

PREVAILING WAGE ADVISORY COMMITTEE

Meeting Minutes

Thursday June 23, 2011

International Union of Operating Engineers
555 East First Street
Gladstone, Oregon

Members Present

Greg Held
Mark Holliday
Kevin Jensen
Donald Kool
Norman Malbin, Co-chair
John Mohlis
Patrick O'Brien
Carl Redman

Members Absent

Dee Burch
James McKune
Shawn Miller, Co-chair

Staff Present

Christie Hammond
Rachelle Herbert
Kate Newhall
Selena Schryvers
Susan Wooley

The meeting was called to order at 3 PM by Co-chair Norman Malbin.

Minutes of Last Meeting of April 7, 2011

The April 7, 2011 minutes were unanimously approved as written.

Staff Reports

Christie Hammond provided the committee members with a copy of the 2011 *Construction Industry Occupational Wage Survey*. Ms. Hammond noted that a draft of the survey had previously been sent to the committee members for comment, and that suggestions pertaining to the survey made by Mr. McKune had been incorporated.

Ms. Hammond next summarized the provisions of Senate Bill 178, which was signed by the governor on June 7, 2011 and eliminates the requirement that BOLI track and produce a publication comparing state and federal prevailing wage rates. In addition, the legislation requires public contracting agencies to include language in their contracts requiring the higher of state and federal wage rates to be paid when the Davis-Bacon Act applies. Ms. Hammond advised the committee members that temporary rules implementing the legislation had been adopted, and that a notice relating to the new legislation and rules had been sent to interested parties.

Ms. Hammond distributed a summary of changes in wage rates that will be effective July 1, 2011, and advised the members that a revised edition of *Definitions of Covered Occupations for Public Works Contracts in Oregon* would also be published on July 1.

Legislative Update

BOLI Legislative Director Kate Newhall presented two reports to the committee detailing the status of bills of interest, including a report of “unsuccessful” legislation, and another of bills that have passed to date. Ms. Newhall explained that the reports listed all bills relating to labor and employment, not just BOLI-sponsored bills, and noted the passage of three bills that had occurred since the previous PWAC meeting including:

- SB178, eliminating the PWR/Davis-Bacon rate comparison book;
- HB2034, amending the state apprenticeship law to conform to federal law; and
- HB3362, creating a \$2 million grant program to restore career and technical education in middle and high schools.

Ms. Newhall advised the committee that once the legislature adjourns, a final results summary will be posted on the BOLI website. Ms. Newhall informed the committee that she will track when bills containing emergency clauses are signed into law by the governor; otherwise all other bills will become effective January 1, 2012.

Appropriate Classification for Erection and Removal of Falsework

Co-chair Malbin gave a brief overview of the topic and the process that would be used for presenting and discussing the issue during the meeting. Representatives from the carpenter and ironworker unions were each given 15 minutes to present their cases regarding the classification of this work, plus time for rebuttal. Mr. Malbin advised the committee that the final classification decision will be made by the Commissioner and that the role of the committee was to make recommendations regarding the issue.

Ms. Hammond explained the process used to periodically update the bureau’s PWR occupational definitions book, and said that it was in this context that the matter of the appropriate classification for the erection and removal of falsework incidental to ironwork came up. Ms. Hammond said that sometimes situations arise in which certain types of work are not clearly covered or addressed within the occupational classifications in the book, and the agency attempts to address these in updates made to the definitions.

Committee members were provided with copies of the draft proposed changes to the definitions for Bridge and Highway Carpenters and Ironworkers relating to falsework, which had previously been sent to committee members.

Ms. Hammond indicated that until proposing revisions specifically addressing falsework in the occupational definitions, BOLI was unaware that there was any dispute regarding the applicable classification for this work, and that the agency had believed and intended the proposed revisions to be clarifying rather than substantive in nature. Ms. Hammond explained that in reviewing the proposed occupational revisions, committee members Jim McKune and Dee Burch had advised her that they disagreed with the proposed changes and classification of certain types of falsework as ironwork.

Committee member Don Kool expressed his opinion that the proposed changes to the occupational definitions were “benign” and that each trade did its own falsework.

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Richard “Swede” Irving, representing the Pacific NW Regional Council of Carpenters, presented a definition for “False work for Bridge and Highway work” and a statement that said “This work has always been the work of the Carpenters and the industry recognizes it both locally and Nationally. This has been awarded in arbitration privately and under the Plan for settlement to the carpenters based on trade and past practice. Even the Ironworkers have conceded to this in the past.”

Mr. Irving indicated that all falsework was appropriately classified within the scope of work for carpenters, and said that this craft had always done this work in the past. Mr. Irving also stated his belief that major contractors in the area would agree that the correct classification for this work was “carpenter,” and that using carpenters to do this work was the industry standard.

Committee member Kevin Jensen, representing Ironworkers Local 29, stated that the Ironworkers do not claim any form work supporting concrete, but that shoring in support of iron or steel does fall under the ironworker classification. Mr. Jensen provided several photographs of bridges showing intricate metal supports constructed by ironworkers to support the bridges during construction. Mr. Jensen stated that some of the photos showed “atypical” falsework, but noted that all of the falsework depicted provides support until the structure is in place. He reiterated that the ironworkers have no dispute with falsework that supports concrete forms, but pointed out that none of the examples he presented contained piling.

Ms. Hammond reported that she had sent a request for information regarding how falsework involving or incidental to ironwork was classified in other states with prevailing wage laws, and said that of the responses received to date, all indicated it would be classified as ironwork.

Committee members asked several questions and discussed the information provided in the two presentations made, but did not come to a conclusion. Co-chair Malbin suggested that a special meeting be scheduled to further discuss the falsework classification.

It was agreed that the carpenter and ironworker union representatives will research and provide additional information for the discussion; specifically, it was requested that the unions bring 4-6 “plan” (jurisdictional) decisions each, any relevant private arbitration decisions, and photos of examples of falsework. BOLI staff was requested to identify any investigations conducted relating to this work and the determinations made. Mr. Malbin requested that the carpenters provide examples of structural steel form work performed by carpenters.

Next Meeting

It was agreed that the meeting to discuss the falsework classification will be 3-5 PM, Tuesday, July 19, at the International Union of Operating Engineers, Gladstone, Oregon.

The next regularly scheduled Prevailing Wage Advisory Committee meeting will be 3-4:30 PM, Thursday, September 22, at the International Union of Operating Engineers, Gladstone, Oregon.

The meeting was adjourned at 4:24 PM.