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THE CONTRACTOR'S NEWS

February 2011

Award Winners and Nominees Announced for WECA's Event "Celebration of Merit Shop Success"

Celebration of Merit Shop Success
 March 3, 2011
 The Omni Hotel
 San Diego, CA

WECA is excited to announce that **Jim Ryan of AGC San Diego** and **San Diego City Councilman Carl DeMaio** will both receive awards at our upcoming event "Celebrating a Year of Merit Shop Success", which will take place on the evening of March 3rd at The Omni Hotel in San Diego. Visit

www.goweca.com for event details and to RSVP.

Jim Ryan of AGC San Diego will receive the **WECA Advocacy Award**, which is given by the WECA Government Affairs Committee to the individual who has made outstanding and fundamental contributions to advancing the Association's legislative and/or regulatory goals in the political sphere.

San Diego City Councilman Carl DeMaio will receive the **WECA Free Enterprise Award**, given to a person or group that embraces and advances the concept that the essence of free enterprise is that business is governed by the laws of supply and demand, and not restrained by government interference, regulation or subsidy.

Additional award nominees are:

Member Contractor of the Year is given to the WECA member contractor company that has contributed the greatest involvement and participation in WECA activities and issues that help promote and support the mission and goals of WECA. This year's nominees for Member Contractor of the Year are:

- Butterfield Electric
- Bergelectric Corp.
- H & D Electric

continued on pg. 2

WECA Announces Strategic Partnership with Education and Compliance Group

WECA is pleased to announce a strategic partnership with a new education and compliance program that launched on February 1, 2011 called Construction Trades Compliance Program (CTCP). CTCP's goal is to educate the community about the negative impact of hiring electrical contractors that use uncertified electricians, pay workers with untaxed cash payments, and operate without legally required workers' compensation insurance. The education side of the program will seek to promote the value of hiring a contractor that only uses qualified, certified electricians and follows all applicable laws.

Aside from concerns about safety and quality, WECA realizes that the proliferation of contractors who violate regulations meant to increase quality and safety creates an uneven playing field wherein those unscrupulous contractors have an unfair financial advantage over contractors who "play fair."

In addition to educating the public about the benefits of only hiring contractors who follow the rules, the compliance aspect of CTCP will undertake efforts to investigate contractors who are suspected of violating industry safety and quality laws, such as by utilizing uncertified electricians or operating without workers' compensation insurance. Any evidence collected by CTCP will be turned over to the appropriate State agency for further investigation and enforcement.

WECA believes that partnering with this dual-focused program will benefit our member contractors by ensuring that the investment they make in training, safety and quality does not put them at a disadvantage when bidding against contractors that do not have the same priorities. We believe that CTCP will send a strong message to contractors that do not follow the rules that they can no longer hide under the radar.

If you would like to pass on information about a contractor who may be engaged in violating the regulations meant to ensure safety and quality in the electrical trade, please call CTCP at (877) 334-1777 to make an anonymous report. Information needed by CTCP in order to follow up: Job Location, address, name of company or individual, and the suspected violation(s).

Reduce your exposure to costly fines and employee lawsuits.

HR Compliance Tools at Your Fingertips

HRCalifornia Express is an online resource that provides HR forms and plain-English explanations of California and federal employment law. It gives employers the tools they need to perform basic HR tasks in the office and in the field. And because it's developed by the California Chamber of Commerce, you can be sure that the information is accurate and up-to-date. WECA provides HRCalifornia Express FREE of charge to its members (a \$129 value).

Sign up today at
www.goweca.com/hrxcontactform.asp
 or call 877-444-9322 for more information.



Award nominees, cont. from pg. 1:

- Helix Electric
- KS Telecom
- Rex Moore Electrical Contractors & Engineers

Industry Partner Member of the Year is given to the WECA Industry Partner member company that has contributed the greatest involvement and participation in WECA activities and issues that help promote and support the mission and goals of WECA. This year's nominees for Industry Partner Member of the Year are:

- Cook Brown, LLP
- Platt Electrical Supply
- Scott & Baldwin
- Woodruff Sawyer & Co.

WECEF Champion of the Year is given to the industry supplier or member contractor who, in the past year, has demonstrated the most support and commitment to furthering WECEF's mission (furthering educational opportunities in the electrical trade) through the donation of time, money or materials. This year's nominees for WECEF Champion of the Year are:

- Bergelectric Corp.
- Foshay Electric
- Helix Electric
- Johnson Electronics
- Republic Electric West
- SimplexGrinnell

For information on how to get your tickets to this special event, visit WECA's website at www.goweca.com or call (916) 889-7122.

Get to Know Two of

WECA recently held its annual elections and added several new faces to the Board of Directors, including Ron Harvell and Howard Langman. Read below to learn more about the background and interests of these two new Board members:

Howard Langman Hy-Lang Electric

Howard Langman has traveled a long and winding road to arrive on the WECA Board of Directors: originally from South Africa, he arrived in San Diego by way of Ontario, Canada and then Houston, Texas before finally settling down in Southern California in the mid-1980s. He brings over 30 years of experience to his role as a WECA Board member, having been in the electrical contracting business since 1979 when he joined his father's company, operating at that time out of Ontario, Canada.



Langman completed the three-year Ontario Electrical Apprenticeship Program while working for his father's company, but soon the family got tired of the long Canadian winters and moved the business to the warmer climes of Houston in 1981. After heading westward in 1984 to check out a potential new home for the family business, Langman visited San Diego and, like many before him, decided that Southern California would be a great place to live and work. In 1986 his father came out west to join him and the two men founded Hy-Lang Electric in San Diego, where they've been in business ever since.

After running Hy-Lang successfully for 15 years, Langman decided in 2001 that the company needed to invest in formal training for its employees in order to further its growth. After researching available electrical training programs, Langman decided to join WECA because, unlike other merit shop training programs that cover multiple trades, WECA focused solely on the electrical trade.

"We joined WECA in 2001 because we really believed in investing in formal training for our employees," Langman says. "We have been extremely happy with WECA's training programs over the 10 years we've been members and their continual growth and improvement -- they just keep getting better."

When asked about his goals for serving as a WECA Board member, Langman stated that training is his main focus and the service he believes provides the most value to WECA members. He wants to help maintain the continuous improvement and evolution of WECA's training program because he believes it furthers the quality of present and future electricians and is a great resource for a company that believes in quality formal education. In addition to training, Langman also feels strongly about the importance of WECA's advocacy efforts on behalf of its members at the local, state and national levels.

"My business is definitely stronger for belonging to WECA," Langman said. "Things at WECA are going really well in terms of the quality of training that's available; it's been going in a great direction this whole time and I just want to help keep us moving forward."

You can reach Howard Langman at howard@hylang.com or (619) 890-9197.

Join Us for an Open House at our New Sacramento Region Administrative Office & Training Center

Join us on March 16th from 3:30 to 7 p.m. for an Open House at our new Sacramento Region Administrative Office & Training Center. Enjoy complimentary hors d'oeuvres and beverages as well as tours, student demonstrations, a curriculum showcase, membership and class information, Get Wired! Live Webcast and AMPS exhibits, and guest speaker Greg Anderson, Human Resources Director at Rex Moore Electrical Contractors & Engineers as well as Immediate Past President of WECA's Board of Directors. **Please RSVP by March 1st to info@goweca.com or (877) 444-9322.**

CSLB Reminds Contractors of Zero-Tolerance Policy for Uncertified Electricians

The California Contractors State License Board (CSLB) recently included a reminder in its contractor newsletter about CSLB's zero-tolerance policy for uncertified electricians. The reminder is re-printed in full below:

Zero-Tolerance for Uncertified Electricians

CSLB reminds C-10 Electrical contractors of its zero-tolerance enforcement policy for any contractor who willfully employs even one uncertified electrician to perform work as an electrician. The board is legally required to open an investigation and initiate disciplinary action against the contractor, which may include license suspension or revocation, within 60 days of receipt of a referral or complaint from the Division of Apprenticeship Standards (DAS).

Subsections within Labor Code Section 3099 clearly state that certification by DAS is required for anyone who performs work as an electrician for C-10 contractors. DAS is required by Labor Code Section 3099.2 to report violations to CSLB.

Electricians are defined as all persons who engage in the connection of electrical devices for C-10 contractors. It is CSLB's position that electrical work must be performed by a certified electrician, registered electrician trainee or an approved apprentice. Trenching, concrete, framing, and other work that does not involve connecting electrical devices may be performed by noncertified workers.

Questions regarding this CSLB enforcement policy should be directed to Brian Gedney 916.255.4435.



Welcome New Members!

Wells Fargo Insurance Services
(Industry Partner)
Rancho Cordova, CA
(916) 231-1846

Golden State Electrical Contractors, Inc.
(Commercial)
Foresthill, CA
(530) 367-4802

AMP Electrical Contractor, Inc.
(Commercial)
Encino, CA
(818) 990-5402

Green Contractors, Inc.
(Commercial)
Santa Ana, CA
(714) 662- 2040

EA Electric
(Commercial)
Roseville, CA
(916) 425-9788

IES Commercial, Inc.
(Commercial)
Roseville, CA
(916) 724-5426

Pepe's Electric
(Commercial)
Escondido, CA
(760) 803-8926

Energy Wise America
(Commercial)
San Rafael, CA
(866) 598-1541

Wells Electrical, Inc.
(Commercial)
San Francisco, CA
(415) 255-7831

Diversified Electric Co.
(Commercial)
Sacramento, CA
(916) 606-6864

WECA Industry Partner Member Cook Brown Presents: Fundamentals of Federal Contracting

Bidding on federally funded construction projects for the first time? Confused about your labor and employment obligations on federal jobs? Worried that you won't survive an audit by the federal government? Join WECA Industry Partner Member Cook Brown, LLP on March 10, 2011 for a half day discussion regarding labor compliance issues for federal contractors. Visit the Events section of WECA's website at www.goweca.com to download a registration form.

Issues that will be covered during this session will include:

- Labor and employment obligations triggered by the use of American Recovery and Reinvestment Act (ARRA) and other federal funds on construction projects;
- Prevailing wage / apprentice obligations under the Davis Bacon Act;
- Equal employment opportunity / affirmative action obligations enforced by the Office of Federal Contract Compliance Programs (OFCCP);
- Preparing for increased governmental investigations and responding to compliance audits;
- Requirements imposed by Executive Order.

Event details:
 March 10, 2011
 Doubletree Hotel, Sacramento
 2001 Point West Way
 8:00 a.m. – Registration & Breakfast
 8:15 a.m. to 12:30 p.m. – Program
www.cookbrown.com



Mark your Calendars!

15th of every month	Apprentice/Journeyman worksheets/payments due	WECA Sacramento Offices
15th of every month	Dues and PAC contributions due for previous month	WECA Sacramento Offices
March 3, 2011	Joint meeting of WECA Board of Directors & Apprenticeship & Training Committee	The Omni Hotel San Diego 2 to 4 p.m.
March 3rd, 2011	WECA's Event: "Celebration of Merit Shop Success"	The Omni Hotel San Diego Doors open at 5:30 p.m.
March 16, 2011	WECA Open House	Sacramento Region Office & Training Center 3:30 to 7 p.m.
April 6, 2011	Joint Merit Shop Legislative Conference	At the State Capitol Call (916) 538-2360 for details.
April 14th May 12th	WECA Board of Directors Meeting	Sacramento Region Office & Training Center 9 a.m.
April 25th May 24th	Apprenticeship & Training Committee Meeting	Sacramento Region Office & Training Center 9 a.m.

WECA's New Board Members

Ron Harvell, Masters & Associates

Ron Harvell, Vice President of Construction for the California Division of Masters & Associates, comes to the WECA Board with a passion for promoting training and fair and open competition in the electrical trade. Harvell started his career over 25 years ago when he took a part time cable television field tech position as a way to earn some extra money while attending college at the University of Nebraska, where he graduated with a Bachelor's Degree in business and an Associate's Degree in Construction Management.



"I enjoyed the work in the field as a cable television tech so, after I graduated from college, I eventually moved on to working for an electrical contractor since I wanted to use my Construction Management degree," Harvell says. "I started out as a green 'helper' with new boots and fancy blue channel lock tools, then worked my way up to a project superintendent then into the office as a project manager. Now here I am, over 25 years later, still working in the electrical industry and I wouldn't change a thing!"

After moving to the southeast to continue pursuing his career in the electrical industry after college, Harvell eventually became the youngest project manager at Tri-City Electrical in Tampa, Florida. He worked in several places throughout the Southeastern US before heading west to California in 2003 to work for Helix Electric as Director of Business Development. In 2008 he accepted a job with Masters & Associates to open the company's Huntington Beach office. Harvell was the driving force behind Masters & Associates' decision to join WECA in 2010.

"My main motivation for choosing to join WECA over other merit shop associations is the high-quality training programs the Association offers, but another key reason we chose to join WECA is the great assistance we've received on prevailing wage issues we needed help with," Harvell says. "As a WECA member, it's a great feeling to know we have the support and security of knowing help is just a phone call away."

As an example of the support his company has received, Harvell related an experience he recently had while working on a state-funded low-income housing project in Anaheim: His staff needed guidance on residential wage determinations because they were unable to get information on residential wages from the State. In response to his call to WECA for help, WECA Customer Service Consultant Sue Fairbanks organized a conference call including five WECA staff members and a representative from WECA's attorney, along with six people from Masters & Associates, to discuss the risks and requirements on the publicly funded residential project. Harvell says it was an incredibly valuable member service to get that kind of support, and it further reinforced his decision to become a WECA member.

When asked what prompted him to join the WECA Board of Directors, Harvell stated that he believes WECA is truly a member-driven organization and that being a part of the Board will ensure that his voice is heard and allow him to help the organization better represent his company and other members in the Southern California region.

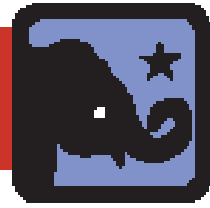
"As a WECA member, it's a great feeling to know we have the support and security of knowing help is just a phone call away."

- Ron Harvell

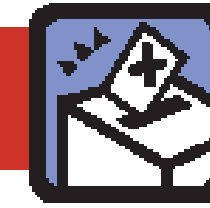
"I saw joining the WECA Board as a chance to reciprocate for the help WECA has given me personally as well as the company I work for whenever we asked for advice on prevailing wage or other labor issues," Harvell said. "I also wanted to have more involvement with the direction of the merit shops in our area. Like many contractors in California, I am not happy with current state laws governing the construction industry and I see WECA as a conduit for change. I want to help WECA continue to lead the industry in its advocacy efforts on behalf of WECA members and their employees."

Harvell stated that his goals as a WECA Board member include establishing a better working relationship with other open shop contractors in the Los Angeles, Orange County and Riverside areas and to assist in leveling the playing field for open shop contractors. He would also like to play an integral part in getting younger people back into the electrical trade and re-instilling the high level of quality he used to see in the trade that once made the title of "electrician" on a project a coveted position.

In addition to his degrees from the University of Nebraska, Ron Harvell has also completed ABC's Superintendent & Project Management training program at Clemson University. He can be reached at (714) 847-1983 or ron.harvell@masters-associates.com.



Political Affairs Update



NLRB Issues Proposed Rule Requiring Contractors to Post a Notice Encouraging Employees to Organize

The National Labor Relations Board (NLRB) has announced a proposed rule requiring businesses to post a notice in break rooms to inform employees of their rights to bargain collectively, distribute union literature or engage in other union activities without reprisal.

The Notice of Proposed Rulemaking was published in the Federal Register on December 22, 2010 and members of the public can submit comments on the proposal for 60 days, until February 22, 2011.

Private-sector employers (including labor organizations) whose workplaces fall under the National Labor Relations Act (NLRA) would be required to post the employee rights notice where other workplace notices are typically posted. If an employer communicates with employees primarily by email or other electronic means, the notice would be posted electronically as well.

The NLRB issued a statement saying: "The intended effects of this action are to increase knowledge of the NLRA among employees, to better enable the exercise of rights under the statute, and to promote statutory compliance by employers and unions."

An NLRB News Release on the Proposed Rule and comment submission guidelines can be found online at http://www.nlrb.gov/shared_files/Press%20Releases/2010/R-2806.pdf; a sample of the notice can be viewed http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf.

If you have any questions or comments on this or any issue, please contact WECA Government Affairs Director Richard Markuson at (916) 538-2360 or richard@pacificadvocacygroup.com.

NLRB Warns States: Don't Mess with Card Check!

Reacting to state efforts to protect workers' right to a secret ballot for union organizing, the National Labor Relations Board recently threatened to sue four states if they did not acknowledge their recent state constitutional amendments violated the U.S. Constitution. The NLRB advised four states that their amendments requiring a secret ballot vote for recognition of a union violate federally protected worker rights and the U.S. Constitution, which states that federal law preempts any conflicting state laws.

Some states have recently passed legislation to protect workers' right to a secret ballot for union organizing in response to looming Federal "Card Check" legislation that would make it easier for unions to organize a workplace by replacing a secret ballot vote and instead allowing labor unions to organize a workplace in which a majority of employees in a bargaining unit sign authorization forms, or "cards," stating they wish to be represented by the union.

While this warning from the NLRB may seem to be just part of the Obama administration's pro-union stance (and it almost assuredly is), this same principal can cut both ways as we saw in a recent case that arose because a law in California barred recipients of State dollars from using those dollars to communicate under Section 8 of the National Labor Relations Act in a non-coercive way with employees, a violation of the federal NLRA.

The US Supreme Courts ruled in *Chamber of Commerce v. Brown* that California's AB 1889, which barred private employers receiving state funds from using the funds to assist, promote, or deter union organizing and prohibited private employers who participate in state programs and who receive state funds from using those funds for the purpose of promoting or hindering union organization, violated the same principal that NLRB is using, namely that a state law cannot violate federally protected worker rights. Section 8 of the NLRA makes it an unfair labor practice for an employer to "interfere with, restrain, or coerce employees in the exercise of the rights guaranteed" in the NLRA.

Contractors be Aware! Mello Roos = Prevailing Wage

If you are preparing a bid on a project that uses a Community Facilities (or Mello-Roos) District ("CFD") or some other form of "public funds" to pay for some or all of the project's required public improvement work, you need to be aware of the recent decision in *Azusa Land Partners v. Department of Industrial Relations*. This case could require you to pay prevailing wages on some or all of the otherwise private development project.

WECA members should all be aware that California's prevailing wage laws (California Labor Code § 1720, et. seq.) impose a host of obligations on certain projects "paid for in whole or in part out of public funds. But the Azusa Land Partners (ALP) case could have huge implications for the development community.

ALP is the owner and developer of a 500-acre master-planned project approved for more than 1,200 homes and 50,000 square feet of commercial space. As a condition of approval, the City of Monrovia required ALP to construct a host of public improvements such as schools, parks, in tract streets and storm drain facilities. ALP asked the City to form a CFD and issue up to \$120 million in bonds to pay for certain eligible facilities. Significantly, the CFD formation documents defined eligible facilities as including all "public infrastructure and facilities required as a condition of approval of the Project." However, ALP only received \$71 million in CFD bond proceeds even though the total cost of the City-required public improvements exceeded \$146 million. A complaint filed by labor, followed by adverse rulings by the State Department of Industrial Relations and the trial court, led ALP to appeal the case to the Appeals Court.

Although CFD bonds are ultimately paid off by the private property owners who benefit, the Court found that CFD bond proceeds are "public funds" that trigger prevailing wage laws. The Court also rejected ALP's attempt to rely on post-CFD formation agreements to limit the prevailing wage obligations to those improvements actually paid for with CFD funds. Instead, under the above facts, the Court ruled that the entire master planned project was a "public work" subject to prevailing wage laws and that prevailing wage requirements applied to all of the project's public infrastructure work regardless of the source of funding.

One should note the following: First, the ALP case is just one appellate court's opinion on some issues not previously addressed in a published decision. Second, ALP's problems would have been worse if the court had applied prevailing wage requirements to all the project's construction activities rather than just the public improvements. Third, an argument still exists that a project can rely on legislative carve outs in Labor Code § 1720(c) to further limit the law's coverage by, for example, establishing from the outset a more narrowly tailored infrastructure and funding agreement with the public agency. Finally, for those of you who are or will be working on projects funded in part or whole by CFD proceeds or other forms of "public funds", the case is proof that labor is watching what you do, and it demonstrates why you should make sure, before you commence work, what your prevailing wage obligations are.

Another Employer Mandate: Time Off for Bone Marrow Donations

Effective January 1, 2011, an employer with 15 or more employees must permit employees who are organ or bone marrow donors to take a paid leave of absence of up to thirty days and five days respectively in a one-year period. The employer may require the employee to use up to two weeks of earned but unused sick or vacation leave for organ donors and five days for bone marrow donors.

Further, the employer must pay for continued coverage under the company group health plan during the leave. This leave can be taken in one or more periods of time, shall not be taken concurrently with any FMLA and/or CFRA leave, and the employee must be restored to his/her former position upon return from leave unless the failure to restore is unrelated to the employee's exercise of his/her right to take leave.

Moreover, the leave shall not constitute a break in service for the purpose of salary adjustments, sick leave, vacation, annual leave, or seniority. In order to qualify for the leave, the employee must provide the employer with a written certification that he or she is an organ/bone marrow donor and that there is a medical necessity for such donation. Finally, an employer cannot discriminate against an employee for taking donor leave.

For more information on WECA's advocacy efforts, contact Government Affairs Director Richard Markuson at (916) 538-2360 or richard@pacificadvocacygroup.com.