

APR - 9 2012

BEFORE THE
LABOR AND INDUSTRIAL RELATIONS COMMISSION
JEFFERSON CITY, MISSOURILABOR AND INDUSTRIAL
RELATIONS COMMISSION

In the Matter of: Objection to Annual Wage Order No. 19, Issued in March 2012, as it Pertains to the Occupational Title of "Ironworker" in Callaway County, Said County being Within the Geographic Jurisdiction of Local No. 396, International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers of St. Louis and Vicinity, AFL-CIO.

On Behalf of: Local No. 396, International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers of St. Louis and Vicinity, AFL-CIO,

Objector.

OBJECTION

COMES NOW Local No. 396, International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers of St. Louis and Vicinity, AFL-CIO (hereinafter "Objector" or "Local No. 396") and files its Objection to Annual Wage Order No. 19 and states therefor as follows:

1. Local No. 396, International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers of St. Louis and Vicinity, AFL-CIO is an unincorporated association representing members who perform work in the construction trades and specifically under the Occupational Title of "Ironworker" throughout the Eastern half of the State of Missouri of the type covered by Section 290.210 RSMo., et seq. (the "Missouri Prevailing Wage Law"). These individual Union members perform work of the type at issue in this Objection on a regular basis. Through well-established precedent, the Objector has historically been permitted to represent the interests of its members before the Labor and Industrial Relations Commission, as have other unincorporated associations, on matters of Objections to proposed Annual Wage Orders.

2. A review of the applicable collective bargaining agreement(s), which agreement(s) must be considered in establishing prevailing wages, and of construction practices within the objected to County which constitute a portion of the geographic jurisdiction of Local No. 396, reveals that the Basic Hourly Rates and Total Fringe Benefits in proposed Annual wage Order No. 19 are incorrect, in that they do not correspond to the collectively bargained rates for Callaway County, as established by Local No. 396:

a. The rates in proposed Annual Wage Order No. 19 for the Ironworker Occupational Title in Callaway County is \$25.50 per hour, with \$24.30 in fringe benefits. The prevailing collectively bargained rate in Callaway County pursuant to the Local No. 396 collective bargaining agreement is \$31.98 per hour, with a fringe benefit of \$19.95. *See*, Exhibit 1.

3. The current prevailing levels for Ironworker are the rates as established by collective bargaining agreements, and hours actually worked, which rates applied to Callaway County and which are on file with the Missouri Division of Labor standards. Objector is prepared to present evidence in the form of letters from signatory contractors (*see*, Affidavit of Bill Brennell (“Brennell Affidavit”); *see also*, Exhibit 2), establishing the following hours actually worked at the foregoing rates in Callaway County:

8,955.5 hours (372.5 hours found in survey)

4. These rates as described are not only the collectively bargained rates, but there are also workmen ready, willing and able to perform work in Callaway County at such rates. Such workmen have, in fact, performed such work at such rates. Work is performed at these rates in these localities to a greater extent than is work performed at the published rate in the objected to

proposed Annual Wage Order and such work has been performed to a greater extent at all times pertinent to the Annual Wage Order at issue.

5. In addition, the same review reveals that a change must be made in the Overtime and Holiday Schedules in Callaway County, per the applicable collective bargaining agreements. The Overtime Schedule should be as follows in the objected to locality (same as Overtime Schedule 11):

Means eight (8) hours shall constitute a day's work, with the starting time to be established between 6:00 a.m. and 8:00 a.m. from Monday to Friday. Time and one-half (1½) shall be paid for first two (2) hours of overtime Monday through Friday and the first eight (8) hours on Saturday. All other overtime hours Monday through Saturday shall be paid at double (2) time rate. Double (2) time shall be paid for all time on Sunday and recognized holidays or the days observed in lieu of these holidays. *See*, Exhibit 1.

6. The Holiday Schedule should be as follows in the objected to locality (same as Holiday Schedule 8):

All work performed on New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day, or the days observed in lieu of these holidays, shall be paid at the double time rate of pay. *See*, Exhibit 1.

7. The foregoing proposed changes to Annual Wage Order No. 19 are reflective of the Objector's collective bargaining agreement with signatory employers, which agreement prevails throughout the geographic jurisdiction at issue.

WHEREFORE, it is respectfully requested that the Labor and Industrial Relations Commission consider favorably the Objection of Objector and revise the Basic Hourly Rates and Total Fringe Benefits, and Overtime and Holiday Schedules in Callaway County to reflect the practice, collective bargaining agreement and prevailing Practices throughout the jurisdiction in question, and for such other changes as are deemed appropriate.

Respectfully submitted,

BARTLEY GOFFSTEIN, L.L.C.



JAMES R. KIMMEY, III, No. 51148
4399 Laclede Avenue
St. Louis, MO 63108
Telephone: 314-531-1054
Facsimile: 314-531-1131
jkimmey@bgbllaw.com

Attorneys for Objector

CERTIFICATE OF SERVICE

An original and two (2) copies of the foregoing were served by placing same in overnight Federal Express delivery on the Labor and Industrial Relations Commission, 3315 West Truman Boulevard, P. O. Box 599, Jefferson City, MO 65102-0599, and copies were served on the following individuals by placing same, postage prepaid, in the U. S. Mails this 6 day of April, 2012.

Carla Buschjost, Director
Division of Labor Standards
3315 West Truman Boulevard
P. O. Box 449
Jefferson City, MO 65102-0449

Sara Dick, Assistant Attorney General
Office of the Attorney General
Broadway State Office Building
221 West High Street, 4th Floor
P. O. Box 899
Jefferson City, MO 65102-0899

Pamela Hofmann, Secretary
Labor and Industrial Relations Commission
3315 West Truman Blvd.
Jefferson City, MO 65109-6805

