

OHIO MECHANICAL CONTRACTING INDUSTRY  
2<sup>ND</sup> QUARTER LEGISLATIVE REPORT  
April 8, 2003

1. Consultant's Report – Mike DeAngelo, Calfee, Halter & Griswold

a. Prevailing Wage

A vote in the House took place on whether or not to include an amendment to the Transportation Budget to repeal prevailing wage. The move to consider the amendment was defeated. Of concern however is that Husted was among the House members to vote for consideration. Mike DeAngelo stressed that we may never convince or win over some Republican House members that repeal is wrong, but we need to cast the issue as such that they do not see it as a priority to act now on it and that leadership on any prevailing wage issue should come from House member Chris Widener, an architect from Springfield, rather than the more radical Brinkman of Cincinnati.

b. Meeting with Representative Chris Widner of Springfield

Dennis Shuman, OMCI Chairman and Mike DeAngelo met with Representative Widner to discuss our issues. They found him to be very reasonable and open minded on our issues and felt that a good working relationship could be established with him. OMCI will be strongly supporting him and working closely with him on issues such as Prevailing Wage, Separate Prime, and Design Build Legislation.

c. Tort Reform – Joint and Several Liability

This bill, working its way through the houses now, has been created in response to the favorable outcome of the Supreme Court races. With the election of Justices O'Connor and Stratton, the Court is now seen as "reasonable" for consideration of such matters. Joint and Several Liability provides that the percentage of liability a company is found to have in a case with several liable parties, is the same percentage of the judgment it is required to pay. Therefore, the deepest pocket is not the one that pays the bulk of the judgment. If you are 10% liable for the damages, you will be required to pay only 10% of the judgment.

d. Ohio Budget Bill

This far-reaching process of compromise and politics has many implications to Ohioans, the OMCI discussion was limited to the implications that the Budget Bill would have for our industry. These are

- (1) Interior Design Tax  
Portions of this provision could be extended to cover design of mechanical and electrical systems, making that a taxed service under a broad interpretation of the language. In addition to our objections at this inclusion the architectural and engineering communities are raising serious concerns over this language and will most likely get it struck completely or fix the language to exempt not only the mechanical and electrical contractors but the architects and engineers as well.
- (2) Department of Commerce Effects  
The \$300 per contractor filing fee to bid public work has been dropped in the House bill. A new 2-year statute of limitations to report violations remains in the bill, as does the new requirement that the complainant provide documentation of the violation. This version also extends the appeal process from 60 to 90 days. This will be an area that Mike DeAngelo will work closely with the Senate on when they create their version of the bill.
- (3) Pressure Piping  
The new budget repeals the division but still requires submission of procedures and papers. Inspections will be done by local authorities where they exist, and will only be done by the state when there is no local inspection authority.

e. Project Labor Agreement Decision and Appeal

After the Supreme Court's unanimous decision to uphold the legality of Project Labor Agreements, ABC brought in the National Right to Work Coalition to fight for an appeal. Ohio Attorney General Petro decided not to appeal the decision and his word is final on the matter. This was a huge victory for us and for labor, and a huge embarrassment to ABC and their national counterparts. ABC was under the impression they had Petro because of a survey that Petro filled out prior to his election that stated that he would be in favor of a legislative effort to repeal prevailing wage. Petro has since qualified his statements to a much more favorable stance for us. Because of this decision and continued good meeting with Petro the OMCI will also be strongly supporting Petro in the future. Of note, Petro is considered to be among the short list of possible gubernatorial candidates to run post-Taft.

f. OCIEB

- (1) After several meetings with OMCI Chapter executives and Mike DeAngelo, the OCIEB has agreed to draft an internal rule change to make the following changes in current procedures

- 10 hours of training will be allowable in 1 day (as previously)
- Elimination of category requirements for continuing education
- Monthly course approvals (currently 90 days)
- 10 hours of continuing education *will* cover the needs of all licenses you hold (currently some courses are only approved for certain license continuing education. i.e. your electrical course couldn't count for your HVAC license and your HVAC course couldn't count for your Plumbing license)
- Still considering time period – May move to 30 hour over 3 years rather than 10 hours per year. (undecided as of 4/8)

The new rules will be drafted in May and then we will have a period in which to comment on the proposed rule changes.

(2) Sublicensing

This subject would consider the OCIEB's ability to issue sublicenses as a limited license to do a certain kind of work. These might be in the areas of backflow, water softeners, or low voltage electrical. This change would need to come in the form of a formal corrections bill that would have to go through the full legislative process. Mike DeAngelo's concern is that issuance of sublicenses might degrade the carefully worded definitions of contractors that are currently in the bill. He recommended that the OMCI start discussions with the OCIEB on how the exemptions might be expanded to fit everyone's needs rather than sublicensing.

(3) Penalties

OCIEB wants penalties, but has no inspectors to look at jobsite and issue injunctions. In response, many local communities are requiring the license number in order to pull permits, but the state permit agency, the OBBS, is opposed to doing this so it may never take hold state-wide.

g. Comprehensive Look at Construction Contract Language

A subcommittee of Reid Geiller (Cincinnati), Ron Sheahan (Toledo), Dennis Shuman (Columbus) and Mike DeAngelo was appointed to begin the process of compiling onerous contract clauses to be targeted in proactive legislation to make these provisions unenforceable. ASA and AGC will be consulted as potential allies.

2. Political Strategy and Recommendations – Bob Klafke, VanMeter & Associates

a. Situation with ABC

ABC has shifted their focus from House Speaker Householder to emerging leadership in both the House and Senate. They concede the loss of power over Householder and are cutting ties and moving on to reach the next generation.

b. Upcoming Risks

- (1) Householder is term limited and our positive interactions with him and his degraded relationship with the ABC only counts in our favor temporarily as his power wanes in the final months of his leadership.
- (2) The Senate and the House will have new leaders in the next term and there is great uncertainty of who this will be and how it will effect our interests
- (3) ABC has come out strong with potential leaders and is using some intimidations and threats of pulling support, seeking new primary candidates, etc. to press their issues.

c. Recommendations

- (1) Make and keep strong PAC commitments in both the House and the Senate this year. We only committed to the House last year, but all the action on our issues ended up occurring in the Senate.
- (2) Promote and deepen relationships with our friends bound for leadership positions.
- (4) Keep and promote our friends in the Republican Caucuses. If we can keep bills and amendments out of committee or off the floor entirely, we can keep a lid on all movement of Prevailing Wage
- (5) Keep developing the OMCI Membership Database. The more information we have on giving and the more contacts we have to do grassroots work is the key to our continued success.
- (6) Get relationships in place now locally so that when we call on the tough, time-sensitive issues, they will be willing to take that call. This also reorients the official as to who their constituents really are.
- (7) Promote and attend the April 29 Legislative Reception being held by MCACO, SMCACO, and NECACOC.

3. MCAA Report – Tom Williams, President Elect MCAA

a. Construction Specifications Institute Documents

CSI Section 16 is under review now. They have indicated to MCAA that they are not considering input from other organizations. The current indication is that either Section 16 will remain and Sections 17 & 18 will be added or it will all be completely re-written

b. National Educational Initiative Educational Offerings

Programs highlighted included: Locally Offered Management Development courses; Prefab Plumbing Seminar; Labor Estimating Seminar; Advanced Leadership Institute; Institute for Project Management; and a new addition of and Advanced Institute for Project Management

d. Helmets to Hard Hats

Mr. Williams stressed that MCAA is working hard with this group that places former military personnel into apprenticeship programs across the country and facilitates the offering of credit within those programs for past military experience. He said that while still in it's infant stages, it was gaining momentum and looked promising.

e. Owner/GC Purchased Equipment Issue

Mr. Williams reported that a partnership had been developed between Turner Construction and Trane to offer a new program called Turner Logistics in which Turner would pre-purchase the equipment for a job and then take bids for the installation only of this equipment. Despite some concerns from MCAA members, for legal reasons pertaining to the restraint of trade, the MCAA, OMCI, or any other local group are unable to take a position or to do anything other than offering information on the current program, generic information on mechanical contracting and the contractor specialty of purchasing equipment. All of these resources were distributed to the local chapter executives for distribution as needed.

f. Reverse Auctions

For similar reasons as were stated above under item e, Mr. Williams stated the MCAA is working to distribute information on this process and are working within the legal and legislative realms to address this issue.

4. Design Build and the State Architects Office

Dennis Shuman, Stan Dombrowski, of Calfee Halter & Griswold met with State Architect Roger Booker to discuss the developing legislative initiative by AGC to add Design Build and remove Separate Prime Contracting to the delivery methods available to public owners.

They stressed to the State Architect the benefits of Separate Prime and the dangers inherent in every changing definition of what Design Build really is. They discussed preservation competitive bidding in the Design Build environment as well.

Shuman also stressed that the State Architects Office needed to continue to work with all of the industry groups since the fragmentation could prevent anything from happening in the legislature since there was no one group with a strong enough voice to ram a bill through that did not have the support of the entire industry.

Roger Booker stressed that he wanted contractors to attend his quarterly Ohio Design and Construction Collaborative Meetings in order for them to be effective. The next meeting is on Friday, March 25, 2003 at the Electricians Training Center on Goodale Blvd in Columbus Ohio. Please call Valerie Dahlberg at 937-603-4605 if you are interested in attending. All who are interested in getting more involved with this group and its very valuable subcommittees are encouraged to attend.

5. Home Builders License

The Ohio HBA has approached the legislature to give them licensing under the OCIEB. They also want a requirement that there be a uniform residential code throughout Ohio. This will most likely be the sticking point since the municipalities are going to strongly object.

6. New UC Case

Dodge Reports have been issued that indicate that UC will attempt to thwart the competitive bidding process again in direct conflict with their order from the Ohio courts. Mike DeAngelo was directed to look into this and to coordinate efforts with Bricker & Eckler who will most likely continue to direct the case.

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