

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Anthony Hensley at  
Chairperson

9:05 a.m./p.m. on February 19, 1991 in room 526-S of the Capitol.

All members were present except:

Rep. Cribbs - Excused  
Rep. Douville - Excused

Committee staff present:

Jim Wilson, Revisor  
Jerry Donaldson, Research Assistant  
Barbara Dudney, Committee Secretary

Conferees appearing before the committee:

Smitty Belcher - Huxtable and Associates, Lawrence, Ks.  
Jerry Meszaros - Religion & Labor Council of Kansas City  
John Bueltel - Lee & Bueltel Construction, Topeka, Ks.  
Jim Mlynek - OK Johnson Electric, Topeka, Ks.  
Bill Merrilott - Jayhawk Masonry, Topeka, Ks.  
Tom Marshall - Blake & Uhlig Law Firm, Ks. City, Ks. Kansas AFL-CIO

The meeting was called to order at 9:05 a.m. by the chairman, Rep. Anthony Hensley.

Chairman Hensley entertained a motion to approve the minutes of the February 4th, 5th, 6th and 7th meetings. Rep. Darlene Cornfield moved, seconded by Rep. Richard Edlund, that the minutes of the February 4th, 5th, 6th and 7th meetings be approved.  
Motion carried.

The chairman announced that the hearing was now open on House Bill No. 2278, an act prescribing prevailing wages for public works projects for state agencies. He said that proponents will be heard today, followed by opponents tomorrow, February 20th.

The chairman introduced conferees as proponents of House Bill No. 2278:

Smitty G. Belcher, owner of Huxtable Associates, Inc., Lawrence, Kansas, said he is a mechanical and electrical contractor who employs plumbers, pipefitters, sheetmetal workers and electricians. He stated that during the last five years his company has completed \$12 million in state projects. He said that since repeal of the prevailing wage in 1987, he has not seen lower prices on state projects. He said the repeal has resulted in: increase in out-of-state contractors working in Kansas, loss of revenue to the state, longer time for completion of projects, poor quality of workmanship, extended maintenance problems and recruitment of workers who will work for less than the prevailing wage. He said contractors against the bill are only concerned about their profits and not the quality of construction. He said that such contractors recruit less-skilled workers who will work for lower wages. He believes that the real benefit of the prevailing wage goes to the taxpayers by insuring them that they will get the best quality project for the money spent (attachment #1). Mr. Belcher then answered questions from several committee members.

Gerald E. Meszaros, Council Coordinator, The Religion and Labor Council of Kansas City, addressed numerous labor issues. On House Bill No. 2278, he said that state Davis-Bacon laws help sustain decent wage levels and healthier local economies. He said that it does not make sense that while other economic systems are out-competing the United States, we are "still arguing the issue of paying decent wages on public projects" (attachment #2).

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry

room 526-S, Statehouse, at 9:05 a.m./~~p.m.~~ on February 19, 1991

John R. Bueltel, President, Lee and Bueltel Construction Company, Inc., Topeka, said that his company enters into union contracts because he knows his workers learned their trade in certified apprenticeship programs. By using qualified workers, he can complete the job earlier and with greater efficiency and quality. He said that several years ago his company had a construction job in Dallas, Texas, in which he decided to go "open shop". He said that he ran into many problems in the project and had to import union craftsmen from Kansas to finish the job on time. He urged the committee to reinstate the prevailing wage to protect Kansas workers and "not give unfair advantage to unscrupulous contractors to use cheap wages after the job is bid" (attachment #3).

James E. Mlynek, President, O.K. Johnson Electric Company, Inc., Topeka, stated that the prevailing wage maintains wage equity from one area to the next, and it helps the local tax burden by discouraging the practice of importing workers from out of the state. He said that without the prevailing wage contractors can cut labor costs by hiring unskilled workers. He feels that if that happens Kansas taxpayers will pay more in maintenance and repair costs. He said the adage "You get what you pay for" applies to prevailing wage (attachment #4).

William G. Merillat, President, Jayhawk Masonry Company, Inc., Topeka, explained that he has spent 40 years in the construction industry as an apprentice, journeyman, foreman and contractor. He said the problem in the industry today is contractors are not competing on a level field. He believes that contractors who choose to hire the most competent tradesmen, pay them a living wage with benefits, are at a disadvantaged against contractors who use untrained tradesmen at minimum wage. He went on to express his concerns about the lack of apprenticeship training in the state's construction industry (attachment #5).

The chairman handed out written testimony from Jack P. Foster, President of the Jack Foster Company, Inc., Wichita, in support of House Bill No. 2278. Chairman Hensley explained that Mr. Foster was to have appeared in person to give testimony but was unable to attend the hearing (attachment #6).

Thomas H. Marshall, Associate Counsel, Blake and Uhlig, Kansas City, Kansas, appeared in support of the bill on behalf of the Kansas AFL-CIO. Mr. Marshall said the 1987 repeal of prevailing wage was through the efforts of employers who wanted to reduce wages and thereby gain some edge in bidding on state projects. He explained that the purpose of the federal Davis-Bacon Act and more than 30 state prevailing wage laws is to prevent government from undercutting wage standards in local areas during the letting of contracts for public projects. He pointed out that opponents argue that prevailing wages artificially inflate the cost of public construction projects. On the national level, this argument has been based on comparing the costs of private and public construction. For example, during the late 1970s the General Accounting Office (GAO) studied 73 out of 18,000 projects and concluded that the Davis-Bacon Act had an inflationary impact on the costs of public construction. He said the GAO study was flawed for two basic reasons: by its own admission, it was not scientific and it assumed that labor productivity is unrelated to wage levels. He said that truly valid studies examining the costs impact of prevailing wage laws take into account the total costs of the projects, rather than looking merely at wage rates. The Center to Protect Workers' Right conducted a study to compare costs of public school construction in states with and without prevailing wage laws. This study calculated the cost per classroom of new schools, and then ranked the 48 contiguous states in order of average cost. 9 of the twenty states with the highest cost per classroom had prevailing wage laws which were partly applicable or not applicable at all to school construction. Of the 20 states with the lowest per room costs, 50% had prevailing wage that were fully applicable. In 1971, the federal Davis-Bacon Act was suspended for a 35-day period by executive order of President Nixon to see if a reduction in bids would occur. On the 1,263 projects which were bid under the prevailing wage requirements and then re-bid during the suspension, the second bid was lower than the first by six-tenths of one percent. Mr. Marshall argued that by requiring prevailing wages the contractor will be awarded the bid based on their skill and efficiency rather than by being able to exploit their employees through low wages. By paying higher wages, more skilled workers will be recruited to work on state projects. A study conducted by the Massachusetts Institute of Technology has concluded that the federal Davis-Bacon Act has caused contractors to give more

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Labor and Industry,  
room 526-S, Statehouse, at 9:05 a.m./~~p.m.~~ on February 19, 1991

attention to employee selection, training and management, when they were required to pay prevailing wage rates higher than those normally paid. Another conclusion of the study was that increased emphasis on management resulted in greater worker productivity. He pointed out that since the repeal of K.S.A. 44-201, no studies have been done to establish that costs for state projects have decreased. He believes that decreasing wages has not decreased the amount state taxpayers pay for state projects (attachment #7). Mr. Marshall answered questions from committee members.

The chairman announced that the committee would now return to that order of business on the agenda of motions for introduction of committee bills. He stated that Rep. Kerry Patrick has requested the committee to introduce a bill similar to 1990 House Bill No. 2849.

Rep. Sam Roper moved to introduce a bill substantially similar to 1990 House Bill No. 2849, a bill relating to the acquisition of legal services by the Insurance Commissioner in administering the second injury fund in workers' compensation cases. Rep. Gene Amos seconded the motion. Motion carried.

The meeting was adjourned at 9:57 a.m.

GUEST LIST

COMMITTEE: House Labor & Industry

DATE: February <sup>19</sup>~~18~~, 1991

NAME	ADDRESS	COMPANY/ORGANIZATION
TOM MARSHAN	475 NEW BROTHERHOOD KC KS. 66101	BLAKE & WALIG KS. AFL-CIO.
EARL KANATZAR	211. 1445 TOPEKA KS.	CARPENTERS 211. 1445
JIM HASTINGS	1231 Eugene TOPEKA KS 66608	IRONWORKERS Local #10
Dave Griffith	1231 Eugene	Painters #96
Lil Kidd	1231 Eugene 66608	L. U. 142 Labor.
Johnnie Bernardi	1231 Eugene	Blg P. fitter 165
Jim Hodel	1348 W 106th St of US	Roofers Local #20
Mike Anderson	1307 Buchanan Top KS	Roofers Local #20 B
FRANK Higgins	SHAWNEE KS 15105 JOHNSON DRIVE	IBEW #124
Harry Wiloney	6746 9th 1121 66111	IBEW #124
John R. Bueltel	3432 BIRCHWOOD DR TOPEKA, KS 66614	LEE & BUELTEL CONSTCO.
Clyde A. BRACKEN	109 SE. 40th TERR TOPEKA, KS 66609	FLOOR COVER'S Local #1179
al Endsley	1610 N 85th Kansas City Kansas 66112	Sheet metal Local #2
Don Doester	401 Topoka Blvd	Kansas Dept of Human Resources
Jim Mlynick	TOPEKA, KS 3508 SE 21st	OK JOHNSON ELEC.
Paul Bach	202 SW 3520 Topeka, KS	NECA
WAYNE K WIANECKI	TOPEKA	KS. AFSCME
Smitty G. Belcher	LAW.	HUXTABLE & ASSOC INC
Ronald D. Andersen	Topoka.	R. D Andersen Inc
Tom Slattery	Topoka	AGC of KS
Lyndal Chandler	Spoutville	WU of Topeka
Delores Engel	Topeka	USDOL-BAT
Morris E. Eastland	Gardner KS	Tri County Labor Council
Jean Barbice	Topeka	Kansas Consulting Engineers

JERRY MESZAROS

712 REYNOLDS

KCS 66101

RELIGION &  
LABOR COUNCIL

HARRY D. NELSER

WICHITA

AFL-CIO

TERRY LEATHERMAN

TOPEKA

KCCI

MARY NEUBAUER

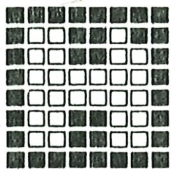
TOPEKA

ASSOC PRESS

CHUCK TILMAN

TOPEKA

RNEA



**HUXTABLE**

**& ASSOCIATES, INC.**

Mechanical • Electrical • Design-Build Systems

TESTIMONY OF  
SMITTY G. BELCHER

BEFORE THE  
HOUSE LABOR AND INDUSTRY COMMITTEE  
REGARDING HOUSE BILL NO. 2278

FEBRUARY 19, 1991

815 E. 12TH  
P.O. BOX 630  
LAWRENCE, KANSAS 66044  
(913) 843-2910



*House Labor Industry  
2-19-91  
attachment 1-1*

2150 A KANSAS AVE.  
P.O. BOX 5051  
TOPEKA, KANSAS 66605  
(913) 235-5331

My name is Smitty G. Belcher and I'm the owner of Huxtable & Assoc., Inc. I'm here to testify in support of House Bill No. 2278.

We're a Mechanical and Electrical Contractor with offices in Lawrence and Topeka. We employ plumbers, pipefitters, sheetmetal workers, and electricians. Our yearly average number of employees will be between 100 - 120 people. Our operations will include work from Kansas City to Wichita. During the last five years Huxtable has completed in excess of 12 million dollars in State work.

Since the repeal of the prevailing wage law, we've not witnessed lower prices for State projects, but we have seen the following:

- Increase in out of state contractors
- Loss of revenue for the state
- Extended durations for completion of projects
- Poor quality of workmanship
- Extended maintenance problems
- Recruited workers working for less than the prevailing wage

On a competitive bid basis, the labor portion of the bid is the main dollar element which can be affected significantly by the contractor. Contractors not required to pay the prevailing wage, recruits workers of less skill and therefore pays lower wages. This results in a savings to the contractor and not the State.

Contractors against this bill are only concerned with profitability and not the quality of construction or future maintenance costs. With no prevailing wage, this not only doesn't save the State money, but ends up costing more for poor workmanship and extended maintenance problems.

The projects for the State agencies are usually intended to withstand high usage and be above average by industry standards. Therefore, the quality of the work by virtue of the demand on the buildings should be of the very best.

Contractors such as myself who support this law contribute monies for training programs and employee qualified craftsmen. These qualified craftsmen spend four to five years in apprenticeship programs which requires both on the job training and schooling at night to meet these standards of the industry.

It's very hard for me to believe that I could hire someone with one or two years experience, no formal apprenticeship training and pay them less than the prevailing wage and deliver the same quality product that we're installing today with a skilled and trained work force.

By requiring all contractors to pay the prevailing wage on State projects would do the following:

- Put all contractors on an even playing field
- Benefits local Kansas contractors
- Benefits local communities
- Employ more local people
- Prevents contractors from competing with one another at the expense of the workers and expense of the State

The real benefits of the prevailing wage law goes to the taxpayers of Kansas. The prevailing wage law would insure the State of getting the best qualified people and the best project for the money spent.

Therefore, I urge you to consider passage of this bill.

Thank you for allowing me to testify.



**TESTIMONY OF  
THE RELIGION AND LABOR COUNCIL OF KANSAS CITY**

**ST. LUKES LUTHERAN CHURCH  
712 REYNOLDS  
KANSAS CITY, KS 66101  
281-3102**

**prepared and delivered by**

**Gerald E. Meszaros  
Council Coordinator**

**presented to  
HOUSE LABOR AND INDUSTRY COMMITTEE  
OF THE STATE OF KANSAS**

**February 19, 1991**

**REGARDING HOUSE BILL 2278**

*House Labor & Industry  
2-19-91*

*Attachment 2-1*

Mr. Chairman and members of the Kansas House Labor and Industry Committee, thank you for this opportunity to appear on behalf of the Religion and Labor Council of Kansas City. This is the first time that a representative of the council has come before a Kansas legislative committee. Allow me to introduce ourselves to you. With your permission I will explain who we are, the nature of our ministry and then why we are called to support prevailing wage protection.

The Religion and Labor Council represents people of faith and people of the workplace -- from both sides of the Missouri-Kansas stateline and from both sides of the economic line -- workers and management. My name is Jerry Meszaros. I am the Council Coordinator. I am by faith a lay United Methodist and by trade a Teamster -- a Metho-Teamster.

Each month Presbyterians and Pipefitters, Catholics and Carpenters, Boilermakers and Baptists, Jews and Joiners, Methodists, Muslims and Machinists come to the table. We enjoy each other's fellowship and share journeys. We pray, we sing and joyfully praise the Lord. We give thanks that God has empowered us to build an economy that is prosperous, stable and just. Together we celebrate a very simple credo: **the workplace is sacred.**

Since faith is empty without action, we developed policy and program to make the word of God's justice become flesh. For instance we encourage our congregations to abide by prevailing wage standards in building projects. We may be exempt from paying taxes, but we are not exempt from doing justice.

Our co-ministry is based on sound theology. This economic theology was born from the wisdom of several faiths:

"In the Old Testament, there is a deep abiding concern for the notion of a people in community, of a God who is just, a God who is righteous, a God who wants to make normative in relations between people a sense of doing justice. In the Pentateuch (the Laws of Moses), what is being asked of the people is a sense of right relations with one another, that the strong should help the weak and there should be respect of persons. Time and time again the Pentateuch prescribes that workers are not to be exploited. "You shall not oppress or rob your neighbor. The wages of a hired servant shall not remain with you all night until the morning" (Lev. 19:13). This was a corrective and reflected a need for balance in the community to learn, do good, seek justice and correct oppression..." (Isaiah 1:17)

When asked to read a passage from the prophet Isaiah in the synagogue, Jesus chose one that called the faithful to release prisoners, to restore sight to the blind, to set the oppressed at liberty and "to proclaim the acceptable year of the Lord" (Luke 4:16-19, Isaiah 61:1-2). This "acceptable year" or "year of the Lord's favor" is believed by scholars to refer to the Jubilee, a time when slaves are set free, debts repaid and land and wealth equitably redistributed (Lev. 25:10-17). It is significant that Jesus chose this passage to announce His ministry<sup>1</sup>.

Our monthly dialogue is valuable. We in the labor community are learning much from our brothers and sisters of the cloth. Each faith represented at the Religion and Labor Council of Kansas City celebrates a long tradition supporting the efforts of working people to bring dignity and justice into the workplace and earn a decent wage. For instance:

\* One of the first actions in the Hebrew scriptures -- the Torah -- was the first recorded strike in history. There was a character named Moses who took a bunch of brickmakers for a walk in the desert. These Jews represented diverse trades. They were industrial workers, building and construction

<sup>1</sup>From "Organizing for Social Justice in the Workplace" -- a publication of the AFL-CIO.

workers and I might add they were all public employees.

- \* In the Christian faith we worship a man who was a carpenter -- a working man -- who ministered to and with other working people -- fishermen, farmers, soldiers, inn-keepers, a tax collector, and whores. God did not
- 5 chose a banker or a lawyer for a Messiah. God picked a working man to minister to bankers and lawyers and the poor.
- \* To the Islamic community, the Koran and its teachings permeates the lives of all its faithful. Unkindness is not tolerated -- even in the workplace. The
- 10 compassionate relationship between employer and employee is a covenant defined in the Koran, taught by the Prophets and practiced by the faithful.

We on the faith side of the table have learned a great deal from our brothers and sisters in organized labor. We are grateful to them for much:

- \* That our family, friends and neighbors can go to work, earn a living wage and come home safely;
- 15 \* That the environment is protected from many toxins;
- \* That we have buildings in which to worship;
- \* That we have well-built roads, railroads and bridges to do commerce, visit relatives and respond to emergencies; and
- \* That we have civil rights laws, osha, minimum wages, social security -- we
- 20 owe to the trade union community.

The Religion and Labor Council doesn't just gather to hug and affirm each other. Our dialogue has lifted up many common challenges, and we are developing ministries to address them. A short description will further explain why we are called to support prevailing wage protection.

25 We are concerned about the erosion of our wage base from a variety of causes -- from union busting to plant closings to double breasting.

- \* We call our faithful to condemn and cease the practice of union busting.
- \* Our co-ministry is developing ways to retain high wage industrial jobs in Missouri and Kansas. We are trying to keep the 45 jobs at Strongheart in
- 30 KCKS. An industrial revenue bond is being used to relocate workers from one Kansas county to another. In some states such mis-use of the public trust and public credit is illegal.
- \* We are empowering workers to identify, anticipate and resist the forces that devastate our communities. For instance, the Federally mandated 60 day prior
- 35 notification of a shutdown is inadequate. So we are teaching workers how to identify the early warning signs of plant closures. Here's a sample: let's say all of us in this room have been working at a factory for many years. We notice the following:
- \* No new equipment or tools in several years;
- 40 \* Some people in sales, research and development are laid off;
- \* The front offices are being painted and some azaleas are being planted in the front yard;
- \* The last union contract negotiations were uncharacteristically easy; and
- \* A secretary reports to a production worker that the boss has just
- 45 subscribed to "The Twin Plant News."

Thus forewarned workers, communities and political leaders can implement creative retention and buyout strategies.

We are called to share the tragic message of the Twin Plant development of the Maquiladora industrial complexes throughout northern Mexico. How long can

50 industry in your community withstand the temptation of employing teenage girls at 41¢ per hour with little environmental protection? These conditions exist not several thousand miles across the Pacific in Malaysia, but several hundred miles across the Rio Grande in Matamoros. Last year North Kansas City lost 190

workers at Jerrold Electronics to Matamoros.<sup>2</sup> Jerrold was our first identifiable Maquila loss in the Kansas City area. In 1992 Ford will complete a 770 acre assembly plant two miles from the new Jerrold Plant. Zenith, GM, AT&T and US Sprint all have significant Maquila production capacity. There are over 1800 Maquilas today.

Rev. Fritz Mutti, Superintendent of the United Methodist North District of Kansas City, Rev. Bill Filbern, Executive Director of Presbyterian Urban Ministry Network of Kansas City -- Missouri and Kansas, Pat Kenoyer of Sisters of Lorretto, Rabbi Dan Horwitz of Temple Ohev Sholom of Prairie Village and Bishop Charles Maahs of the Kansas Synod of the Evangelical Lutheran Church of America did not know the meaning of Maquiladora until we came to the table with other ministers -- our brothers and sisters of organized labor.

We are participating in local and national campaigns to bring justice and prosperity on workers on both sides of the US/Mexican border. We support the intervention of certain industrial standards of conduct for U.S. or Kansas-based businesses that expand or relocate production facilities in northern Mexico. We want fair trade as well as free trade.

I hope we have an opportunity at a later date to share with you further our industrial retention programs. We will need your help to build an economy that is prosperous, stable and just.

Back to House Bill 2278. It is an unfortunate symptom of an uncaring economic system that we continue to support those forces that drive down the wages and living standards of construction workers. Competition is a very bad thing when workers must compete with workers. Good business practices and justice are one and the same.

The health of our communities is vitally dependent on the well being of the building trades. Prevailing wage protection laws help sustain decent wage levels. This is healthy for local economies. It is a fact of economic life that there is no better local economic engine than good wages. A working person's paycheck is spent mostly on locally made products and services. Prevailing wage laws like Davis Bacon and Little Davis Bacon represent an understanding on the part of government that it has a responsibility in protecting its citizens and the economy.

Many of the faiths represented at the Religion and Labor Council have -- as yet - no written position on prevailing wage protection. But:

- \* All condemn the practice of pitting worker against worker -- in the name of competition -- whether they be in different countries, counties or in different zip codes; and
- \* All recognize the need for working people to make good wages.

It is time for our elected leaders and we in the faith community and we in labor and we in business -- to put foolishness behind us and get on with building community. There are many challenges to face and we must face them together:

- \* How are we as a community going to face the threat of massive job loss to the Maquiladora?
- \* How are we going to address environmental clean up?
- \* How are we going to deal with a suffocating national debt?

<sup>2</sup> These workers earned an average of \$9.70/hr. Their unemployment will cost the people of Missouri in two years \$2,535,000 in lost and paid out Federal, State and Local taxes. The business community will suffer too. Missouri will lose \$15,900,000 in upstream and downstream sales. That means an additional loss of 35 jobs.

- \* How are we going to deal with the financial crisis?
- \* How are we going to provide health care for all?
- \* How are we going to develop products to put people back to work?

5 Other economic systems are eating our lunch and we are still arguing the value of decent wages on public projects.

10 All too often the faith community is left out of -- or avoids -- very basic economic dialogue. For far too long the trade union community ministered alone in the workplace. No more. Never again will people of faith keep their message of justice locked up in churches, mosques and synagogues. No longer will we ignore the workplace -- for the workplace is sacred. The Religion and Labor Council grieves because the workplace is broken. We hear its cries for the healing power of faith. Industrial relocation to the Maquiladoras of northern Mexico -- Food Barn advertising for our children to become striker replacements -- double breasting on the construction site. These are the legacies of an uncompassionate economic system.

15 We call upon you our political leaders to be our colleagues in ministry to join our struggle for a fair wage, for economic justice and for economic survival. The time for fighting each other is over. The time for reconciliation is at hand. We must go on to those matters that build community and celebrate God's presence in our lives.

20 In the spirit of shalom, in peace and in prosperity: We of the faith community and we of the work place ask you to support HB 2278. Thank you.

(3)

HOUSE BILL #2278  
HOUSE LABOR AND INDUSTRY COMMITTEE

Mr. Chairman, Members of the Committee, thank you for this opportunity to appear before you today.

My name is John R. Bueltel and I am President of Lee & Bueltel Construction Co., Inc. Our offices are in Topeka, Kansas. We are a general contracting firm specializing in commercial and industrial construction work. Our firm is a Union company signatory to all the building trade union labor contracts.

You may wonder why our firm elects to stay with union contracts in today's economy with so many open shop contractors to compete against for bid work. Our reasons are simply because we know we can staff our contracts with qualified personnel who have learned their trades with apprenticeship programs. By using these people, we can turn the job earlier with a higher degree of efficiency and quality. This gives our clients a project on schedule with very little problem in maintenance down the line.

Several years ago, when we were constructing a large hotel and office building in Dallas, Texas, we elected to try and go open shop since we were not signatory to any Dallas labor contracts. These jobs almost turned out to be a total fiasco, but we realized our problem in time, and imported Kansas Union craftsmen to finish the jobs on time. I mention this only to show that we have tried to be an open shop contractor.

We implore you to reinstate the Prevailing Wage Law for Kansas construction work. By having the Prevailing Wage Law, it will protect the Kansas laboring worker and not give unfair advantage to unscrupulous contractors to use cheap wages after the job is bid. Kansas projects will have a higher qualified worker on the sites, thereby producing contracts on time, with early occupancies and less maintenance

*House Labor & Industry  
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attachment 3-1*

worries after completion.

Our craftsmen have been denied wage increases for several years now due to the economy. Inflation in construction is caused by the increased price in fuels, materials and equipment, and not wages.

State workers get a cost of living adjustment every year. The Union worker is not blessed with a sweetheart deal such as that. City and County workers also share in the cost of living adjustment. Yet the construction worker must pay the same taxes as others do.

Our firm strongly urges the Committee to repeal and reset a Prevailing Wage program for Kansas to protect the workers of Kansas, and not put monetary gain in other unscrupulous contractor's pockets.

Thank you.

John R. Bueltel



# NECA

JOEL COCHREN  
Manager

KANSAS (TOPEKA) CHAPTER  
NATIONAL ELECTRICAL  
CONTRACTORS ASSOCIATION, INC.

4

TESTIMONY BEFORE THE  
LABOR AND INDUSTRY COMMITTEE

February 19, 1991

BY

James E. Mlynek  
O.K. Johnson Electric Co.

**President**

James E. Mlynek  
O.K. Johnson Electric Co., Inc.  
3508 Southeast 21st Street  
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(913) 232-0067

**Governor**

D.L. Smith  
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**Vice-President**

Smitty G. Belcher  
Huxtable & Associates, Inc.  
815 East 12th  
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(913) 843-2910

**Treasurer**

Warren B. Merrill  
B & W Electrical  
Contractors, Inc.  
1416 West North Street  
Salina, Kansas 67401  
(913) 827-1122

Chairman, members of the Committee, thank you for giving me this opportunity to appear before you today. My name is Jim Mlynek. I am the president of O.K. Johnson Electric Co. here in Topeka.

I am here today to testify in support of HB 2278. This bill would once again establish a prevailing wage system on public works projects. This bill is in the best interest of employees of contractors, not just the contractor. A prevailing wage law would help maintain equity from one area to the next when dealing with wages. This would also help the local tax burden by discouraging the practice of importing workers. This bill would prohibit low wages from becoming a major competitive advantage in bidding state projects and also avoid a depression of local labor markets.

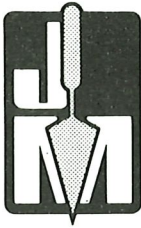
There has also been the question of quality of work in the absence of a prevailing wage law.



people with years of training. There is no doubt that, without this type of legislation, labor costs could be cut drastically by hiring unskilled people. This in the end would not save the taxpayers of Kansas money. To explain, unskilled workers would never reach the productivity level of a skilled worker, thus costing more money. The absence of skilled workers would result in long-run maintenance costs. "You get what you pay for" truly applies in this industry.

I urge you to give favorable consideration of this bill. Let's disable contractors from using wages as a way of undercutting each other at the expense of the Kansas worker.

Thank you.



# Jayhawk Masonry Co., Inc.

330 West Norris, P.O. Box 378  
Topeka, Kansas 66601  
(913) 232-6920  
FAX (913) 232-4035

February 19, 1991

RE: HOUSE BILL No. 2278

In introduction, I am not here representing Organized Labor.

I have spent the last forty years in the construction business. The first ten as an apprentice - journeyman - foreman. The last thirty as a masonry contractor.

There have been inequities on both sides of labor and management. The Kansas Right to Work Law probably was the most devastating to organized labor, and was probably enacted in response to arbitrary demands of the unions.

While the building economy of the period of 1960's thru 1970's were not always a boom, we managed to operate with competent tradesmen. This changed drastically in the late 70's and thru the 1980's due to the competition from Open Shop Contractors.

Our problem today is that we are not playing (competing) on a level field. If you choose to hire competent tradesmen and pay them a living wage with insurance benefits versus hiring untrained tradesmen for minimum wages, you will not be competitive in today's market. This does not apply to knowledgeable owners who demand quality work, and that has kept a few union contractors in business. The bottom line is that you receive what you pay for.

My biggest concern for the building industry today is the lack of apprenticeship training. We have not been able to maintain a good program since the proliferation of Open Shop Contractors, who do not have an organized training program.

We maintain an average crew of 3 to 30 bricklayers, when the work load warrants. The disturbing part of this is that the average age is 45. If we continue on the course we are on now, we will need a crash program similar to the training of new tradesmen after WORLD WAR 2, and the teachers will all be over 65.

Thank You,

*Bill Merrillat*

William G. Merrillat



An Equal Opportunity Employer

*House Labor + Industry  
2-19-91  
Attachment  
#5-1*

# Jack Foster Co., Inc.

STEEL ERECTION SERVICE  
1119 S. SANTA FE  
WICHITA, KANSAS 67211  
(316) 263-2901  
FAX #263-3646

February 15, 1991

Attention: House Labor and Industry Committee  
H.B. 2278

Mr. Chairman, members of the committee:

Thank you for the opportunity to appear before you today.

Mr. name is Jack P. Foster,  
I am President of Jack Foster Company, Inc.  
Wichita, Kansas

We are a medium size construction company specializing in steel and precast concrete construction, primarily in the commercial and industrial sector of the market.

We are members of the Associated General Contractors of America and of the Kansas Chapter of the AGC.

We do bid jobs for the State of Kansas.

Our last major state job was the erection of the structure for Bramlage Colliseum at Kansas State University in Manhattan, Kansas.

Since the majority of our work is obtained thru the competitive bidding process, I am very interested in this bill; as it effects our life blood.

We provide the highest wage and employee benefits that we possibly can and feel that they are among the industry's highest.

We provide Health & Welfare Benefits, Pension contributions, vacation pay and contribution to an apprentice training program.

On a good many jobs our competitors are paying less than one half this amount, which puts us at a great disadvantage in the bidding process.

This is particularly true regarding out of state contractors who import cheap labor, depress our economy, and run home with our tax money.

*House Labor Industry*  
*2-19-91*  
*Attachment*  
*#6-1*

We would like to be playing on a more level field.

A construction worker whose work is rather transient by nature and is certainly intermittent to begin with, and is subject to the whims of Kansas weather conditions can probably average 1300 hours of employment per year.

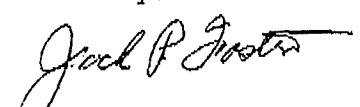
Thirteen hundred hours @ \$6.00 per hour represents a gross wage of \$7,800.00 per year. This is below the National Poverty level for a family of three. How can this person afford to own a home, raise a family, pay taxes, participate in community affairs, contribute to a church, send his children to college, set aside a little for retirement, and in general be a contributing member to society?

If this bill is approved by our legislature it would save a lot of tax money being spent for unemployment benefits, workmans compensation insurance, welfare and medicaid.

It would benefit all citizens of Kansas.

I urge you to support passage of this bill.

Thank you

  
Jack P. Foster

BEFORE THE HOUSE LABOR AND INDUSTRY COMMITTEE  
KANSAS HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 2278

TESTIMONY ON BEHALF OF KANSAS AFL-CIO

BY THOMAS H. MARSHALL, ASSOCIATE COUNSEL

BLAKE & UHLIG  
753 State Ave.  
475 New Brotherhood Bldg.  
Kansas City, Kansas 66101

February 19, 1991

*House Labor & Industry  
2-19-91  
attachment  
# 7-1*

Mr. Chairman and members of the Committee:

My name is Tom Marshall. Our firm, Blake & Uhlig, serves as general counsel for the Kansas AFL-CIO. The Kansas AFL-CIO is comprised of more than 200 local unions which represent more than 65,000 employees, including almost 20,000 members employed in the construction industry throughout the State of Kansas. I am appearing today on their behalf because they frequently work on construction projects for the state, and they are deeply concerned about the wages and fringe benefits which are paid on state jobs. It is these workers, and others like them, whose interests House Bill No. 2278 is intended to serve. While it is likely that this committee will hear extensively from contractors, building associations and others who will be speaking in opposition to this bill, it is the citizens of Kansas who will work on these projects whose voices should be heard concerning the fairness of requiring that prevailing wages be paid on state work.

Legislative efforts on behalf of workers on state construction projects are not new. Prior to repeal in 1987, the state of Kansas had been on record for nearly 100 years in support of the principle that workers on state projects should be paid the prevailing wage of the area where the work is to be done. The previous statute, K.S.A. 44-201, was originally adopted in 1891 and, during the last decade, was repealed primarily through the efforts of employers who

stood to benefit by being able to reduce wages and thereby gain some edge in bidding for state work. Once again, the opportunity to provide some measure of protection for workers is offered through House Bill No. 2278 which will require that federally determined prevailing wages under the Davis-Bacon Act be paid by contractors performing state work.

The object of the federal Davis-Bacon Act and more than 30 state prevailing wage laws has been and is to prevent the government and its agencies from undercutting wage standards in local areas during the process of letting contracts for state-funded and assisted construction work. These laws, and the house bill before you today, seek to achieve this goal by requiring that contractors on public jobs pay their workers in each craft not less than the prevailing rate of pay for that craft in the area where the work will be performed. These prevailing 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 gain a competitive advantage over one another at the workers' expense. Without such protection, contractors may seek to win a particular bid by cutting workers' wages.

Payment of low wages by a contractor should not be permitted to become one of the measures by which state contracts are secured. Rather than selecting the contractor who is able to find workers willing to work for less money, the state will be much better served by allowing contractors to compete with one another based upon their management skills, experience and ability to perform the

work efficiently and professionally. While it is necessarily true that the state must award its work to the lowest, responsible bidder, establishing a floor below which wages may not fall does not eliminate any of the other factors which affect each contractor's competitive position.

Those who oppose prevailing wage legislation typically raise several arguments in support of their positions. It is most often claimed that requiring payment of prevailing wages will artificially inflate the cost of public construction projects. They also have argued that workers who are used to being paid less than the prevailing wage on private construction projects will somehow suffer from making more money on state projects causing inefficiencies, waste and low morale. It is further claimed that administrative costs of performing the work will increase and that opportunities for minorities and women will be reduced by the generally higher pay received by workers on such projects. These arguments suffer in several ways, not the least of which is the lack of empirical data to back them up.

The most frequent argument raised in opposition to prevailing wage legislation is that requiring payment of prevailing wages drives the cost of government construction up and therefore artificially inflates the burden borne by the taxpayers in paying for these higher costs. On the national level, these arguments have frequently been based on comparisons of the costs of private and public construction. It has been claimed that the costs of construction are inflated by anywhere from 1.4% to 26%. The



figures are typically derived from studies which have been done comparing commercial construction for private owners with public construction where prevailing wages are required. Higher wages, increased administrative costs, and the costs of compliance and enforcement are usually cited.

Such studies have almost invariably assumed that the worker-hours required to complete the work will be the same notwithstanding the fact that the wages paid may be different. Any analysis of the comparative cost impact of prevailing wage legislation should carefully examine this assumption, however it is usually ignored. In the late 1970's, the General Accounting Office studied 73 out of 18,000 projects and came to the conclusion that the Davis-Bacon Act had an inflationary impact on the costs of public construction. The study itself acknowledged that it had not been undertaken in a scientifically sound fashion and that the results of the study could not even be used to generalize about all of the projects that were ongoing during the year under consideration. The study further adopted precisely the same assumption of identical worker-hours being utilized without considering the fact that the assumption was subject to challenge.

This flaw in the GAO and other studies done in the late 1970's and early 1980's was pointed out in a report of the Massachusetts Institute of Technology performed by the Department of Civil Engineering. MIT concluded that employers give greater attention to the selection of their workers when required to pay higher wages

than they might otherwise.

There can be no question that well trained and highly skilled construction craftsmen are often not willing to work for substandard wage rates. The workers who can be recruited to work below the prevailing wage rate are likely to be less skilled and less experienced. In many cases, these will be people with no formal construction training and only very casual attachments to the industry.

It seems clear that well trained, experienced workers will be able to complete a project much more quickly than workers with little construction experience. There's no advantage in employing someone at slightly lower wages if they take twice as long to finish the job.

In any case, the assumption by the GAO and other studies critical of the Davis-Bacon Act, that labor productivity is 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 sighted, 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 costs 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 costs in states with and without prevailing wage laws. The study calculated the cost per classroom of new schools (adjusted for general interstate price difference), and then ranked the 48 contiguous state in order of average cost. If prevailing wage laws had had 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.

In a study of federal Indian Housing Programs, involving the

federal Davis-Bacon Act, the U.S. Department of Housing and Urban Development made an effort to identify factors contributing to high costs for HUD-financed housing built on Indian reservations. One possibility they considered was that Davis-Bacon prevailing wage requirements might lead to excess costs. However, their research indicated that this was not the case. A comparison of average wage rates with average dwelling construction costs showed no correlation between high wages and high construction costs.

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. Data 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 one by 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 thus promoting efficient, top quality work on 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 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 worker's 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 the lowest bidder, by the smallest possible amount, in order to secure the work and then maximize the profits on the job. Those who urge that requiring 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 the 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 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

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 paid. 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 less skilled and more inefficient workers.

It is also argued that prevailing wage 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 such 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.

Competitive pressures on the construction industry are probably greater now than ever before. 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 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 statute have been developed to protect workers where competitive forces in the marketplace have 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 helps 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.

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 or to improve the contractor's profit. Private owners, not required to accept the lowest bid, have the ability to ensure their contractors will not bring unskilled, inefficient workers to the jobsite and those possibilities are not available to the state.

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. Given that the opponents of prevailing wages argue so vociferously about the inflationary effect of 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 wages has not been shown to decrease the amount that the state pays for such work. Rather, these "savings" find their way into increased inefficiency,

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 more 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 build the public structures needed and required by the citizens of Kansas. We urge your support of House Bill No. 2278. Thank you.