

SENATE HEARING SLIP

(Please Print Plainly)

8978

DATE: Oct. 17, 2001

BILL NO. SB 268

OR

SUBJECT Payroll Record

Inspection

John Metcalf

(NAME)

501 E. Washington Ave.

(Street Address or Route Number)

Madison, WI

(City and Zip Code)

WI Mfg. & Commerce

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/17/01

BILL NO. SB 268

OR

SUBJECT _____

JOHN MICLETTE

(NAME)

5330 WALK STREET

(Street Address or Route Number)

MADISON, WI 53718

(City and Zip Code)

ABC OF MISDEEDS

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/12/01

BILL NO. SB 268

OR

SUBJECT _____

Ken Walsh

(NAME)

15 N. Pinkney Suite

(Street Address or Route Number) 102

Madison WI 53703

(City and Zip Code)

Teamsters JT Council

(Representing) 39

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10-17-01

BILL NO. 268
OR

SUBJECT _____

(NAME) Lumard Eccleston Jr.

(Street Address or Route Number) 1602 S. Park St.

(City and Zip Code) Madison WI. 53715

(Representing) IBEW L.U. 159

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/17/01

BILL NO. SB 268
OR

SUBJECT _____

(NAME) Dianne Keece

(Street Address or Route Number) 6333 W Blue Mountain

(City and Zip Code) Milwaukee 53213

(Representing) WI State AFL-CIO

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10/17/01

BILL NO. SB 268

OR
SUBJECT _____

Ann M. McNeary
(NAME)
1221 Sunfield #3
(Street Address or Route Number)
Sun Prairie 53590
(City and Zip Code)
CUA WI Political
(Representing) Council

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: Oct 17, 2001

BILL NO. SB 268

OR
SUBJECT _____

Sen. Bob Mundt
(NAME)
(Street Address or Route Number)
(City and Zip Code)
22nd Dist
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: _____

BILL NO. SB 268

OR
SUBJECT Rev. Wise

Mark Reichl
(NAME)
(Street Address or Route Number)
115 W Main St
(City and Zip Code)
Madison WI
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11-17-01

BILL NO. SB 268

OR

SUBJECT _____

(NAME) THE REGISTER

(Street Address or Route Number) 5211 W. STEWARD RD

(City and Zip Code) WIS WIS

(Representing) Wld. Build + Constr. Trades Council

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

DON'T WANT TO SPEAK FIRST

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 10-17-01

BILL NO. SB 268

OR

SUBJECT _____

(NAME) Page Behavior

(Street Address or Route Number) 1142 Spaight St.

(City and Zip Code) Madison WI 53703

(Representing) IREW

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 11/7/01

BILL NO. SB 268

OR

SUBJECT _____

(NAME) Sen. Brian Burke

(Street Address or Route Number) _____

(City and Zip Code) _____

(Representing) SD3

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

WISCONSIN STATE CONFERENCE

**International
Electrical**



**Brotherhood
Workers**

Affiliated with the AFL-CIO and All Central Bodies

Senator David Hansen
Chair, Committee on Labor and Agriculture
Wisconsin State Senate
P.O. Box 7882
Madison, WI 53707-7882

October 14, 2001

Dear Senator Hansen:

The International Brotherhood of Electrical Workers (IBEW) State Conference strongly supports Senate Bill 268. We believe SB 268 serves as a necessary first step toward improving compliance and enforcement of the prevailing wage law. We respectfully request your approval of SB 268 when it is considered by your committee.

Abuses of the prevailing wage law have become more prevalent in recent years. Unscrupulous employers and some in municipal government have devised or discovered various methods of circumventing payment of the wage rates determined for public works projects by the Department of Workforce Development (DWD). A primary reason that contractors disregard the prevailing wage requirements is because there is no monitoring mechanism. SB 268 will open the process to permit other interested parties the opportunity to assist in monitoring wages paid on public works projects.

Although I will be unable to appear before your committee on Wednesday, October 17, 2001, to offer testimony, I have written a position paper addressing the benefits of SB 268 in greater detail. I have included a copy for your review.

Senator Hansen, I speak for the entire IBEW State Conference in thanking you for your efforts to represent our members and the workers of Wisconsin. If you are in need of further information regarding the IBEW position on SB 268, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Leon Burzynski".

Leon Burzynski

Leon Burzynski
IBEW State Conference
3303 South 103rd Street
Milwaukee, WI 53227

Phone: 414-327-5202
Fax: 414-327-3655
Email: leonbur@execpc.com
Home: 414-427-8504



The Impact of SB 268

Improvement to Wisconsin Prevailing Wage Law

History and Trends

The Wisconsin prevailing wage law has served as a steadying influence in state public works projects since its adoption in 1933. For many years enforcement was a function of certified payrolls being submitted to municipal agencies and inspected for compliance. In recent years, the funding of positions for compliance and enforcement became one of the many casualties of budget cutting at local and at state levels.

It is no coincidence that, as enforcement was eliminated, unscrupulous employers and a few municipal construction users discovered or created new methods to avoid paying their workers the appropriate prevailing wage. A primary reason for this disturbing tendency to disregard the provisions of the prevailing wage is that there is no inspection of payroll records for public works construction unless a complaint is filed. Employers who do not pay the proper wages can safely assume they will be safe from detection.

SB 268—Specific Improvements

The provisions of SB 268 will lift the veil of secrecy behind which law-breaking employers are presently hiding. At a minimum, the knowledge that wages paid on public works projects are subject to public scrutiny would certainly cause an unprincipled contractor to reconsider any decision to disregard the prevailing wage that was established by the Department of Workforce Development (DWD) for his/her employees.

SB 268 will address an additional component in the prevailing wage compliance process. According to the Wisconsin Legislative Audit Bureau (LAB) report, An Evaluation: Enforcement of Prevailing Wage Laws (April 2000), DWD does not monitor contractors' payroll records (p. 19). The report goes on to state that DWD staff spends their time determining wage rates and investigating complaints. SB 268 would permit other interested parties to assist in the vital task of monitoring and allow DWD to continue investigating complaints and determining wage rates.

Need for Increased Enforcement

The need for increased enforcement can easily be established by reviewing the previously referenced LAB report. Of 116 complaint investigations completed by DWD in 1998, 94 complaints (81%) were substantiated (p. 24). The original 116 complaints involved 58 contractors. DWD determined that several of the contractors for which complaints were investigated had repeatedly violated the prevailing wage statutes in the prior years (p. 36).

The limited statistics from the LAB report cited in the previous paragraph clearly establish the need for more rigorous enforcement of the Wisconsin prevailing wage laws. The first step in enforcement is discovery. SB 268 provides a meaningful step in that direction.

Employee Privacy Issues

SB 268 treats the employee individual privacy issue with the highest regard. This is accomplished by requiring deletion (redacting) of any personally identifiable information prior to making the records public. Opponents have stated redacting is overly difficult or impossible. The evidence is clearly to the contrary. The present prevailing wage survey contains similar requirements. Although survey participation is voluntary, over three thousand contractors annually report on thousands of jobs and millions of man-hours worked on non-public works job sites (LAB, p. 16).

The LAB study reported that it appeared contractors could submit payroll reports without significant additional effort (p. 21). The report went on to state that contractors already compile much of this information for other reasons. With the simplified computer payroll programs available today, there is no doubt that a few clicks of a mouse button would permit contractors to convert an existing payroll report to one meeting the redacting requirements of SB 268.

SB 268—Unintended Benefits

Adoption and implementation of SB 268 will result in additional unintentional benefits. A primary benefit will be that underpaid workers will receive their additional wages in a more timely manner. At present, typical cases of prevailing wage avoidance have a common denominator of complaints not being filed until after the job is completed. It then takes, as in 1998, an average of 304 days to complete the DWD investigation (LAB, p. 25). If the decision is appealed, as 17 cases were in 1998, it takes an average of 219 days to resolve the appeal (LAB, p. 25). The net result is that workers with legitimate wage claims wait one, two, or three years to be made whole.

How does SB 268 remedy this travesty? The presumption can safely be made that the open records attribute of SB 268 will lead to discovery of non-compliance at an earlier stage in the process. Workers will not have to wait 2-3 years to be made whole for wage and benefit shortages on prevailing wage jobs. From personal experience, I am quite aware that the prevailing wage system works more efficiently when the discovery of underpayment is made while the job is in progress, as opposed to waiting until the final inspections are made and the contractor has moved to another job site. Earlier intervention will result in fewer cases as workers become aware of wage discrepancies or inconsistencies and employers are made aware of them.

Beyond SB 268

The observations made in this position paper do not begin to address the inequities permitted by the present methods being used to enforce the Wisconsin prevailing wage law. The issues of repeat offenders, contractors who do not cooperate during the investigation, department inaction during investigation periods, not assessing penalties when it is clear a contractor underpaid workers, not assessing liquidated damages, and a feeble debarment process are but a few additional components of the prevailing wage law that deserve attention. SB 268 serves as a significant first step toward correcting inequities in the prevailing wage compliance and enforcement process.

Leon Burzynski
Wisconsin State Conference
International Brotherhood of Electrical Workers
3303 South 103rd Street
Milwaukee, WI 53227



Wisconsin Department of Transportation
Office of General Counsel



MEMORANDUM

To: Representative Lee Meyerhofer
From: Allyn Lepaska
Date: October 15, 2001
Subject: A.B. 528 and S.B. 268

The Wisconsin Department of Transportation enforces the prevailing wage rate on state highway projects. Section 103.50(8) requires contractors to "keep and furnish upon the request by the department of transportation, copies of payrolls and other records and information related to compliance of this section."

A.B. 528 and S.B. 268 create a new section 103.50(6m) that requires every contractor to "keep full and adequate records clearly indicating the name and trade or occupation of every person performing the work described in sub. (2m) and an accurate number of hours worked by each of those persons and the actual hours worked." It then provides that "any person" may inspect and copy those records without personally identifiable information.

Our concern is that a contractor may read the more restrictive (6m) to delete personal information on records it is required to provide the department and make enforcement more difficult. The drafter is aware of the Department's concerns and can clarify same if you so request.

CALL drafter

In addition, prevailing wages are paid based upon the classification of the work performed so it would be more helpful for the contractor to keep a record of the classification of the work performed rather than the occupation of the person performing the work.

If you have any questions, feel free to contact me.

The Impact of SB 268

Improvement to Wisconsin Prevailing Wage Law

History and Trends

The Wisconsin prevailing wage law has served as a steadying influence in state public works projects since its adoption in 1933. For many years enforcement was a function of certified payrolls being submitted to municipal agencies and inspected for compliance. In recent years, the funding of positions for compliance and enforcement became one of the many casualties of budget cutting at local and at state levels.

It is no coincidence that, as enforcement was eliminated, unscrupulous employers and a few municipal construction users discovered or created new methods to avoid paying their workers the appropriate prevailing wage. A primary reason for this disturbing tendency to disregard the provisions of the prevailing wage is that there is no inspection of payroll records for public works construction unless a complaint is filed. Employers who do not pay the proper wages can safely assume they will be safe from detection.

SB 268—Specific Improvements

The provisions of SB 268 will lift the veil of secrecy behind which law-breaking employers are presently hiding. At a minimum, the knowledge that wages paid on public works projects are subject to public scrutiny would certainly cause an unprincipled contractor to reconsider any decision to disregard the prevailing wage that was established by the Department of Workforce Development (DWD) for his/her employees.

SB 268 will address an additional component in the prevailing wage compliance process. According to the Wisconsin Legislative Audit Bureau (LAB) report, An Evaluation: Enforcement of Prevailing Wage Laws (April 2000), DWD does not monitor contractors' payroll records (p. 19). The report goes on to state that DWD staff spends their time determining wage rates and investigating complaints. SB 268 would permit other interested parties to assist in the vital task of monitoring and allow DWD to continue investigating complaints and determining wage rates.

Need for Increased Enforcement

The need for increased enforcement can easily be established by reviewing the previously referenced LAB report. Of 116 complaint investigations completed by DWD in 1998, 94 complaints (81%) were substantiated (p. 24). The original 116 complaints involved 58 contractors. DWD determined that several of the contractors for which complaints were investigated had repeatedly violated the prevailing wage statutes in the prior years (p. 36).

The limited statistics from the LAB report cited in the previous paragraph clearly establish the need for more rigorous enforcement of the Wisconsin prevailing wage laws. The first step in enforcement is discovery. SB 268 provides a meaningful step in that direction.

Employee Privacy Issues

SB 268 treats the employee individual privacy issue with the highest regard. This is accomplished by requiring deletion (redacting) of any personally identifiable information prior to making the records public. Opponents have stated redacting is overly difficult or impossible. The evidence is clearly to the contrary. The present prevailing wage survey contains similar requirements. Although survey participation is voluntary, over three thousand contractors annually report on thousands of jobs and millions of man-hours worked on non-public works job sites (LAB, p. 16).

The LAB study reported that it appeared contractors could submit payroll reports without significant additional effort (p. 21). The report went on to state that contractors already compile much of this information for other reasons. With the simplified computer payroll programs available today, there is no doubt that a few clicks of a mouse button would permit contractors to convert an existing payroll report to one meeting the redacting requirements of SB 268.

SB 268—Unintended Benefits

Adoption and implementation of SB 268 will result in additional unintentional benefits. A primary benefit will be that underpaid workers will receive their additional wages in a more timely manner. At present, typical cases of prevailing wage avoidance have a common denominator of complaints not being filed until after the job is completed. It then takes, as in 1998, an average of 304 days to complete the DWD investigation (LAB, p. 25). If the decision is appealed, as 17 cases were in 1998, it takes an average of 219 days to resolve the appeal (LAB, p. 25). The net result is that workers with legitimate wage claims wait one, two, or three years to be made whole.

How does SB 268 remedy this travesty? The presumption can safely be made that the open records attribute of SB 268 will lead to discovery of non-compliance at an earlier stage in the process. Workers will not have to wait 2-3 years to be made whole for wage and benefit shortages on prevailing wage jobs. From personal experience, I am quite aware that the prevailing wage system works more efficiently when the discovery of underpayment is made while the job is in progress, as opposed to waiting until the final inspections are made and the contractor has moved to another job site. Earlier intervention will result in fewer cases as workers become aware of wage discrepancies or inconsistencies and employers are made aware of them.

Beyond SB 268

The observations made in this position paper do not begin to address the inequities permitted by the present methods being used to enforce the Wisconsin prevailing wage law. The issues of repeat offenders, contractors who do not cooperate during the investigation, department inaction during investigation periods, not assessing penalties when it is clear a contractor underpaid workers, not assessing liquidated damages, and a feeble debarment process are but a few additional components of the prevailing wage law that deserve attention. SB 268 serves as a significant first step toward correcting inequities in the prevailing wage compliance and enforcement process.

Leon Burzynski
Wisconsin State Conference
International Brotherhood of Electrical Workers
3303 South 103rd Street
Milwaukee, WI 53227