PREVAILING WAGE ADVISORY COMMITTEE

Meeting Minutes

Thursday, April 19, 2012

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

Members Present	**Members Absent**	**Staff Present**
Mark Holliday	Dee Burch	Christie Hammond
Kevin Jensen	Greg Held	Rachelle Herbert
Darrin L. Lane	Donald Kool	Kate Newhall
Steve Malany		Selena Schryvers
Norman Malbin, Co-chair		Susan Wooley
James McKune		
Shawn Miller, Co-chair		
Carl Redman		
Ken Stroup		

The meeting was called to order at 3 PM by Co-chair Norman Malbin. New committee members Ken Stroup and Darrin L. Lane were introduced.

Work Session Notes of January 12, 2012

The Work Session Notes from January 12, 2012 were unanimously approved as written.

Staff Reports

Committee members were provided the following PWR Staff Reports: Summary of PWR Enforcement Activity for the period July 1, 2011 through March 31, 2012; Open PWR Cases as of April 3, 2012; and a Summary of PWR Education Seminars to date for Fiscal Year 2011 - 2012 as of March 31, 2012.

Denise Voll of the Employment Department provided an overview of the annual Construction Industry Occupational Wage Survey two-panel survey methodology, which was implemented in 2011. She explained that this system uses a stratified random allocation process to divide contractors into two survey "panels" based on contractors' NAICS (North American Industry Classification System) codes, whereby half of all construction contractors are sent a survey in July and the other half in January. Ms. Voll reminded the committee members that instead of reporting a contractor's "peak" week of employment as before, all contractors surveyed report data for the same four selected weeks. Combined, the two panels should always contain a full "universe" of firms, while also providing "fresh" data in the rotation.

Ms. Voll reported that approximately 2000 surveys had been mailed out in January and that the response deadline for the current survey is April 23. A *2012 Construction Industry*

Occupational Wage Survey Schedule was provided, showing upcoming survey timelines and deadlines.
Ms. Voll also reported that a new online reporting system had been launched and approximately 300 survey participants had reported electronically either online or by submitting spreadsheets electronically. Ms. Voll said that the reporting table (matrix of trades and regions in which data is and is not required to be reported) seems to have reduced the number of contractors required to provide data, with about 150 firms indicating they had no data to report. Ms. Voll also said that the survey response rate seems to have improved, and there were very few complaints about the new process.

Staff reported that preliminary survey data will be provided by the Employment Department to BOLI by May 6, allowing enough time for committee members to review the data and comment prior to the publication deadline for the July 1, 2012 Prevailing Wage Rates for Public Works publication.

Ms. Voll indicated that she is compiling an email list to solicit and build a supplemental list of contractors who are believed to have performed work in Oregon, including known out-of-state contractors who may be difficult to locate, especially if they do not have unemployment insurance accounts in Oregon. Ms. Voll asked committee members to provide contact information for any known out-of-state contractors to the Employment Department, and said the Department will solicit information from those contractors. Ms. Voll stated that the CCB license list is too unwieldy to provide good data, and includes contractors who are not required to report data for the survey.

Use of Employment Cost Index (ECI) as Survey Alternative – Denise Voll, Oregon Employment Department

Denise Voll explained what the Employment Cost Index (ECI) is and how it can be used to provide wage data. Ms. Voll noted there would be several problems in using the ECI to index wage rates as an alternative to conducting surveys. For example, if an indexed calculation was used to annualize past data, the results could trend away from what the survey would have determined, creating a difficult reset when survey data is subsequently collected and used. Also, if there is an anomaly in a year, it could persist using the ECI in place of survey data. Additionally, Ms. Voll noted that construction occupations are categorized in the ECI as a group which also includes non-construction occupations such as mining and fishing.

Co-chair Shawn Miller said he would like to better understand the ECI and how it works and think more about whether it might be appropriate to use in the future as an alternative to surveying trades and regions where union rates do not prevail.

Fringe Benefit Requirements under the PWR Law

Staff reminded the committee members that the committee had held a work session on January 12, 2012 to discuss whether to review fringe benefit requirements under the PWR Law. The concern is that the law currently permits contractors to pay employees in cash for fringe benefits, as opposed to requiring the provision of actual health, welfare and/or retirement benefits to the employee, and the belief of some that it would be preferable to require that fringe benefits actually be provided to employees. The outcome of the work session was that the committee generally agreed with the concept that actual benefits should be provided rather than cash, but there might be legal issues to overcome in amending the law accordingly.

John Atkins of the Insurance Division, Oregon Department of Consumer and Business Services, provided an overview of upcoming insurance law changes due to recent federal health care law reform. He explained that theoretically, after 2014, it will be unlawful for an individual not to have health insurance, and uninsured individuals will have to pay a tax penalty unless they qualify for an exemption. He noted, however, that the amount of the penalty would be much less than the actual cost of purchasing insurance.

Mr. Atkins further explained that insurance policies will be required to provide certain levels of benefits and there will be state advisory committees established that are responsible for designing qualifying state plans. He said that Oregon already has the Oregon Health Insurance Exchange, which is operated by a public corporation established by the Oregon Legislature, which pre-dates the federal Health Care Act. Mr. Atkins said that the levels of mandated plans (referred to as "gold," "silver," or "bronze") should be similar across the country, and that although the plans may not be exactly the same, certain criteria will need to be met at each level. Mr. Atkins stated that the plan criteria have not yet been provided by the federal government, but what is expected to occur is that plans already existing in Oregon will be made state benchmark plans. Once a benchmark is selected, gold, silver and bronze plans will be created. A "bronze" plan would comprise 60% of the value of a benchmark plan that exists in Oregon for example.

PWAC Discussion

The Committee questioned Mr. Atkins further about the details of the federal law and how its requirements may address the issue of requiring employers/contractors to provide health insurance coverage for employees. The members agreed that they wanted to be proactive in this area and establish a work group to look at coordinating requirements in the PWR law with implementation of the federal health insurance mandate. Mr. Atkins suggested involving a representative from the Oregon Health Insurance Exchange in the work group. It was noted that if the provision of health insurance by employers becomes required by federal law, pursuant to ORS 279C.800(1)(b), which excludes items required by law as fringe benefits, health insurance would no longer be considered a PWR fringe benefit under the law if the employer pays for the benefit.

Norman Malbin, Shawn Miller, Kevin Jensen, John Mohlis, Jim McKune and Carl Redman all expressed interest in participating in a work group relating to the requirements of the health insurance mandate and the PWR law. Norm Malbin said he would convene the work group.

Next Meeting

The next regularly scheduled Prevailing Wage Advisory Committee meeting will be held:

Time: 3-4:30pm
Date: Thursday, July 19, 2012
Place: International Union of Operating Engineers, Gladstone, Oregon.

The meeting was adjourned at 4:30 PM.