

Approved: February 23, 1998
dglc

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on February 20, 1998 in Room 123-S of the Capitol.

Members present: Senators Salisbury, Barone, Brownlee, Donovan, Feleciano, Gooch, Jordan, Ranson, Steffes, Steineger and Umbarger.

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:
Senator Anthony Hensley
Peter Philips, Professor, Department of Economics, University of Utah
Thomas E. Slattery, Associated General Contractors of Kansas
Kevin Godar, Associated Builders and Contractors, Mission
Pat Shelley, Teague Electric, Lenexa
Terry Leatherman, KCCI
Ernest Straub III, President, Straub Construction Company, Lenexa
Thaine Hoffice, Director of the Division of Architectural Services

Others attending: See attached list

Upon motion by Senator Donovan, seconded by Senator Ranson, the Minutes of the February 19, 1998 Meeting were unanimously approved.

The Chair called the Committee's attention to written testimony from Patrick Nichols on **SB 555** which was distributed. (Attachment 1)

SB 299 - Public works projects for state agencies, prevailing wages, Kansas resident worker preference

Letters from the following individuals stating their opposition to **SB 299** were distributed to members of the Committee: Robert D. Battle, President, Trend Tech, Inc., Lenexa (Attachment 2), Vernon Nikkel, Nikkel Business Consultant, Hesston (Attachment 3), and Jay E. Goss, Goss Service Co., Inc., Overland Park (Attachment 4).

Letters from the following individuals stating their support for **SB 299** were distributed to members of the Committee: Daryl Burnham, Organizer, Plumbers & Steamfitters Local Union #171, Wichita (Attachment 5); D. L. Smith, President, K.L. Smith Electrical Construction, Inc., Topeka (Attachment 6); and Edward DeSoignie, Executive Director, The Heavy Constructors Association (Attachment 7).

Senator Anthony Hensley, testified in support of **SB 299** which reinstates the prevailing wage law. Senator Hensley stated Kansas was the first state to pass a prevailing wage law in 1891. In 1987, the legislature repealed the law by a vote of 21-19 in the Senate and in the House, 63-62. **SB 299** is a job creation bill, a tax payers' bill, good for economic development and a pro-family bill.

Peter Philips, Ph.D., Economics Professor, University of Utah, stated Kansas was the first state to pass a prevailing wage law, followed by 41 states and the federal government. Professor Philips stated the purpose of the prevailing wage law was to encourage competition based on skill, productivity and quality, and to encourage apprenticeship training and collective bargaining. (Attachment 8)

Professor Philips stated his study of 15 states and their school construction costs concluded there was no statistically significant difference between the average square foot cost of new school construction between states with and states without prevailing wage laws. The study found that average wage rates in Kansas construction fell after repeal of the prevailing wage by 11%; pensions and health insurance fell by 17%;

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on February 20, 1998.

apprenticeship training fell by 38%; serious injury rates rose by 21%; but there were no measurable cost savings on public construction.

Thomas E. Slattery, Associated General Contractors of Kansas, testified in opposition to **SB 299**, stating the prevailing wage law results in increased costs of construction, frustrates the competitive bidding system, and establishes a procedure which is difficult to administer. Mr. Slattery testified further the legislative post audit report of 1996 found that the methods used by the Department of Human Resources in establishing wages when the law was in effect, created high variances within a county or in counties adjacent to each other. Mr. Slattery questioned the constitutionality of **SB 299** in lines 32-37, which appear to require the employment of Kansas residents or the employment of persons who have inalienable voting rights in the United States of America. (Attachment 9)

Kevin Godar, Executive Director, Associated Builders & Contractors, Mission, testified in opposition to **SB 299**. Mr. Godar stated the adoption of a prevailing wage law will substantially increase the cost of state construction. Studies project an increase in costs of 5%-35%. Mr. Godar stated the builders and contractors are making a concerted effort to expand training programs. Mr. Godar stated wages should be a reflection of productivity, combined with the economic reality of supply and demand. (Attachment 10)

Pat Shelley, Teague Electric Construction, Lenexa, testified in opposition to **SB 299**. Mr. Shelley stated his company has done jobs under prevailing wage laws in the past, and it is that experience on which he bases his opposition. Mr. Shelley stated prices are established in a free market system by supply and demand, not by a government mandate. (Attachment 11)

Terry Leatherman, KCCI, testified that in 1991, 97% of the 700 members surveyed opposed mandating a prevailing wage be paid on state projects as provided in **SB 299**. The KCCI opposes reenactment of the prevailing wage because: costs will escalate an average of 5% to 15%; wages should be set in the private sector, not set by a government mandate, protectionist legislation is not needed; and the majority of construction is performed in the private sector without the prevailing wage and a quality product is produced. (Attachment 12)

Ernest J. Straub, III, President of Straub Construction Company of Lenexa, testifying in opposition to **SB 299**, stated as a tax payer he is dismayed the state would consider such a major spending bill. Mr. Straub stated Kansas needs to be progressive instead of regressive with regard to labor issues, and be fiscally responsible. Mr. Straub attached a copy of a bid which demonstrates a 13% increase due to application of the Davis-Bacon Act. (Attachment 13)

Thaine Hoffman, Director of the Division of Architectural Services testified in opposition to **SB 299**. Mr. Hoffman stated Kansas presently has \$159 million in projects under construction and any increase in labor costs would be a major cost to the state. Mr. Hoffman stated the description of wages to be paid is vague, and determining average wages would be an additional administrative cost to the state. (Attachment 14).

A copy of *Kansas and Prevailing Wage Legislation*, by Peter Philips, Ph.D. was distributed to members of the Committee and is on file with the Department of Legislative Research.

The meeting was adjourned at 9:00 a.m.

The next meeting is scheduled for February 23, 1998.

SENATE COMMERCE COMMITTEE GUEST LIST

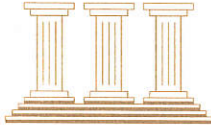
DATE: February 20, 1998

NAME	REPRESENTING
Wayne Maichus	75. AFL-CIO
Daryl Burnham	L.U. 171 Plumbers & Steamfitters Wichita, KS.
BOB STAUDER	CARPENTERS' LOCAL 918-MANHATTAN
Ken Doud Jr.	Kan Valley Dist. Coun. Carpenter's
Earl Kenotype	Carpenters Dist Council
Harry Byham	d. U. 226 IBEW
Bill Granger	IBEW LU 226 Topeka, KS
Calvin Merando	U.A. Local 1664
Phil Betty	Kansas State Pipe Trades
Clyde A. BRACKEN	TOPEKA FEDERATION OF LABOR
Frank Muelle	I U O E Local # 101
Bruce A. Rivers	Laborers Local 1290
RON NEWTON	I U O E LOCAL # 101
Jim Hadel	Roofers Local #20
Larry Hansen	Boilermakers Local #83
Mark Morley	Associated Builders & Contractors
ERNEST STRAUB III	STRAUB CONST CO INC.
PAT SHELLEY	TEAGUE ELECTRIC
Kevin Godar	Associated Builders & Contractors

SENATE COMMERCE COMMITTEE GUEST LIST

DATE: _____

NAME	REPRESENTING
John Ostrowski	KS AFL-CIO
Jim Hastings	IRONWORKERS ^{LU} 10
Ricky TANNER	Laborers' #142
MATT GROSKE	IRONWORKERS INT'L UNION
GARY ANDERSON	NECA KANSAS
Terry Leatheeman	KCCI
Peter Philips	UNIVERSITY OF UTAH
Mary Carpenter	Plaindealer Newspaper
& Kim Forrester	Building Trades
FRED KAMINSKI	I.U.O.E # 101
Connie Stewart	KS AFL-CIO
Jay Kinslow	The 197 Project
Sally Greenwood	DIV. OF PURCHASES
Mark Barcellona	KDO & H



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

Senate Commerce Committee
Wednesday, February 18th

Testimony of Patrick Nichols, President
Kansas Trial Lawyers Association
Senate Bill 555

Thank you for this opportunity to testify before you this morning. My name is Patrick Nichols and I am the current president of the Kansas Trial Lawyers Association. I am testifying for KTLA this morning in support of SB 555.

The Workers Compensation System is designed to balance the interests of employers and workers. The system is an “exclusive remedy” for injured workers. That means, they file claims for workplace injuries under the rules and restrictions established in the Workers Compensation system and not under the rules of general civil procedure for tort law. It also means that while employers must compensate all workplace related injuries, they have more predictable exposures for workplace injuries than were possible under the tort system.

As long as these competing interests remain balanced, the system is workable. KTLA wants to express our appreciation to the Workers Compensation Advisory Council, and to thank Terry Leatherman and the other management representatives on the council as well as John Ostrowski, Wayne Maichel, Jim Dehoff and the other labor representatives. KTLA appreciates their contributions of time and talent to receive input on the problems that arise from time to time in the system and to fine tune the Workers Compensation Act in a balanced fashion. In so-doing, their efforts protect the integrity of the system. The council’s endorsement shows this bill, unlike others now pending, has been considered from all sides and the product of that consideration is fairness.

KTLA believes that SB 555, as a package of proposals, is a balanced work product from the Advisory Council. However, we would like to offer a clarifying amendment to New Section 1. We ask the committee to strike lines 23-25, and substitute the following language:

“law judge can make any award concerning medical care that is authorized by K.S. A. 44-510. No.”

KTLA believes the original language of New Section 1 was intended to permit a post-award proceeding for medical compensation, under the same parameters as if the motion was pre-award. The above language would clarify that this interpretation is, indeed, the intent of the drafters of the bill.

Thank you.

Senate Commerce Committee

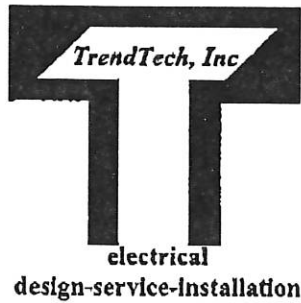
Terry Humphrey, Executive Director

Date *2-20-98*

Jayhawk Tower • 700 SW Jackson, Suite 706 • Topeka, Kansas 66603-3758 • 913.232.7751

E-Mail: triallaw@ink.org

Attachment # */*



FAX LETTER

Total pages: 1

February 16, 1998

The Honorable Alicia Salsbury
Senate Commerce Committee
State Capitol Building
Topeka, Kansas 66612

1205

Dear Senator Salisbury:

I am writing to express my deep concern about Senate Bill 299. This bill in my opinion is fiscal irresponsibility at its worst. At a time when other states, such as Missouri, are introducing legislation to repeal prevailing wage rules (for school construction) I cannot believe that the taxpayers of Kansas are willing to support the increased cost of state construction projects with no real benefits from that increase.

I would like to point out that in a recent Kansas project we have been awarded, as a sub-contractor, our cost would have been increased 32% if forced to abide by the "prevailing wage". I am quite sure these savings can be put to use elsewhere. Let me assure you that, as a Missouri taxpayer and a Kansas contractor with work on both sides of the state line, laws restricting the fair market for construction work are an undue burden placed on the taxpayers.

Prevailing wage laws are only an attempt by unions to have the taxpayers protect non-productive work rules and inflated wages and subsidize "benefits" such as political action committees. We employ a skilled work force at competitive wages and a complete benefits package and should be allowed to compete in an open market.

If you have any questions or if I may be of service to you in this matter please do not hesitate to contact me at my office at (913) 491-8484.

Sincerely,

Robert D. Battle
President

10551 RENE, LENEXA, KANSAS 66215
PHONE: (913) 491-8484 FAX: (913) 491-4464

Senate Commerce Committee

Date 2-20-98

Attachment # 2

Vernon Nikkel
Business Consultant

230 S. Weaver
Hesston, KS () ?
316-327-4338
FAX 316-327-2584

February 17, 1998

Senator Alicia L. Salisbury
Chair, Senate Commerce Committee
Statehouse, Topeka 66612

Dear Senator Salisbury,

I encourage you to oppose SB 299. Years ago the federal Davis-Bacon Act was a necessity but in today's commercial and industrial environment, times have changed.

Today we have minimum wage, OSHA, collective bargaining rights and a healthy competitive environment, which help to make SB 299 unnecessary.

Thank you for giving this issue your thoughtful consideration.

Sincerely,



Vernon Nikkel

Senate Commerce Committee

Date 2-20-98

Attachment # 3

GSC *GOSS Service Co., Inc.*

7915 Hemlock
OverlandPark, KS 66204

1208
Alicia Salsbury
Kansas State Representative
Senate Commerce Committee

February 13, 1998

RE: Senate Bill 299

Dear Alicia,

I am writing you to voice my opinion on the above mentioned bill. I personally have been involved with all aspects of the prevailing wage scenario. I have worked in and with the organizations that support the prevailing wage. I have seen the plan in action while working in Missouri for over 12 years. I have also worked with the union shops and Merit shop organizations.

It is my opinion that this does not give the projects any better quality nor does it increase that satisfaction of the consumer (usually a government organization). The effect it seems to have is

- a. Increased cost to projects
- b. Increased cost to government agencies for have to hire more people to maintain the program
- c. Increased cost to taxpayers whose money is being used to finance the projects

I just don't see the benefits.

It seems that Kansas has done quite well over the years without this program, especially in its schools and other governmental organizations. Especially when compared to other states with the prevailing wage in effect.

I encourage you to vote against this action. I urge you stand for the right to work status we now so enjoy.

Thank you for your time. We appreciate the enduring work you have undertaken.

Sincerely,
Jay E. Goss

Senate Commerce Committee

Date 2-20-98

Attachment # 4

D. L. SMITH ELECTRICAL
DL S
CONSTRUCTION INC.

February 19, 1998

Senator Alicia Salisbury
c/o Statehouse
Topeka, Kansas 66612

RE: S.299

Dear Senator:

The above referenced bill is coming before your committee for consideration and I would like to express my "philosophical" thoughts regarding this matter. We live in the greatest country in the world where we have many inherent freedoms not enjoyed in any other country. The strength of the United States exists largely because of the strong economic society. This strength did not just happen accidentally. It happened because of a development over the years of a strong middle class, which is the most important ingredient to a strong society.

I could give you reams of information with statistics about the pros and cons of prevailing wage laws, but I feel the most important obligation for us as American citizens is to make this world a better place to live in for our future generations. Our forefathers had the wisdom and vision to help us develop a strong middle class and we must continue with the same direction. Well-trained and equitably compensated workers who can provide for the basic needs of their families are able to work with society rather than against it. If that is not the case then why would we want to spend billions of dollars for schools if those graduating were only making minimum wage?

Kansas was the first state in the union to pass prevailing wage laws in 1891. Economic development of a state is strengthened by the buying power of its population. If we pass laws only on emotion and minimal facts we do not represent what is most important for our state and our country – maintaining a strong middle class for now and for future generations. If we don't agree with needing a strong middle class then we need to spend some time in Mexico or some third world countries.

I would appreciate your consideration of this bill.

Sincerely,



D. L. Smith
President
D.L. Smith Electrical Construction, Inc.

DSL/ka

Senate Commerce Committee

Date 2-20-98

The Heavy Constructors
Association

intraoffice
MEMORANDUM

to: Mr. Jim DeHoff, Kansas AFL-CIO
from: Edward DeSoignie, Executive Director
subject: Senate Bill 299
date: February 19, 1998

Due to other commitments, I will be unable to attend the hearing before the Senate Commerce Committee concerning Senate Bill 299; prescribing payment of minimum wages for public works projects of the State of Kansas. I would appreciate it if you would convey the following comments to the Senate Commerce Committee for their consideration on the bill.

We have reviewed the legislation and urge its favorable consideration. We believe that enactment of the bill would clearly establish the policy that the State of Kansas encourages the payment of fair wages to individuals employed in the construction of public works projects. The legislation accomplishes this highly desirable goal by establishing a "floor" at the county level. This would ensure construction workers on State of Kansas projects would, at a minimum, be paid the wages reflective of the area the project is in. It would further ensure that workers in the local area are not undercut by the importation of cheaper labor from other areas.

As important, the legislation sends the clear message that public contracts will not go to those firms who produce low bids because they pay low wages. In this regard it levels the playing field among construction firms competing for public works projects.

The argument will be raised that, the legislation intrudes in the market by interfering in the employee-employer relationship to determine wages paid for work performed. This argument however overlooks the fact that since public works projects are financed by the general public and intended for the use of the general public, certain public policy issues such as fairness, equity and opportunity should and can enter into the equation.

Further, the argument that enactment of the legislation would increase the costs of public projects is an old saw that has no substance. If the legislation establishes the "floor" as those wages which are *already being paid* in a county, then how could it increase costs? The answer is by eliminating the ability to pay below that current wage. There is no question the firm that develops low bids because they pay low wages would have to increase their bid price. We believe this practice, on State of Kansas projects, should be discouraged.


The Heavy Constructors Association urges the Committee to favorably recommend the bill to the full Senate for passage. Thank you for your consideration of these views.

Senate Commerce Committee

Date 2-20-98

Attachment # 7

The Effects of the 1987 Repeal of Kansas' Prevailing Wage Law



Senate Commerce Committee

Date 2-20-98

Attachment # 8-1 thru 8-29

**Peter Philips, Ph.D.
Professor of Economics
University of Utah**

History of the Law



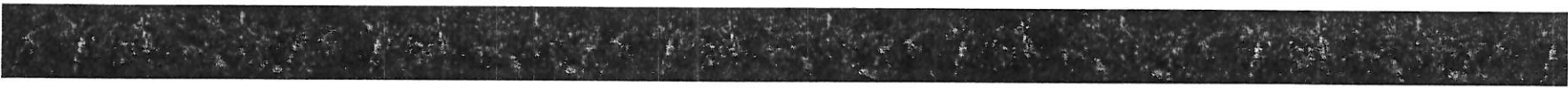
- First State Law (1891)
- Eventually 41 states and federal government follows Kansas' example
- Passed in conjunction with an 8-hour day law
- Part of a larger package
 - Child labor law; compulsory schooling

Purpose of Law



- To encourage competition based on skill, productivity and quality--rather than cheap labor and longer hours
- To nudge the economy down a high-skill, high-wage growth path
- To encourage apprenticeship training and collective bargaining

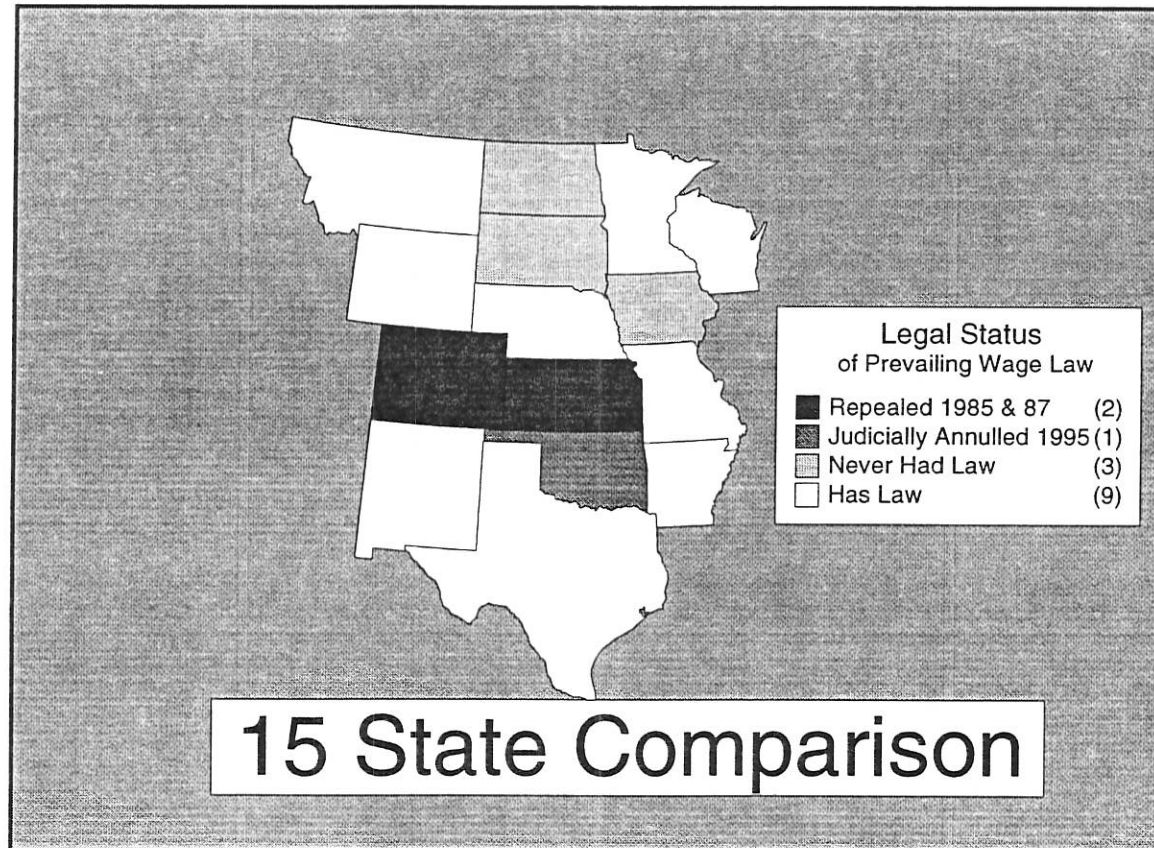
Reason for Repeal



- Cut wage rates in order to cut public construction costs
- To open up opportunities for nonunion or merit shop contractors
- Promise of Repeal--Save 6% to 17% (or more) on total public construction costs
 - Carl Coonrod ABC before Senate Labor and Industry Committee, Feb. 16, 1987

15 Great-Plains State Comparison of School Construction Costs

8-5



Why Study School Costs?

- Schools are a major part of state and local public construction
- Broken down by type, new schools provide an apples-to-apples comparison
 - elementary schools
 - middle schools
 - high schools

Results for Elementary Schools: No Cost Difference



- States with Prevailing Wage Laws
 - 365 new schools
 - \$76.86 per square foot
- States without Prevailing Wage Laws
 - 81 new schools
 - \$76.23
- Kansas 18 new schools mean=\$83

Results for Middle Schools: No Cost Difference



■ States with Prevailing Wage Laws

- 238 new schools
- \$70.02 per square foot

■ States without Prevailing Wage Laws

- 30 new schools
- \$72.35

■ Kansas 12 new schools mean=\$69

Results for High Schools: No Cost Difference



- States with Prevailing Wage Laws
 - 187 new schools
 - \$72.87 per square foot
- States without Prevailing Wage Laws
 - 35 new schools
 - \$70.72
- Kansas 9 new schools mean=\$66

Statistical Analysis



- There was no statistically significant difference between the average square foot cost of new school construction between states with and states without prevailing wage laws
- Kansas' new school construction was no cheaper or no more expensive than surrounding states with prevailing wage laws

But while There Was No Gain, There Was Pain



- Average wage rates in Kansas construction fell after repeal by 11%
 - inflation adjusted wages
 - across all construction--not just public works
- Surrounding states with prevailing wage laws, wages fell by 2%

Benefits Fell by More than Wages



- After repeal, total contributions by Kansas construction contractors to pensions and health insurance fell by 17%

Shift from Collective Bargaining to the Merit Shop Creates Fall in Benefits

- Virtually all union construction workers receive pensions and health insurance
- In Kansas, 10% of the merit shop construction workers are covered by a pension
- Only 4% receive health insurance from their merit contractors
- The 17% drop in overall employer benefit contributions is due to a shift from the covered to the uncovered sector of construction

With Lower Wages and Benefits--Hard to Train and Retain Skilled Workers



- The Merit Shop accounts for only 12% of all registered apprentices in Kansas construction
- Union contractors train 88% of apprentices
- Apprenticeship training in Kansas fell by 38% after repeal of the prevailing wage law

This Is a Nation-Wide Problem


51-8



- Engineering News-Record Survey
 - Top 400 general contractors and top 600 specialty contractors
 - “The industry has known for the past decade that it was headed for manpower trouble...Nonunion contractors working in bustling areas appear to have the biggest manpower problems. For example, 56% of the union crafts ...have no labor shortages while only 10% of the open shop crafts have no problem.”

Merit Shop Recognizes the Problem

8-16

- 
- Report commissioned by merit contractors Brown & Root, Fluor Daniel and HB Zachry
 - "Clients have created a 'playing field' which forces contractors to undercut one another to obtain work. Combined with the fact that craftsmen are treated as expendable commodities, woefully inadequate training opportunities over the years, and alternative service sector jobs which are now available at competitive wage rates and superior benefits, it is easy to understand why large numbers of people aren't knocking on the industry's door."

But Outside Collective Bargaining, the Problem is Hard to Solve

- Training, pension and health are long-term cost that do not have to go into today's bid
- Collectively bargained contracts force contractors to embed this long-term cost in their bids--so much for training per hour, etc.
- Without the discipline of a contract, each merit shop contractor is afraid his competitor will undercut him by excluding long term cost consideration in their bid.

The Result Is a Construction Labor Force that Is:



- Younger
- Less Experienced
- Less Trained
- Less Productive

Serious Injury Rates in Kansas Rose
After Repeal by 21%

In Sum: After Repeal--



- Wages fell by 10%
- Benefits fell by 17%
- Apprenticeship training fell by 38%
- Serious injuries rose by 21%
- But there were no measurable cost savings on public construction

Well Paid Construction Workers

8-20



■ Are More Productive

- There were no cost savings from cutting wages

■ Make Better Neighbors

- Workers with pensions and health insurance do not become burdens on their families or community

A Re-enactment of Kansas' Prevailing Wage Law

12-8

- Would encourage collective bargaining in construction
- Would foster apprenticeship training
- Would lead to a better trained, better paid, more experienced construction labor force
- Would reduce injuries in construction

Peter Philips



- Ph.D--Stanford University 1980
- Professor of Economics--University of Utah
- Nationally recognized scholar on construction and canning labor markets
- Expert consultant for the U.S. Labor and Justice Departments
- Author of two books and numerous academic journal articles

Testimony by: Thomas E. Slattery, Associated General Contractors of Kansas

To: The Senate Commerce Committee on Senate Bill 299

February 20, 1998

Madame Chairman,

The Associated General Contractors of Kansas is opposed to so called "prevailing wage laws" at all levels of government. We believe these laws result in increased costs of construction, frustrates the competitive bidding system and are difficult, if not impossible, to fairly administer.

Kansas had a prevailing wage law from 1891 until it was repealed April 29th, 1987. This law was for the most part philosophical until 1985, when then Governor Carlin, by executive order, required wages to be published in specifications on state projects. The methods used by the Department of Human Resources for establishing these wages came under great criticism when it became apparent the wages reflected huge variances on jobs within a county or in counties adjacent to each other. This information can be found in the legislative post audit report of April 1996. There is no reason to expect these methods would be any more accurate under a new law. And, to use federal Davis-Bacon rates to set wages would be even worse.

Although I'm not sure I understand paragraph (c) of the bill on line 32, I am concerned that the reference there would have serious constitutional problems. Because of the serious lack of manpower in some areas such as Wichita, I know there are some residents from the country of Mexico that work for contractors in that area. Since they are not United States citizens, I question how this section might affect their ability to work. I am also aware that at least one

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Attachment # 9-1 thru 9-2

construction company in Wichita uses people who have been convicted of crimes and are in a work release program. Since they are unable to vote this could be a problem in that regard.

Madame Chairman, we would recommend that no action be taken on Senate Bill 299.



1998 BOARD OF DIRECTORS

PRESIDENT

Dan Bowden
Bowden Contracting Company

FIRST VICE PRESIDENT

David Meyer
Meyer Brothers Building Company

VICE PRESIDENT

Pat Shelley
Teague Electric Construction

VICE PRESIDENT

Gene Dean
Miller-Stauch Construction Company

TREASURER

Mark Radetic
Henderson, Warren & Eckinger

PAST PRESIDENT

Ernest J. Straub, III
Straub Construction Company

Richard Liddeke

Capitol Painting Company

Pat Mirocke

Fogel-Anderson Construction Company

Wayne Stumpf

KC Heating, Cooling & Sheet Metal

Weston Sechtem

Miller Law Firm

Gib Keller

Cretcher-Lynch & Company

Larry Malach

SKC Electric

Lanny Kern

Century Concrete

Opposition to Kansas Senate Bill No. 299

submitted by

Kevin Godar

Executive Director

Associated Builders & Contractors

Heart of America Chapter

My name is Kevin Godar and I am the executive director of the Associated Builders & Contractors Heart of America Chapter based in Mission, Kansas.

The ABC Heart of America chapter is opposed to Senate Bill No. 299. The adoption of a prevailing wage law by the state of Kansas is a mistake because it will substantially increase the cost of state construction. I have seen reports of cost increases due to prevailing wage laws ranging from five to thirty-five percent.

That means less money to build facilities for our students in state colleges. That means less money to build state prisons to protect our citizens. That means less money to build and maintain our state roads and highways.

The citizens of Kansas deserve **more** not less.

Prevailing wage laws not only require a minimum wage to be paid, but they also require jurisdictional boundaries to be established and non-productive work rules to be implemented. Non-union contractors can be more competitive because they are not restricted by outdated union work rules. Under prevailing wage laws, a non-union electrician that does any task outside his or her job classification must be paid a different scale for whatever length of time the task takes. This creates a massive amount of paperwork and discourages non-union contractors from participating.

Wouldn't it be more effective to encourage the building trades unions to refine their antiquated work rules instead of creating a statute protecting them?

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Attachment #10-1 thru 10-2

Many proponents of prevailing wage also argue that it is a necessary factor in promoting construction industry training programs. I argue that if you want to promote training programs then require contractors doing state work to have training programs. Many states and municipalities require contractors to have training programs in place before issuing a license. ABC is a proponent of construction industry training as illustrated by our school to work, apprenticeship and management training programs. However, the concept of enacting a law to achieve a different purpose altogether is perplexing to say the least.

Many people hear the concept of prevailing wage discussed without ever considering the implications involved. Are we prepared to fund another division of state government? Our neighbors in Missouri pay \$2.8 million per year for the Division of Labor Standards to conduct wage surveys and administer their prevailing wage program.

Is this a necessary expansion of state government? Aren't people crying out for less government?

No other industry is forced to pay a prevailing wage. Why does the state feel compelled to dictate wage rates to the construction industry? Why shouldn't the state of Kansas be allowed to purchase quality construction at the same competitive price offered to the private sector? Wages are and should continue to be a reflection of productivity, combined with the economic reality of supply and demand. Our nation and our state have achieved greatness by promoting and protecting that economic principle. Now is not the time to undermine it.

I urge the committee members to oppose Senate Bill No. 299. Thank you for this valuable opportunity.

OPPOSITION TO KANSAS SENATE BILL NO. 299

Pat Shelley
Teague Electric Construction
Lenexa, Kansas

My name is Pat Shelley, I am president and general manager of Teague Electric. We are an open shop electrical contractor based in Lenexa with more than 100 employees. We have done jobs under prevailing wage laws in the past and because of that experience I am here to oppose Senate Bill 299.

The construction industry is a very dynamic business. To be successful in construction today, companies have to change with the times. Prevailing wage laws take a very antiquated view. They assume that all construction is highly structured along very distinct craft lines. The reality is that there is substantial overlap and when you restrict individuals from crossing jurisdictional boundaries you hamper productivity. Our success is based on high productivity, a quality product, and a competitive price. I believe the state should demand nothing less on its projects.

Not only do prevailing wage laws cause inefficient use of manpower, they also inflate the raw cost of a project. Typical prevailing wage laws establish a rate of pay for each job classification as well as an amount that is required to be spent on fringe benefits. If a company's fringe benefit package doesn't cost as much as the scheduled amount then the excess must be paid in additional wages, regardless of the quality of the fringe benefit package.

We did a job last year for the school district in Kansas City, Kansas that fell under a prevailing wage law. The scheduled wage for an electrician was \$21.39 per hour plus \$8.39 in fringe benefits. We have an excellent fringe benefit package, but because of the way it is structured we could only apply \$2.49 per man-hour toward the prevailing wage requirement. We knew this when we bid the project, so we factored it into the job. We completed the job, we made a profit and our electricians got a nice bonus compliments of the taxpayer. Ironically, all of the electricians working on the job make more per hour with us than the prevailing wage required anyway. The difference was the cost, not the quality, of the fringe benefit package.

Prices are established in a free market system by supply and demand, not by government mandate. Wages are the price we pay our employees for their efforts. Should wages be established by a government mandate? I don't think so.

I would ask that the committee oppose Senate Bill 299.

Senate Commerce Committee

Date 2-20-98

Attachment # 11

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, KS 66612-1671 (785) 357-6321 FAX (785) 357-4732 e-mail: kcci@kspress.com
SB 299 February 20, 1998

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
Senate Committee on Commerce

by
Terry Leatherman
Executive Director
Kansas Industrial Council

Madam Chairperson and members of the Committee:

I am Terry Leatherman, with the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to express KCCI's opposition to SB 299, which proposes requiring prevailing wages be paid on state public works projects.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 46% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

One of the challenges of representing the diverse membership of the Kansas Chamber is to achieve member consensus on legislative issues. That is not a problem when it comes to whether the Kansas business community supports or opposes the prevailing wage question. When we last surveyed our members on this issue in the fall of 1991, an overwhelming 97% of our 700 survey respondents said they oppose the idea of mandating a prevailing v

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The myriad of reasons for KCCI's near unanimous opposition are

Attachment #12-1 thru 12-2

First and foremost, there can be no doubt that requiring Davis-Bacon prevailing wages will drive up the cost of public works projects. As early as 1971, the General Accounting Office estimated the Davis-Bacon Act inflated wages by about 15%. In 1983, it was the Congressional Budget Office that estimated the repeal of Davis-Bacon would save the federal government \$1.1 billion of its \$30 billion budget for federal construction projects. When repeal resurfaced in 1995 in Congress, the U.S. Chamber of Commerce estimated the Davis-Bacon Act inflated federal construction costs an average of 5% to 15%.

A second reason why the prevailing wage issue should be rejected is KCCI's core belief that the private sector, not government, should be where employee salaries are set. In addition, prevailing wages seems contrary to the process state government should follow when pursuing competitive bids for state projects. The state feels it is proper to seek the lowest possible bid, yet expect quality, when it purchases supplies or contracts for services, yet would eliminate this important element for workers on state construction projects.

Third, please consider the history of this issue, which will lead to the conclusion that this protectionist legislation is not needed. The federal Davis-Bacon Act was passed by Congress in 1931, as a Depression-era attempt to prevent roving construction labor from flooding a labor market and undercutting local wage rates. However, since its original passage, other legislative actions, such as minimum wages, the right to collectively bargain, and Occupational Safety and Health protections, have largely eliminated the need for this wage protection.

Finally, the argument that prevailing wages produces a quality product flies in the face of logic. A majority of construction is performed in the private sector. Without the prevailing wages, a quality product is produced.

Once again, thank you for the opportunity to comment on the bill before you today and to urge your rejection of SB 299.

QUALITY ASSURED

**Opposition to Kansas Senate Bill No. 299
submitted by Ernest J. Straub, III
President of Straub Construction Company, Inc.
Lenexa, Kansas**

My name is Ernest J. Straub, III. I am President of Straub Construction Company of Lenexa, Kansas. Our company is a general contracting firm providing commercial construction work on both the Kansas and Missouri sides of the state line in the major metropolitan Kansas City area. Our firm does quite a bit of school construction both new and renovation for all of the school districts in the Kansas City area. We also have done work for the State of Kansas on mental health facilities and are currently bidding projects for Kansas State University. I am opposed to Senate Bill No. 299 as a tax payer in the state of Kansas. With the outcry from the majority of the citizens of the state for fiscal responsibility, I am dismayed that any Senator in the state of Kansas would have the nerve to introduce a major spending bill.

All you have to do is look at our neighboring states, namely, Oklahoma and Missouri, and see that similar laws in those states have lead to ramped corruption and fraud in these divisions that handle the implementation of the prevailing wage laws. The State of Kansas has repealed prevailing wage laws in the past and I can't understand what the overwhelming reasoning would be to change course unless it is to show special favor to a very few of the population of Kansas.

I am including in with my testimony a copy of a bid I received just this week on a project in Kansas City, Kansas where this particular subcontract had given a price for a section of work to be done at prevailing wage and has also quoted a price to complete this work with open shop labor. There is a 13% increase in the cost of this work for this one trade item. Can you imagine adding 10% to 15% to the budget of all construction projects for the State of Kansas. It is fiscally irresponsible to even consider such a bill. Again, as a tax payer of the State of Kansas I am strongly opposed to Senate Bill No. 299. The State of Kansas needs to be progressive instead of regressive with regard to labor issues and the fiscal responsibility to the citizens of Kansas.

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Attachment # 13-1 thru 13-2

American Roofing Inc.

2500 South Second Street
Leavenworth, Kansas, 66048

913-682-1776 FAX 913-682-4423

FAX TO: STRAUB CONST

Re: Fiske Elementary (Revised pricing that include **Davis Bacon Wages**)

American Roofing Inc. offers the following bid for:

Section 07515, Built Up Roofing. Tremco gravel surfaced roof system complete over tapered insulation. Includes roof walk, all membrane flashings, sheet metal around AC units, tie in under existing metal roof, tear off and re-roofing of small old roof section, wall expansion joint and guarantees.

Section 07610, Standing Seam Metal Roofing; (Note: On the standing seam roof system, over the metal deck, this price includes fire-rated sheet rock, Isocyanurate insulation, 5/8" plywood, felt, and standing seam metal roof system complete.


This section also includes the standing seam metal fascia, boxed in gutter and downspout, roof and standing seam related metal flashing and trim.

No sub-structure steel or wood blocking work at gutter and fascia. No wood blocking. Note: The only wood we have is the 5/8" plywood under the standing seam metal roof.

Price for work above \$73,337.00 No Davis Bacon Wages
\$82,550.00 with Davis Bacon Wages.

Includes no sales tax.

Thank you and good luck!


Mike Greenamyre
American Roofing Inc.

13% INCREASE
TO DAVIS
BACON.

SB 299 - PREVAILING WAGE

Testimony for the COMMITTEE ON BUSINESS, COMMERCE AND LABOR.

by Thaine Hoffman, Director of the Division of Architectural Services

February 6, 1998

This bill would require contractors to pay prevailing wages on state public works projects.

The first concern is that this would obviously increase construction costs and thus taxes. Although a scientific study would be required to determine the overall effect, with \$159 million under construction contracts right now, any increase in labor costs would be a major cost to the State.

My second concern is the vague description of the wages to be paid. How are we to determine the wages and fringe benefits of the majority of each classification of worker in the county where the project is located? There may be a dozen classifications on each project and the prevailing wage in each county would be different. Plus the average wages will change from month to month. Who keeps this matrix up to date and what does that cost?

We may be required to collect copies of payroll records from each contractor. We presently have 359 projects under construction so this would be no small task for DOAS. The State would also need to follow up on any claims made, causing additional cost.

We prefer this bill NOT be passed.

Senate Commerce Committee

Date 2-20-98

Attachment # 14