

REBOUND



A BUILDING TRADES ORGANIZATION
ALWAYS STRONG, ALWAYS GROWING



APRIL 2005 NEWS UPDATE

BUT WHAT HAVE WE DONE FOR YOU LATELY? *A Message from the Director*

REBOUND has been working hard on behalf of its members, focusing its attention on four major areas: Monitoring & Enforcement of Prevailing Wage Projects; Challenging Existing Policies and Decisions; Establishing and Maintaining Legal Precedents; and Developing and Protecting Worker Rights Legislation.

As always, we continue to find contractors who violate prevailing wage laws, and we make sure that they pay their workers all of the money that is owed to them. Only by continuing to force unscrupulous contractors to pay the correct prevailing wages will they stop underbidding the honest contractors. We are eager to compete for work – but it's got to be on a level playing field.

We'd like to extend special thanks to our Board Members, all of whom work so diligently to support us in our monitoring, enforcement and wage collection efforts. You'll be reading about some special cases in this newsletter.

Thanks also to our Executive Committee, for their dedication and guidance. It puts REBOUND on the cutting edge of public works enforcement.

Our excellent Investigative Staff, John Iles and Tim Silsbee, work diligently to provide you with the best service available. If you have any questions or if you need to contact us about work on a prevailing wage site, give one of them a call and they'll be happy to help you. You can always contact Adriana Lash, our most efficient Office Manager, who is always glad to assist you.

It is a privilege to work with so dedicated a group. We thank you for your continuing support.

Miriam Israel Moses

Miriam

Executive Director

2004 – 2005 PREVAILING WAGE COLLECTIONS TOP A QUARTER OF A MILLION DOLLARS

IBEW	
Signal Electric:	\$30,970.00
M&M Harrison Electric:	\$13,835.77
RES (Renewable Energy Source):	\$15,451.41
Northwest Lighting & Electrical:	\$48,215.06
Sheridan Electric:	\$22,300.00
Leavenworth Electric:	\$10,846.80
Pro Electric (Citywide Electric):	\$75,295.00
Boone Electric:	\$2,411.05
Kaestner Electric:	\$2,060.28
Northwest Edison:	\$900.21
TOTAL	\$222,285.58

UA Plumbers & Pipe Fitters	
Hydro Mechanical:	\$12,331.74
Statewide Mechanical:	\$1,700.00
Big Sky Custodial:	\$6,000.00
Three Rivers Mechanical:	\$19,933.48
Evergreen Plumbing & Heating:	\$250.00
TOTAL	\$40,215.22

Iron Workers	
Renewable Energy Resources:	\$15,451.41
ASI/RCC Inc.	\$11,517.11
TOTAL	\$26,968.52

Roofers & Water-Proofers	
Cobra Roofing: CITC Ratio:	Resolved
Southwest Const. - Workers Comp	Resolved

Elevator Constructors	
Armstrong Elevators:	\$10,000.00
TOTAL	\$10,000.00

GRAND TOTAL:	\$299,469.32
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Public Works Cases - Continued on P. 3

REBOUND'S LEGAL AND ISSUE CHALLENGES

REBOUND challenges contractors, public agencies, and the government, whenever the system is abused or misused. It is our ongoing mission to monitor compliance and insist through our challenges, that the integrity and spirit of the law be maintained. Some examples of our current work and cases include:

ELECTRONIC TECHS AT MCCAW OPERA HOUSE:

The L&I prevailing wage complaint case against D.W. Close and Burke Electric for utilizing Electronic Technicians to perform Wireman work at McCaw Hall has been resolved in favor of the workers. **The judgment is \$10,508. in back wages and \$2,101. in penalties against Close, and \$110,363.70 in wages and \$22,072 in penalties against Burke.** There may yet be appeals, but it is a sweet victory. Kudos to our own President Greg Boyd, IBEW 46, for his expertise & extensive work on this case.

MERLINO CONSTRUCTION - SEA-TAC AIRPORT:

REBOUND is preparing a challenge to Merlino Construction's use of Laborers instead of Plumbers, Pipe Fitters and Sprinkler Fitters for the installation of pressurized pipe at Sea-Tac Airport. We have been pursuing all means possible to bring Merlino into compliance and will not stop until we do. Our contractors cannot successfully bid on projects when unscrupulous contractors are able to underbid on projects by using misclassified, lower paid workers. Special thanks to Jim Moss of UA, Local 32 and Mike Dahl, UA Sprinkler Fitters, 699, who have worked so hard to bring Merlino into compliance.

KINDER-MORGAN AT THE PORT OF SEATTLE:

REBOUND has been hard at work in its efforts to force the State to make a determination that the work being performed by Kinder Morgan at the Port of Seattle, which is relocating its tank farm at the request of the Port – with up to 70% of the cost funded by the Port – is actually a public work that should have been put out for public bid. Had this occurred, our contractors would have had an opportunity to bid on the contract and this work would have been available to our workers. We must establish a legal precedent that this type of jointly funded project, performed at the request of a public agency, is, in fact, a public work. Kudos to Randy Scott at UA Local 32 for his ongoing involvement and dedication to resolving this issue.

CAISSONS – TACOMA NARROWS BRIDGE:

REBOUND was successful in its challenge to have the work of caisson construction, along with catwalks and railings, determined to be the work of Iron Workers. Until we became involved, the work was being performed by joint crews of Iron Workers and Carpenters, who were being paid at the lower Carpenter rate. As a result of our intervention, all workers were paid at the higher Iron Worker rate which created more opportunities for our members to work on the project. Special thanks to Dave Johnson and T.A. "Red" Biggins of Iron Workers, Local 86 for their time and expertise.

CUTTING EDGES - TACOMA NARROWS BRIDGE:

On behalf of the Puget Sound Metal Trades Council, REBOUND challenged the State's determination that the construction of the cutting edges for the Tacoma Narrows' Bridge should be paid at Shipyard rates. Our paper establishes that the cutting edges are an intrinsic part of the structural foundation of the bridge, requiring the work to be paid at construction rates.

PUBLIC SCHOOL EMPLOYEES LAWSUIT DEMANDING INCLUSION ON PREVAILING WAGE SURVEYS.

The Public School Employees Union has filed a lawsuit against the state (L&I), attempting to force them to include public employee wages in prevailing wage surveys. While this would help their members, it could have a devastating impact on building and construction trades union workers because most unions have separate contracts for their public employee members.

REBOUND has joined forces with Rick Bender (State Labor Council), Dave Johnson (State Building Trades Council), and attorney Dick Robblee, to intervene in this lawsuit and challenge the survey results for the benefit of all building trades' members. REBOUND has found flaws in the State's survey and presented these to the State as its challenge. If successful, the wages would return to their pre-survey level (about \$5.00 per hour higher than the current prevailing wage.) and the lawsuit will be withdrawn.

CHALLENGE TO OVERTIME WAGE CALCULATIONS:

REBOUND, working with the State Building Trades and the Laborers, has challenged L&I's policy that allows overtime wages for hours over 40 on a public work to be calculated using an average of public and private work wages in a given work-week. This 1994 policy reverses one which upheld worker rights to overtime prevailing wage rates. The revised policy erodes worker rights and it will not stand unchallenged.

REBOUND LEGISLATIVE EFFORTS

We are pleased to report that REBOUND has been a consistently strong player in this year's legislative session. REBOUND has testified at several hearings and submitted briefing papers to State Legislators on a variety of issues and bills that would have direct impacts on our workers. You can view our work on our website at <http://www.rebound.org>. Press the "Work Papers" link on the left side of the screen.

Among other bills our work included full support of the following legislation:

- 15% Apprenticeship Set-aside on public works project (Signed by the Governor);
- Unemployment Legislation to restore the equity that was removed in the last session;
- 30% increase to Prevailing Wage fund for added enforcement personnel;
- Increased Administrative Remedies to be imposed by L&I for wage violations;
- Sprinkler Systems retrofit for halls (100 or more occupancy) where alcohol is sold;
- Sole-Proprietors required to maintain active industrial insurance accounts for themselves;
- All agencies to require "responsible bidder" language as in RCW 43.19.1911

Of those bills that we supported, one has already become law, and all but two are still alive.

We successfully opposed legislation that is contrary to workers' interests. Examples are:

- Public Agency to pay \$10,000 to lowest bidder when all bids are rejected;
- General Administration to increase concurrent job order contracts from 2 to 10;
- General Administration to waive bonds requirements for contracts under \$200,000;
- School Districts to raise limit for in-house work from \$15,000 to \$100,000;
- Fire Districts to utilize volunteer labor in constructing and repairing firehouses;
- Good Cause required with notice in writing for public agency to reject all bids.

Of those bills that we opposed, all but two died in Committee and those that are still alive have been amended in labor's favor.

2004 – 2005 PUBLIC WORKS CASES

Continued from P.1

When a contractor is caught and forced to pay the prevailing wages, both current and retroactive, the underbidding that secured the job will not result in increased profit and, in fact, may result in a loss. The level playing field set up for bidding on public works contracts is critical to our retaining a competitive edge. When you are paying for the very best, why not hire the very best... hire union!!!

The cases listed here are only a smattering of cases where prevailing wages have been collected. They do not include USDOL cases or cases that are not reported to Labor and Industries because, as a result of our visibility on the projects, the contractors have come into compliance. They also don't include investigations into work being performed by non-member trades. These sometimes result from our investigation into an entire project. Finally, for the most part, they do not include licensing, registration, apprenticeship, industrial insurance, and safety violations, of which there are more than we can list.

Other types of investigations that don't show up on a list of monies collected are those like our Southwest Construction investigation done at the request of Bill Kemble, Roofers, Local 54. Bill believed that Southwest was not reporting all of the work that was being performed to Industrial Insurance. He was right, but our investigation found that a contractor on a Federal Project who bids as a Women or Minority Business need only perform 15% of the work, and all of that 15% may be administrative. So, Southwest got around the law.

If the contractor subs the remaining 85% of the work (which is all of the construction work) to a construction contractor, then the offending contractor doesn't have any actual construction work to perform. As such, there is none to report to Industrial Insurance. This back-door exemption from construction Workers' Comp rates gives the contractor a definitive bidding advantage.

These types of cases don't show as dollars paid, but they are critical to our success.



NEW ENFORCEMENT STRATEGIES

REBOUND has begun some exciting new work by expanding its methods of collection.

At last count, it took L&I an average of 285 days to resolve a prevailing wage claim. L&I has only six agents dedicated to all 39 Counties in the state. When you add these 285 days to another 90 days for our own investigation prior to turning a case over to L&I, the result is approximately 1 year. That's far too long for a worker to wait for wages, and it's far too long for a contractor to violate the law and not pay those wages.

A new alternative dispute resolution (ADR) is currently in the works with the King County Inter-Local Dispute Resolution Program. This program would provide free mediation services for workers and contractors and would affect much faster settlements. If there is no satisfactory settlement, further legal action is not precluded.

We believe that the threat of a legal action, or a lien on retainage or on a performance bond will be a strong incentive for contractors to decide to participate in ADR and we are looking forward to adding it as an effective enforcement tool.

Bypassing L&I whenever appropriate will also let Prime Contractors and Bonding Companies know that the contractors in question are violating the law. General contractors will not be so eager to work with subs that cause them to sacrifice some of their retainage to satisfy a lien, and bonding companies will not be so eager to bond contractors for whom they had to pay back wages and resolve wage violations. Without a bond, a contractor cannot perform public work. It's almost as good as a legal debarment.

Working with our attorneys we've developed a notice to bonding companies and public agencies that lets them know that we have found alleged violations against a given contractor. We think that they should be made aware of potential problems.

Finally, we are looking into ways of having the Director of L&I be bound by court decisions, or judgments, for the purposes of "striking" a contractor. Two adjudged violations by L&I is enough to debar a contract from bidding on public works. If we can get strikes exercising our legal right to private action, we could begin to have many more contractors debarred – and ultimately stopping the bad players from bidding on public work is what our work is all about.

AND THE FUTURE....

As we look to the future, there is one thing that stands out as our most critical need:

The continued support of our rank and file membership and our member unions!

- Having members out there on the job who continue to contact us with possible violations;
- Having members and friends on the job who hand out our booklet "What Every Worker Should Know," (available in English and Spanish);
- Having your continued understanding of the importance of the work that we do in ensuring the future of organized labor;
- Having your ongoing support of our efforts through your nickel-an-hour contributions;

It always comes down to people, and you are the people who make REBOUND possible.

And because of the solidarity that is achieved when we all come together in a common cause, we can continue to ensure that organized labor remains a constantly strong and growing force in this state.

**DON'T FORGET ABOUT OUR ANNUAL ACADEMIC SCHOLARSHIP
REQUEST AN APPLICATION – REWARD OUR STUDENTS – HELP TEACH OUR CAUSE**

