESTIMONY ARE COPIES OF BID SHEETS THAT I WOULD LIKE TO GO OVER WITH YOU. WE BELIEVE THESE EXAMPLES CERTAINLY SHOW THAT ELIMINATION OF PREVAILING WAGE DOES NOT NECESSARILY CONSTITUTE A SAVINGS FOR TAXPAYERS.

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3-12-84

University of Kansas

Haworth Hall Classroom Building

Low Bid 12-14-82

R.D. Anderson \$10,411,111

Douglas Const. \$10,549,000

Difference \$ 137,889 = 1.32%

Learned Hall Interim Library

Low Bid 2-3-83

Douglas Const. \$ 692,983

R.D. Anderson \$ 703,999

Difference \$ 11,016 = 1.59%

SBL West Wing/SBL

2/23/83

Dahlstrom & Ferrell

\$1,502,000

R. D. Andersen

1,521,234

Difference

\$ 19,234 = 1.28%

Student Union Bldg./Washburn

3/31/83

Royal Construction

\$ 148,900

Dahlstrom & Ferrell

151,950

Difference

\$ 3,050 = 2.05%

High School/USD #437

3/24/83

Lee & Bueltel	\$ 543,500	
ANCO Constr.	<u>547,547</u>	
<u>Difference</u>	<u>\$ 4,047</u>	= .74%

Supermarket & Warehouse, 21st & Bell/Dillons

10/27/83

ANCO	\$1,237,321	
Royal Constr.	1,254,000	
H. T. Paul	<u>1,255,552</u>	
<u>Difference</u>	<u>\$ 18,231</u>	= 1.47%

Twin Theater - Fox White Lakes

11/29/83

H. T. Paul	\$363,963		
Royal Constr.	<u>365,000</u>		
<u>Difference</u>	<u>\$ 1,037</u>	=	.28%

Office Bldg. - American Heart Assn.

10/18/83

Dahlstrom & Ferrell	\$978,000		
McPherson	<u>986,000</u>		
<u>Difference</u>	<u>\$ 8,000</u>	=	.82%

MARCH 12, 1984

IN SUMMARY, ON EIGHT JOBS MY FIGURES DISCLOSE THERE IS RELATIVELY LITTLE DIFFERENCE BETWEEN THE GENERAL CONTRACTOR WHETHER OR NOT HE IS OPEN SHOP OR ABIDING BY A UNION AGREEMENT. THERE IS LESS THAN 2% DIFFERENCE IN THE COST OF DOING THEIR WORK. OBVIOUSLY, THE CONTRACTOR WHO IS PAYING WAGES UNDER THE TERMS OF HIS UNION AGREEMENT IS NOT ADVANTAGED IN THESE JOBS BECAUSE THERE ARE NO PREVAILING RATES ESTABLISHED FOR THE JOB I HAVE JUST MENTIONED, EITHER LOCALLY OR FEDERALLY.

THIS BEING THE CASE, WE HEARTILY DISAGREE WITH PREVIOUS TESTIMONY GIVEN IN THE HOUSEWAYS AND MEANS COMMITTEE THAT IF THE PREVAILING WAGE WERE REPEALED THAT THE STATE WOULD ACCRUE 15, 20 OR 25% SAVINGS.

Amendment To S.B. 578

New Sec. (Kansas Fish and Game Commission)

(a) In addition to the purposes for which expenditures are authorized for fiscal year 1984 from the forestry, fish and game commission fee fund, as prescribed by section 5(a) of chapter 9 of the 1983 Session Laws of Kansas, expenditures may be made for fiscal year 1984 from such fund for the following purpose, subject to the expenditure limitation prescribed therefor:

Design study of spillway and dam/bridge at
Nemaha State Fishing Lake \$10,000

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3-12-84

SENATOR PAUL HESS
SENATE DISTRICT 30, SEDGWICK COUNTY
THE HILLCREST
115 S. RUTAN
WICHITA, KANSAS 67218



TOPEKA

SENATE CHAMBER

March 15, 1984

COMMITTEE ASSIGNMENTS

CHAIRMAN, WAYS AND MEANS
CHAIRMAN, LEGISLATIVE POST-AUDIT
MEMBER, STATE FINANCE COUNCIL
LEGISLATIVE BUDGET
ORGANIZATION, CALENDAR AND RULES
ENERGY AND NATURAL RESOURCES
COMMERCIAL AND FINANCIAL INSTITUTIONS
JUDICIARY
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
BOARD OF DIRECTORS—LEGAL SERVICES
FOR PRISONERS, INC.
GOVERNOR'S RESIDENCE ADVISORY
COMMISSION

PRESIDENTIAL COMMISSIONS
VICE CHAIRMAN, STATE PLANNING COUNCIL ON
RADIOACTIVE WASTE MANAGEMENT
(1980-1981)
MEMBER, ADVISORY PANEL ON FINANCING
ELEMENTARY AND SECONDARY
EDUCATION (1982-1983)

Mr. John Kemp, Secretary
Kansas Department of
Transportation
Seventh Floor
State Office Building
Topeka, Kansas 66612

Dear Secretary Kemp:

Attached is a copy of the Senate subcommittee report which makes reference to the Kansas Department of Transportation (KDOT), Division Three Headquarters located in Norton, Kansas. The intent of the subcommittee's recommendation is to take advantage of the proximity of the KDOT maintenance facility for repair and servicing of Norton State Hospital's automobiles and mechanical equipment. The Committee realizes that KDOT does not perform services for other state agencies; however, the Committee is in agreement that the potential demand for repairs and services on agency equipment does not warrant the hospital's request for an automobile mechanic. The Committee would appreciate your support of this recommendation. Please submit any comments you may have concerning this issue, as soon as possible, if any action is needed by the Senate Ways and Means Committee.

Sincerely,

Senator Paul Hess, Chairman
Senate Ways and Means Committee

Attachment

KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

March 23, 1984

The Honorable Paul Hess
Kansas State Senate
Room 123-S, Capitol Building
Topeka, Kansas 66612

Dear Senator Hess:

This is in response to your March 15 letter regarding the possibility of utilizing Department of Transportation facilities at Norton for the repair and servicing of the Norton State Hospital's automobiles and mechanical equipment. I can appreciate the thoughts of the sub-committee, however, I feel compelled to say that the addition of 18 cars, trucks and vans as well as several tractors and mowers would have a substantial impact on our total operation.

Our district shop is running near full capacity most of the time because of the many pieces of equipment that we must keep operational. Prioritizing and scheduling would pose some difficulties since our first priority is to keep our production equipment working. We also "farm out" most of our radiator work, all of glass work for automobiles, probably 75% of our body and fender work and front end alignment jobs.

We do not have sufficient stall space to efficiently utilize an additional mechanic at this time, and therefore, any additional work would mean longer downtime for some equipment and I am not sure that we could furnish the turnaround time that the hospital would need. The hospital would need to recognize that there may be delays in the service and repair of their automobiles and equipment.

Assuming responsibility for the hospital equipment is not an insurmountable problem, but I am not sure that it is the most cost-effective approach in the long run.

However, if it is the desire of the Senate Ways and Means Committee that KDOT repair and service the Norton State Hospital automobiles and equipment, we will accept this responsibility for a period and evaluate our experience. We would prefer to send bills for work we "farm out" directly to the hospital for payment, and that they reimburse us for labor, parts and related expenses for work we perform. We could report further after experience has been gained.

Sincerely,

A handwritten signature in cursive script that reads "John B. Kemp".

JOHN B. KEMP
Secretary of Transportation