

Approved AWD Date 3-6-90

MINUTES OF THE HOUSE COMMITTEE ON LABOR & INDUSTRY

The meeting was called to order by REPRESENTATIVE ARTHUR DOUVILLE at  
Chairperson

9:06 a.m. on February 23, 1990 in room 526-S of the Capitol.

All members were present except:

Representative Schauf - Excused  
Representative Webb - Excused

Committee staff present:

Jim Wilson - Revisor of Statutes' Office  
Cindy Wulfkuhle - Committee Secretary

Conferees appearing before the committee:

Representative Anthony Hensley  
Tom Marshall, AFL-CIO

Testimony received from conferees unable to testify.

Gary Ewell, Ewecon Corporation  
Herb Millard, Mechanical Contractors Association  
Smitty Belcher, Huxtable & Associates

The meeting was called to order at 9:06 a.m. by Chairman Douville. The minutes of February 20, 1990 were distributed and unless objections are presented by Monday, February 26, 1990 they will stand approved as presented. Chairman Douville turned the meeting over to Vice-Chairperson Flottman.

HB 2780: Prevailing wages for public works projects of state agencies - proponents

Representative Hensley addressed the committee and distributed several handouts, Attachments #1, 2 & 3. He stated that the prevailing wage is not strictly a labor issue, but also a contractors issue, because the prevailing wage protects Kansas contractors, as well as Kansas workers. The prevailing wage is determined in accordance with wage areas, job classifications and wage rates determined under the Federal Davis-Bacon Act. The Davis-Bacon Act collects its wage rates from surveys that contractors fill out.

Tom Marshall, AFL-CIO, continued his testimony from Thursday, February 22, 1990, Attachment #4. He stated that paying the prevailing wage helps ensure that skilled and experienced construction workers will be hired, and promotes efficient, top quality work on all government jobs. The prevailing wage is established by the markets and there are benefits from that for employers, workers and citizens. The prevailing wage act will provide an equal playing field for all contractors and employees in the state.

Vice-Chairperson Flottman announced to the committee that Gary Ewell, Ewecon Corporation; Herb Millard, Mechanical Contractors Association; and Smitty Belcher, Huxtable & Associates were not able to appear before the committee but their testimony will be entered into the committee minutes, Attachments #5, 6 & 7.

The meeting adjourned at 9:40 a.m. The next meeting of the committee is scheduled for Monday, February 26, 1990 at 9:00 a.m.



## STATE OF KANSAS

ANTHONY HENSLEY  
 REPRESENTATIVE, FIFTY-EIGHTH DISTRICT  
 SHAWNEE COUNTY  
 2226 VIRGINIA AVENUE  
 TOPEKA, KANSAS 66605-1357



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER: APPROPRIATIONS  
 EDUCATION  
 LABOR AND INDUSTRY  
 LEGISLATIVE, JUDICIAL AND  
 CONGRESSIONAL APPORTIONMENT

February 22, 1990

TO: House Committee on Labor and Industry  
 FROM: Anthony Hensley *AH*  
 RE: Prevailing wage rate comparison

A frequent argument against the prevailing wage, particularly expressed by many rural legislators, is that contractors in rural areas of Kansas will be forced to pay "Kansas City" wages. This is not true.

The following table is a comparison of prevailing wage rates as determined by the U.S. Department of Labor under the Federal Davis-Bacon Act. The wage rate is compared using one county from each of the five areas of Kansas in four types of occupations: Carpenter, Electrician, Laborer, and Painter.

| <u>County</u> | <u>Carpenter</u> | <u>Electrician</u> | <u>Laborer</u> | <u>Painter</u> |
|---------------|------------------|--------------------|----------------|----------------|
| Barton        | \$ 8.39          | \$ 8.18            | \$ 6.01        | \$10.00        |
| Butler        | \$ 8.86          | \$11.50            | \$ 6.55        | \$ 8.00        |
| Cowley        | \$ 8.51          | \$13.00            | \$ 6.38        | \$10.60        |
| Crawford      | \$ 8.51          | \$13.00            | \$ 6.38        | \$10.60        |
| Johnson       | \$17.20          | \$18.74            | \$13.60        | \$16.44        |
| Meade         | \$ 8.39          | \$ 8.18            | \$ 6.01        | \$10.00        |
| Reno          | \$ 8.51          | \$13.00            | \$ 6.38        | \$10.60        |
| Saline        | \$ 8.51          | \$13.00            | \$ 6.38        | \$10.60        |
| Sedgwick      | \$ 8.86          | \$11.50            | \$ 6.55        | \$ 8.00        |
| Seward        | \$ 8.39          | \$ 8.18            | \$ 6.01        | \$10.00        |
| Shawnee       | \$11.35          | \$15.55            | \$ 9.00        | not available  |
| Sherman       | \$ 8.39          | \$ 8.18            | \$ 6.01        | \$10.00        |
| Sumner        | \$ 8.51          | \$13.00            | \$ 6.38        | \$10.60        |
| Thomas        | \$ 8.39          | \$ 8.18            | \$ 6.01        | \$10.00        |
| Wallace       | \$ 8.39          | \$ 8.18            | \$ 6.01        | \$10.00        |
| Wyandotte     | \$17.20          | \$18.74            | \$13.60        | \$16.44        |

House Labor & Industry  
 Attachment #1  
 02-23-90

## ROADS AND BRIDGES

## CHAPTER 209

## House Bill No. 2014

(Amends Chapters 36 and 48)

AN ACT relating to highways; providing for the financing thereof; amending K.S.A. 8-143b, 8-143g, 8-143h, 8-195, 68-416a, 68-441, 68-443, 68-2301, 79-3408c, 79-3475, 79-3475a, 79-3487, 79-3491a, 79-3492, 79-34,104, 79-34,118, 79-34,118, as amended by section 44 of this act, 79-34,118, as amended by section 45 of this act, 79-34,118, as amended by section 46 of this act, 79-34,126, 79-34,142, 79-34,143, 79-34,143, as amended by section 54 of this act, 79-34,143, as amended by section 55 of this act, 79-34,143, as amended by section 56 of this act, 79-3620 and 79-3710 and K.S.A. 1988 Supp. 8-143, as amended by section 2 of 1989 House Bill No. 2177, 8-143c, 8-172, 8-2406, 8-2409, 9-1402, as amended by section 42 of 1989 Substitute for House Bill No. 2004, 68-416, 79-3408, 79-3425c, 79-3492b, 79-3492b, as amended by section 39 of this act, 79-3492b, as amended by section 40 of this act, 79-3492b, as amended by section 41 of this act, 79-34,141, 79-34,141, as amended by section 49 of this act, 79-34,141, as amended by section 50 of this act, 79-34,141, as amended by section 51 of this act, 79-34,147, 79-3603 and 79-3703 and repealing the existing sections; also repealing K.S.A. 68-2313, 75-5020, 79-34,144, 79-34,145 and 79-34,146 and K.S.A. 1988 Supp. 9-1402a.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) In order to provide for the construction and reconstruction of a modern and efficient system of highways within the state, the secretary of transportation is hereby authorized and directed to initiate a highway program which shall include highway and bridge projects selected by the secretary of transportation using the transportation department's project selection method.

It is the intent of the legislature that the highway projects selected shall represent, as nearly as possible, the top 16% of the existing state highway system needs as determined by the transportation department's prioritization method. It is the intent of the legislature that priority bridge projects shall be increased by, as nearly as possible, 20%. It is the intent of the legislature that, as nearly as possible, the amount of \$600,000,000 shall be expended or committed to be expended for system enhancements for the period beginning July 1, 1989 through June 30, 1997. It is the intent of the legislature that the amount of \$390,000 annually be expended on improvements in transportation programs to aid the elderly and handicapped.

(b) In addition, the secretary of transportation shall include in the highway program the following work categories and activities:

(1) An increase in substantial maintenance to a level sufficient to arrest and reverse the decline in the surface condition of the highways and bridges;

- (2) maximize the state's use of federally available funds;
- (3) increase the state's participation in partnership with the cities and counties including:
- (A) Geometric improvements on city connecting links;
  - (B) city connecting link payments;
  - (C) economic development projects;
  - (4) improvements in transportation programs to aid the elderly and handicapped; and
  - (5) system enhancements, which include additions and special projects that substantially improve safety, relieve congestion, improve accesses or enhance economic development. The department of transportation shall develop and utilize criteria for the selection of system enhancement projects.

(c) All contracts for the construction, reconstruction and maintenance of the highway system under the provisions of this act, shall be subject to the provisions of K.S.A. 68-407 through 68-411, and amendments thereto.

New Sec. 2. Annually, prior to the 10th day of each regular session of the legislature, the secretary of transportation shall submit a written report to the governor and each member of the legislature providing:

- (a) A comprehensive financial report of all funds for the preceding year which shall include a report by independent public accountants attesting that the financial statements present fairly the financial position of the Kansas department of transportation in conformity with generally accepted accounting principles;
- (b) a detailed explanation of the methods or criteria employed to select construction projects, including a definition of the program elements in subsections (a) and (b) of section 1;
- (c) the proposed allocation and expenditure of moneys and proposed work plan for the current fiscal year and at least the next five years;
- (d) information concerning construction work completed in the preceding fiscal year and construction work in progress;
- (e) specific recommendations for any statutory changes necessary for the efficient and effective operation of the Kansas department of transportation; and
- (f) an explanation of any material changes from the previous annual report.

New Sec. 3. For the period beginning July 1, 1989, through June 30, 1997, the secretary of transportation shall expend or commit to expend, from the revenue provided under the provisions of this

act, at least \$2,500,000 for highway, bridge and substantial maintenance projects in each county of the state.

New Sec. 4. (a) Contracts entered into by the secretary of transportation for nonfederal aid state-funded projects shall be based on bid specifications prescribing that employees of any contractor or subcontractor shall be paid in accordance with prevailing wages determined in accordance with wage areas, job classifications and wage rates determined under the federal Davis-Bacon act.

(b) Employees employed by contractors or subcontractors in the execution of nonfederal aid state-funded highway project contracts with the state of Kansas entered into by the secretary of transportation shall be paid at least the prevailing wage as determined in subsection (a).

(c) The secretary of transportation shall administer the provisions of this section.

New Sec. 5. All contracts for highway and bridge projects under the highway program financed pursuant to this act shall be based on bid specifications for the contract regarding work to be performed in work construction zones, which permit the use of either type II, IIA or IIIA reflective sheeting as determined by the secretary of transportation and referenced in the reflective sheeting study conducted for the department of transportation by Bellomo-McGee, Inc., and dated February, 1988.

New Sec. 6. The following words or terms used in this act shall have the following meanings unless a different meaning clearly appears from the context:

- (a) "Bonds" means any bonds, notes or other evidences of indebtedness, including book-entry-only, whether or not the interest on such bonds is subject to federal income taxation, issued pursuant to the authority of this act.
- (b) "Secretary" means the secretary of transportation.
- (c) "Book-entry-only" means a system of electronic clearance, settlement and transfer of security ownership without the use of securities certificates.

New Sec. 7. On and after July 1, 1991, the secretary of transportation is hereby authorized and empowered to issue bonds of the state of Kansas, payable solely from revenues accruing to the state highway fund and transferred to the highway bond debt service fund and pledged to their payment, for the purpose of providing funds to pay costs relating to construction, reconstruction, maintenance or improvement of highways in this state and to pay all expenses incidental thereto and to the bonds. The secretary is hereby authorized to issue bonds the total principal amount of which shall not exceed

purchase agreement or any other lease agreement with the option to purchase, of any chillers or chilling units to be used to provide air conditioning of cells or other areas used to confine inmates in any building or facility acquired, renovated, constructed, or expanded as part of a capital improvement project authorized by this section.

Sec. 2. Section 5 of chapter 32 of the 1988 Session Laws of Kansas is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 8, 1989.

Published in the Kansas Register May 11, 1989.



CHAPTER 31

House Bill No. 2548

|                                  |      |  |      |
|----------------------------------|------|--|------|
| TO                               | SEC. | TO                                     | SEC. |
| Corrections, Department of ..... | 2, 9 | Legislative Coordinating Council ..... | 5    |

AN ACT concerning the department of corrections; relating to the housing of inmates and the provision of mental health services therefor; authorizing certain capital improvement projects and financing therefor; providing for consulting services relating thereto and for protest petitions and elections in certain cases; making appropriations for such purposes for the fiscal years ending June 30, 1989, and June 30, 1990; amending K.S.A. 1988 Supp. 12-1767 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. For the fiscal years ending June 30, 1989, and June 30, 1990, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, receipts, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

Sec. 2.

DEPARTMENT OF CORRECTIONS

(a) The above agency is hereby authorized to initiate and complete capital improvement projects for a new correctional facility and a mental health facility or facilities, subject to the restrictions and limitations imposed by this section.

(b) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 1989, the following: Planning for new correctional facility and a mental health facility or facilities..... \$3,176,501

CHAPTER 30

Senate Bill No. 381

TO SEC.
Correctional Institution at Lansing, Kansas . . . . . 1

AN ACT making and concerning appropriations for the fiscal years ending June 30, 1989, and June 30, 1990, to initiate and complete a capital improvement project for the Kansas correctional institution at Lansing; authorizing certain transfers; imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing; amending section 5 of chapter 32 of the 1988 Session Laws of Kansas and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Section 5 of chapter 32 of the 1988 Session Laws of Kansas is hereby amended to read as follows: Sec. 5.

KANSAS CORRECTIONAL INSTITUTION AT LANSING

(a) The above agency is hereby authorized to initiate and complete a capital improvement project to plan, construct and equip an inmate housing unit, renovate existing facilities and related construction and improvements, including the razing of existing buildings subject to the restrictions and limitations imposed by this section.

(b) There is appropriated for the above agency from the correctional institutions building fund for the capital improvement project and for the fiscal years specified as follows:

|   |             |
|---|-------------|
| Plan, construct and equip inmate housing unit, renovate existing facilities and related construction and improvements, including razing of existing buildings |             |
| For the fiscal year ending June 30, 1988 .....  | \$1,950,000 |
| For the fiscal year ending June 30, 1989 .....  | 1,847,428   |
| For the fiscal year ending June 30, 1990 .....  | 378,820     |

Provided, That expenditures may be made from this account to raze existing structures on the site for this project: Provided, however, That no expenditures shall be made from this account to raze existing structures for such project unless the secretary of corrections has advised and consulted with the joint committee on state building construction on the proposed structures to be razed: Provided further, That no expenditures shall be made from this account for final planning for such project unless the secretary of corrections has advised and consulted with the joint committee on state building construction on the preliminary plans for such project.

(c) On June 30, 1988, the director of accounts and reports shall transfer \$1,000,000 from the correctional institutions building fund to the state general fund.

(d) No moneys appropriated for the above agency by this section shall be expended for the acquisition, including pursuant to any lease-

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building or facility is operated by a private entity, or for any correctional facility operated by a private entity for placement or confinement of inmates from one or more state or federal agencies, the resolution shall provide that if within 30 days after the last date of publication of the resolution a petition in opposition to the resolution, signed by not less than 10% of the electors of the county in which such building or facility is proposed to be located is filed with the county election officer, the board of county commissioners shall submit the question to the voters of the county at an election called for that purpose or at the next general election. Such resolution shall be published once a week for two consecutive weeks in a newspaper having general circulation in the county in which such building or facility is proposed to be located.

Sec. 9.

DEPARTMENT OF CORRECTIONS

(a) No moneys appropriated for fiscal year 1990 by this act or any other appropriations act of the 1989 session of the legislature for the department of corrections for construction of any new state correctional facility or a mental health facility or facilities to provide services to inmates, or for the issuance of bonds or payment of any financing expenses, debt service or any other debt financing instrument which may be used for the purposes of financing such construction, unless the construction contracts to be entered into for any such state correctional facility or mental health facility or facilities are based on bid specifications prescribing that employees of any such contractor or any subcontractor shall be paid in accordance with prevailing wages determined in accordance with job classifications and wage rates prescribed under the federal Davis-Bacon act which would apply to a federally funded project at the location of any such state correctional facility or mental health facility or facilities.

Sec. 10. K.S.A. 1988 Supp. 12-1767 is hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved May 18, 1989.

Published in the Kansas Register May 25, 1989.

Attachment #3-2

CHAPTER 32

House Substitute for Senate Bill No. 407

| TO  | SEC.   | TO  | SEC.   |
|---|--------|---|--------|
| Administration, Department of                     | 44     | Norton Correctional Facility                          | 13     |
| Agriculture, State Board of                       | 29     | Osawatomie State Hospital                             | 19     |
| Animal Health Department, Kansas                  | 62     | Parole Board, Kansas                                  | 15     |
| Attorney General                                  | 48     | Parsons State Hospital and Training Center            | 22     |
| Attorney General—Kansas Bureau of Investigation   | 43     | Penitentiary, Kansas State                            | 7      |
| Barber Examiners, Board of                        | 61     | Post Audit, Division of                               | 67     |
| Commerce, Department of                           | 27     | Public Broadcasting Commission, Kansas                | 25     |
| Conservation Commission, State                    | 70     | Public Employees Retirement System, Kansas            | 42     |
| Corporation Commission, State                     | 50, 51 | Reception and Diagnostic Center, State                | 9      |
| Correctional Institution at Lansing, Kansas       | 11     | Reformatory, State Industrial                         | 8      |
| Correctional-Vocational Training Center, State    | 10     | Regents, State Board of                               | 41     |
| Corrections, Department of                        | 6      | Revenue, Department of                                | 6      |
| Development Finance Authority, Kansas             | 45     | Revenue, Department of—Homestead Property Tax Refunds | 68     |
| Education, Department of                          | 4      | Secretary of State                                    | 14     |
| Ellsworth Correctional Work Facility              | 12     | Sentencing Commission, Kansas                         | 16     |
| Emporia State University                          | 36     | Social and Rehabilitation Services, Department of     | 56     |
| Fair Board, State                                 | 30     | Tax Appeals, State Board of                           | 18     |
| Fire Marshal, State                               | 53     | Topeka State Hospital                                 | 63     |
| Fort Hays State University                        | 33     | Technology Enterprise Corporation, Kansas             | 59     |
| Health and Environment, Department of             | 52, 71 | Technology, Kansas College of                         | 64     |
| Highway Patrol, Kansas                            | 32     | Transportation, Department of                         | 37     |
| Historical Society, State                         | 26     | University of Kansas                                  | 38, 39 |
| Human Resources, Department of                    | 54     | University of Kansas Medical Center                   | 49     |
| Indigents' Defense Services, Board of             | 47     | Veterinary Examiners, State Board of                  | 5      |
| Insurance Department                              | 65     | Visually Handicapped, Kansas State School for the     | 55, 69 |
| Judicial Branch                                   | 46     | Water Office, Kansas                                  | 40     |
| Kansas, Inc.                                      | 58     | Wichita State University                              | 28     |
| Kansas State University                           | 34     | Wildlife and Parks, Department of                     | 21     |
| Kansas State University Veterinary Medical Center | 35     | Winfield State Hospital and Training Center           | 23     |
| Larned State Hospital                             | 17     | Youth Center at Atchison                              | 24     |
| Legislative Coordinating Council                  | 66     | Youth Center at Topeka                                |        |
| Neurological Institute, Kansas                    | 20     |   |        |

AN ACT making and concerning appropriations for the fiscal years ending June 30, 1989, June 30, 1990, and June 30, 1991; authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the foregoing amending section 10 of 1989 Substitute for House Bill No. 2028, section 5 of 1989 House Bill No. 2064, section 10 of 1989 Senate Bill No. 29 and section 8 of 1989 Senate Bill No. 67 and repealing the existing sections; also repealing section 4 of 1989 Senate Bill No. 27.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) For the fiscal years ending June 30, 1989, June 30, 1990, and June 30, 1991, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, fees, receipts, disbursements, and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

(b) This act shall be known and may be cited as the omnibus appropriation act of 1989.

TESTIMONY OF  
THOMAS H. MARSHALL, ASSOCIATE COUNSEL  
BLAKE & UHLIG  
ON BEHALF OF THE  
KANSAS AFL-CIO

BEFORE THE  
HOUSE LABOR AND INDUSTRY COMMITTEE  
REGARDING HOUSE BILL NO. 2780

FEBRUARY 22, 1990



Testimony of  
Thomas H. Marshall  
February 22, 1990

I am appearing on behalf of the Kansas State AFL-CIO, which is composed of 6 Building and Construction Trades Councils and 206 affiliated local unions representing approximately 65,000 employees, including more than 18,000 members employed in the construction industry throughout the State of Kansas. I am appearing today on their behalf because they frequently perform work on construction projects pursuant to contracts entered into by various agencies of the State. These workers, and others, are the ones whose interests House Bill No. 2780 is intended to serve. No doubt this Committee will hear from contractors, building associations and others who will be speaking in opposition to this bill, but those voices will be raised primarily in connection with their concerns about the profitability of performing construction work for the State of Kansas and not about the fairness of requiring that the prevailing wage be paid by them to their employees.

The issue of prevailing wages on State construction projects is certainly not a new one. Until its repeal in 1987, Kansas law, K.S.A. 44-201, required that prevailing wages be paid on State projects and that statute had been on the books since 1891. Because the provisions of K.S.A. 44-201 were not as clear as they could have been, the State, its contractors and their employees

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Thomas H. Marshall  
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experienced considerable difficulty in interpreting and seeking enforcement of that statutory scheme. In part, because of those difficulties, and, in part, based upon extensive efforts of contractors and their associations, in 1987 the legislature decided to repeal K.S.A. 44-201.

In House Bill No. 2780, the legislature is again considering the wisdom and desirability of requiring that prevailing wages in localities where state construction projects are to be built be paid to the employees who work on those projects.

The object of state prevailing wage laws has been and is to prevent the State and its agencies from undercutting wage standards in the process of letting contracts for State-funded and assisted construction work. The law seeks to achieve this goal by requiring that contractors on public improvements pay the workers in each craft no less than the prevailing rates of wages for the area in which the work is to be performed. In the case of Davis-Bacon wages on the Federal level, and in many states, these prevailing rates of wages are made known to all contractors in advance of any bidding, and because there is a floor below which wages may not fall, contractors cannot compete with one another at the expense of their workers. Absent such legal requirements, contractors have every incentive to underbid each other by cutting workers' wages.

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Those who oppose prevailing wage laws typically raise several arguments. They frequently claim that being required to pay prevailing wages will artificially inflate the cost of construction projects for the state and thus will diminish the number of projects that can be undertaken; that workers who may have been paid less than the prevailing wage on private construction projects suffer from the inconsistency of higher wages paid when working on state projects thus triggering inefficiencies, waste and lower morale; that administrative costs for the contractor are increased; and that opportunities for minorities and women will be restricted by the generally higher pay received by workers on such projects.

These arguments in opposition to adoption of prevailing wage legislation suffer in several ways, not the least of which is the lack of empirical data to back them up.

Take for example the assertion that requiring the payment of prevailing wages drives the cost of government construction up and thereby artificially inflates the taxpayers' burden to pay for those higher costs. On the national level, regarding the Davis-Bacon Act itself, these arguments claim support when comparing the costs of private construction with those of the public sector. It is variously claimed that the costs of construction are inflated anywhere from 1.4% to over 26%. These figures are generally

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derived from studies which have been done comparing commercial construction for private owners with public construction where the wage is set by law. Higher wages, increased administrative costs, and costs of compliance and enforcement are usually cited.

Studies which are critical of the Davis-Bacon Act, including the 1979 Report of the General Accounting Office, assume that higher wages attributable to the Davis-Bacon Act have no effect on worker productivity. The man-hours required to complete the work are usually assumed to be identical regardless of whether high or low wages are paid to the workers on the project. Examination of this assumption should be central to any analysis of the cost impact of the Davis-Bacon Act, yet it is ignored. This flaw in the anti-Davis-Bacon Act studies of the late 1970's and early 1980's was pointed out in an MIT study performed by the Department of Civil Engineering which found that employers give greater attention to the selection of their workers when required to pay higher wages than they might otherwise. In addition, this study found that such contractors often reward their most loyal and productive employees by assigning them to government projects as a kind of work incentive.

In any case, the assumption by the GAO and other studies critical of the Davis-Bacon Act, that labor productivity is

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unrelated to wage levels, runs counter to established economic-production theory, and therefore, casts serious doubt on the validity of all such studies.

Even if the productivity differential is completely discounted, the reasoning of opponents of prevailing wage legislation is flawed. Their approach is one-dimensional and short range, since it completely ignores the costs, economic as well as social, that would be associated with a return to the conditions which existed prior to the enactment of such legislation, when the successful bidder was the one with the lowest bid -- regardless of how he cut his employees' wages to get there.

In order to scientifically examine the cost impact of prevailing wage laws, a first step should be to look at the total costs of projects built under these laws, rather than looking merely at wage rates. This would be only a first step, as there may be significant differences in the quality of construction which don't show up in project costs.

Only a few studies of this type have been done. None of these provide any evidence to support the charge that prevailing wage laws are inflationary. In its Study of Public School Construction Costs, prepared by the Center to Protect Workers' Rights, in the late 1970's, a comparison was made of public school construction

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costs in states with and without prevailing wage laws. The study calculated the cost per classroom of new schools (adjusted for general interstate price differences), and then ranked the 48 contiguous states in order of average cost. If prevailing wage laws have a significant cost impact, then states with these laws would be expected to be found clustered at the top of the list, and states without these laws would be found near the bottom.

In fact, no such pattern was found. Rather, the relationship between prevailing wage laws and construction costs appears to be fairly random. Nine of the twenty states with the highest cost per classroom had wage laws which were only partially applicable or not applicable at all to school construction. Of the twenty states with the lowest per room average costs, half had prevailing wage laws that were fully applicable. Similar findings were noted in a study of Federal Indian housing programs, Evaluation of the High Cost of Indian Housing, U.S. Dept. of Housing and Urban Development, Office of Program Planning and Evaluation.

In 1971, the federal Davis-Bacon Act was suspended for a 35-day period by executive order of President Nixon. According to the claims made by prevailing wage opponents, the impact of this suspension should have been a sharp reduction in the cost of federal construction. In reality, no such reduction occurred.

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Data are available for 1,263 projects which were bid under prevailing wage requirements and then re-bid during the suspension. On average, the second bid was lower than the first by only six-tenths of one percent.

The available evidence indicates that prevailing wage protection does not lead to excess costs on government construction projects. On the contrary, paying the prevailing wage helps ensure that skilled and experienced construction workers will be hired, and thus promotes efficient, top quality work on all government jobs.

It is clear that there are certain costs attendant to the performance of government work which frequently are not associated with private construction. The social and policy purposes of the State, even within the context of its construction activities, cannot be compared with those of the private sector. The State should be and is much more concerned with insuring that policies in such areas as preventing discrimination against minorities and women are carried out by contractors performing work for the state. Each of these social policy concerns involves direct and indirect costs which the State routinely accepts as a cost of doing business. And well it should.

Those policy concerns are not well served when the state

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requires that contracts be let to the lowest responsible bidder without protecting the workers who will actually perform the work from those who would increase the profitability of the job at the workers' expense. Competitive bidding on government construction is at best an art and certainly not a science. The art to that bidding process is simply to be lowest bidder, by the smallest possible amount, in order to secure the work and then maximize the profitability of the job. Those who urge that requiring the payment of prevailing wages inflates the labor costs of such construction by a large factor are disingenuous if they attempt to leave the impression that savings in labor costs will be passed through to the taxpayers. Contractors are not engaged in charitable activity. They intend to make a profit on the job and if they are permitted to pay their employees less to perform the work, the effect is more likely to be that they can pocket a larger percentage of the price of the project as profit. In fact, if it were true that all of those labor cost "savings" were directly passed along to State, then only those contractors who pay the absolute lowest wages would ever get the work. That has not been true historically and for good reason. A "savings" to the contractor is not necessarily a "savings" to the taxpayers. It simply gives the contractor an advantage over other responsible



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bidders who may not be free to pay the lowest wage the market will bear to have the work performed.

By requiring that all contractors performing work for the state pay wages not lower than the floor established by the prevailing wages in the area, the state is simply establishing its policy that contractors performing work for the state will be awarded contracts based upon their skill and efficiency rather than by virtue of being able to exploit their employees through low wages. Such a wage floor simply establishes a "level playing field" for all of the bidders. They are then free to compete with one another in areas other than wages and succeed or fail on that basis. As we all know, the trick to competitive bidding is to barely underbid the competition, not to underbid them by a mile.

As for the problems of paying employees more to perform government work than they might have been receiving on private construction, it seems that motivating employees by paying higher wages will no doubt increase the number of skilled employees available to perform the work. It will also help to diminish such problems as rapid turnover and absenteeism, all of which adversely affect the performance of the work.

A study carried out several years ago by the Project Management Group at the Massachusetts Institute of Technology

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identified a beneficial effect of the Federal Davis-Bacon Act, which had been the subject of much speculation but never examined on an empirical basis.

The study found that management actions alone contribute significantly to differentials in the productivity of construction labor. From interviews conducted by MIT researchers with non-union contractors, it was found that more attention was paid to employee selection, training and management, when these employers were required to pay prevailing wage rates higher than those which they normally pay. It was concluded that increased emphasis on management resulted in greater productivity.

Another concern is the quality of the construction work being done and the useful life of the structures built. It is not unreasonable to expect that skilled, reliable employees are more likely to perform their work efficiently and effectively. This is an important consideration, especially where the work being done is on public structures which will serve the citizens of the state for a long time to come. Efficient and effective performance of the work will mean fewer problems with the structures after they have been placed in service and should mean that the designed life of the structures will be achieved with fewer maintenance and upkeep expenses than one would expect from projects completed by

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less skilled and more inefficient workers.

It is also argued by those who oppose prevailing wage legislation that such statutes have outlived their usefulness. It is asserted that such legislation may have been appropriate in the 1930's, but that times have changed and less scrupulous contractors seeking to make big profits on state work are simply creatures of the past. We respectfully submit that the history of our own state's prevailing wage law eviscerates this argument. Apparently the need for the legislation was perceived at least as early as 1891. It was still a significant concern in 1931 when the State law was amended and the Davis-Bacon Act was adopted on the federal level. To believe that we now live in a time when no contractor is likely to cut corners on the costs of doing state work is to believe that Kansas is truly the Land of Oz.

Competitive pressures on the construction industry are probably greater now than ever before. To listen to the contractors, one would surely think so. Given such an intensely competitive climate, it is not unreasonable to conclude that the same abuses of workers which existed in the past would continue through to the present were it not for legislation designed to mitigate the effects of the marketplace on workers. Workers' compensation, unemployment insurance and many other creations of

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statute have been developed to protect workers where competitive forces in the market place had failed.

The adoption of legislation requiring that workers on state projects be paid prevailing wages is simply one more element in a statutory scheme which operates to prevent the exploitation of workers. Prevailing wage laws help to stabilize labor market conditions. Without enforcement of such laws, government contracting might be done slightly more cheaply in the short run, but only if government surrenders social responsibility to the already extreme competitive pressures of the marketplace. As mentioned earlier, lower wages do not mean lower costs to the government. Firms that pay low wages tend to be less productive per man-hour and are frequently marginal in the industry. Lower wages also mean less skilled and less productive workers. It is an economic fact of life that better skilled, highly productive workers go to employers who pay better wages, have better equipment and provide more stable jobs. Where management is effective, those companies are successful in bidding on government contracts without competing by cutting wages and working conditions for their employees.

In the long run, lack of prevailing wage legislation will result in a less-skilled work force available to perform state

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work. What is needed is a skilled and stable work force that contractors can call upon. Prevailing wage legislation helps maintain wages and benefits sufficient to attract and keep good workers in the construction industry, joining apprenticeship or training programs and improving their skills.

It must always be remembered that the State is required to accept the lowest responsible bid and one way to insure that the successful bidder is in fact responsible is to be sure that the employees of the low bidder are not subjected to unreasonable wage cutting in order to get the contract work or to improve the profitability of the job. Private owners, not required by statute to accept the lowest bid, have the ability to insure their contractors will not bring unskilled, inefficient workers to the jobsite and those possibilities are often not available to the State. Therefore the State must include in its contracts and bid documents, provisions which deal with this problem directly, such as with specifications requiring the payment of prevailing wages.

Finally, it will be interesting for the committee members to note that since the repeal of K.S.A. 44-201, no studies have been done to establish that costs for State work have in fact decreased since repeal. Given that the opponents of prevailing wage legislation argue so vociferously about the inflationary effect of

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such laws, one would expect to be able to see immediate and dramatic cost savings to have attended repeal. We respectfully submit that no such savings to the State can be shown. This is because decreasing the contractors' costs of performing State construction projects does not decrease the amounts paid by the State for such work. Rather, those contractor savings find their way into increased inefficiency or increased profits or both. Neither of those results enhances the State's position at all.

The State should reassert its policy that contractors performing work on State projects shall be required to pay their employees the prevailing wages in the area where the work is to be performed. Establishing such a floor under wages requires that contractors seeking to bid for State work compete fairly and on a level playing field thereby delivering more efficient work, and effective management. It requires that the contractors shoulder their fair share of the competitive burden and prevents them from simply passing that cost along to their employees who will actually construct the public buildings needed and required by the citizens of Kansas. We urge your support of House Bill No. 2780.

Thank you.

# EWEL-CON CORPORATION

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REPRESENTATIVES:

FEBRUARY 20, 1990

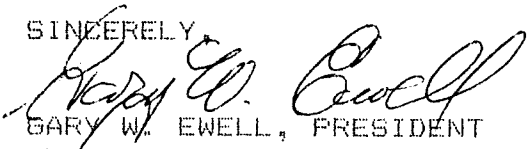
I SUPPORT HOUSE BILL NUMBER 2780 FOR THE FOLLOWING REASONS:

IN VIEW OF THE COMPETITIVE NATURE OF THE CONSTRUCTION INDUSTRY, CONTRACTORS ARE CONSTANTLY LOOKING FOR WAYS TO CUT JOB COSTS. WITHOUT A PREDETERMINED WAGE, CONTRACTORS TEND TO ATTEMPT TO CUT LABOR COSTS BY "BULLYING" THEIR EMPLOYEES INTO WORKING FOR THE LOWEST POSSIBLE WAGE. IN THE END, THE "COMPETITIVE EDGE" GOES TO THE "BEST BULLY". MANY TIMES, THE "BEST BULLY" TURNS OUT TO BE A CONTRACTOR FROM ANOTHER STATE WHO CAN EXPLOIT THE LOCAL WORK FORCE WITHOUT HAVING TO BE CONCERNED ABOUT ITS' REPUTATION IN KANSAS. WHEN THE PROJECT IS COMPLETED, THE OUT OF STATE CONTRACTOR CAN TAKE HIS PROFITS HOME AND LEAVE BEHIND EXPLOITED WORKERS, EXPLOITED SUPPLIERS AND HIS LESS THAN DESIRABLE REPUTATION.

A PRE-DETERMINED WAGE WILL HELP MAKE THE BUILDING AND CONSTRUCTION TRADES MORE ATTRACTIVE. THOSE WHO ARE OR ARE CAPABLE OF BECOMING SKILLED TRADESMEN, WILL NOT CHOOSE OR REMAIN IN A VOCATION THAT IS CHARACTERIZED BY TOTAL UNCERTAINTY AS FAR AS COMPENSATION IS CONCERNED. WHEN THIS SITUATION EXISTS, SKILL LEVEL AND QUALITY OF WORKMANSHIP DECREASES.

IN THE INSPECTION PHASE OF CONSTRUCTION, THE TERM "STANDARD FOR THE INDUSTRY" IS FREQUENTLY USED. SINCE PROJECT SPECIFICATIONS CAN NEVER BE PERFECTLY MET IN EVERY INSTANCE, WHAT IS ACCEPTABLE OR NOT ACCEPTABLE IS DETERMINED BY WHAT IS "STANDARD FOR THE INDUSTRY". IF SKILL LEVELS AND QUALITY OF WORKMANSHIP DECREASE, THE "STANDARD FOR THE INDUSTRY" DROPS AS WELL. ODDLY ENOUGH, A DECREASE IN THE INDUSTRY STANDARD USUALLY IS NOT ACCOMPANIED BY A PROPORTIONATE DECREASE IN CONSTRUCTION COSTS. THEREFORE, THE END USER ENDS UP PAYING MORE FOR LESS. THESE ARE SOME OF THE REASONS THAT I SUPPORT HOUSE BILL NUMBER 2780.

SINCERELY,

  
GARY W. EWELL, PRESIDENT  
EWEL-CON CORPORATION

House Labor & Industry  
Attachment #5  
02-23-90



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KANSAS LABOR AND INDUSTRY COMMITTEE

February 22, 1990

Mr. Chairman and members of the committee, my name is Herb Millard, Executive Director of the Greater Kansas City Mechanical Contractors Association.

Representing over 100 contractors, some of which have been in business for over 50 years.

We feel the reason we are able to stay in business in a highly competitive market is because our joint management and union training programs have been able to produce quality craftsmen.

We thrive on competition in this country and competition is an advantage to the consumer whether state or private enterprise.

By establishing a wage-rate floor, the law provides our contractors with a fair chance to compete for state projects on the basis of skill and efficiency. In turn, the government and tax payers are protected from contractors whose lower wages would attract sub standard workers, which would only result in shoddy construction work, requiring still more tax dollars for higher repair costs and additional maintenance over the life of the project. We therefore support HB2780 and encourage the committee to support this bill also.

House Labor & Industry  
Attachment #6  
02-23-90



TESTIMONY BEFORE THE  
LABOR AND INDUSTRY COMMITTEE

February 22, 1990

By

Smitty G. Belcher

President of Huxtable & Associates, Inc.

Lawrence and Topeka, Kansas

Mr. Chairman and Members of the Committee:

My name is Smitty Belcher and I am here today as a mechanical and electrical contractor. We are a member of the National Electrical Contractors Association, Sheetmetal and Air Conditioning Contractors National Association and Mechanical Contractors Association of America. I am here to support House Bill No. 2780.

First of all, recruiting and training skilled labor in any industry costs money. To attract the qualified people, we need a prevailing wage that all contractors are paying.

The training required for a plumber, sheetmetal mechanic, or electrician usually takes 5 years of on the job training and between 168 to 216 hours per year of formal classroom training for 5 years.

This initial investment in people helps keep the cost of projects down because the skilled labor force are better trained and more efficient than non-trained employees. This helps the projects finish on time or ahead of schedule. With the advent of energy management systems, electronics and new construction techniques, our workers today require more sophisticated training and techniques than ever before in the history of our industry. Again, competitive wages will attract the qualified, skilled workers needed to do these projects. I'm not aware of any industry that recruits and attracts skilled workers by paying the lowest wages.

Without a prevailing wage, a contractor who has under bid or is lacking in ethics and who is forced to install the specified material and equipment and meet all safety and EPA requirements has only one place to cut costs - wages. Without a prevailing wage, he can pay the lowest wages. This will result in reducing the quality of the end product to the public and the project will take longer to complete.

Also, the people of Kansas will have their wage structure undermined if a contractor can come in from out of state and bring unskilled people who do not have a vested interest in the project or the community - just in doing the project as cheaply as possible.

In summary, with the advanced and changing technology in our industries, we need a prevailing wage to help us attract, retain and provide continual upgrade for our skilled work force so that we may give the taxpayers a quality project.