



Associated Builders & Contractors, Inc.
Empire State Chapter
6369 Collamer Drive, East Syracuse, NY 13057
(315) 463-7539 • Fax (315) 463-7621
www.abcnys.org • empire@abcnys.org

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April 11, 2016

Hon. John Mills
Chairman, County Legislature
92 Franklin St., 4th Fl.
Buffalo, NY 14202

Dear Chairman Mills,

I am writing to you today to discuss an issue that has a profound impact on our local communities. Government-mandated apprenticeship programs have been put into place in a number of municipalities, and this is not a prudent decision. Generally, we are supportive of apprenticeship programs; however, they can be burdensome to smaller merit shop (non-union) local businesses when they are made mandatory by law.

Such programs require the investment of significant time and treasure, both things that merit shop small businesses find to be in limited supply. First, the development of an apprenticeship program proves to be a significant financial burden, costing tens of thousands of dollars per pupil; many businesses simply cannot pay for these state-registered programs, therefore leaving them at a disadvantage. Even if a small business were to afford the costs, they may not have the bandwidth to provide the thousands of hours required by the state Department of Labor to have a registered apprentice program, and hence not qualify to have one -this despite being otherwise qualified to bid municipal work. Incidentally, there are a growing number of small businesses owned by women or minorities, and a major portion of them are new to the career of construction business ownership in that area; they have a significantly less chance of qualifying for an apprenticeship program due to financial constraints and new existence.

As an alternative, many small businesses use the time tested custom of in-house training programs to train their workers. This approach has still been very effective, as the vast majority of the construction workforce has not utilized official apprenticeship programs. The apprenticeship programs do not guarantee a higher quality of work to be done by construction firms. Rather, the firms that have not developed state-registered apprenticeship programs have done quite well without them. In fact, businesses without apprenticeship programs account for an overwhelming majority of the construction workforce.

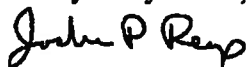
There is also a significant burden that an apprenticeship program mandate would place on local communities. As taxpayers, residents would shoulder higher costs for construction as competition is diminished because fewer contractors would qualify to bid work under such a mandate. This would have the negative affect of limiting already strained governmental resources to build and repair infrastructure.

There is no proof that a program for construction apprenticeship creates more efficient work than other forms of training. The bidding process should be based on the merit of the construction firms, not based on whether or not a business may have an apprenticeship program. It is free

competition and the protection of state competitive bidding laws that will help taxpayers get the best possible construction at the best possible price, safely.

I would greatly appreciate your time and consideration on this topic and if you have any questions, please feel free to contact me at any time.

Very Truly Yours,



Joshua Reap
Director of Government Affairs

About Associated Builders,

Empire State Chapter

ABC was founded in 1950 when seven contractors gathered in Baltimore, Md. to create an association based on the shared belief that construction projects should be awarded on merit to the most qualified and responsible low bidders. The Empire State Chapter of Associated Builders and Contractors serves close to 400 members throughout New York State from our central offices in East Syracuse, and from branch offices in Albany, Buffalo, Rochester and Long Island/Metro NYC. We believe in fair, open competition and free market policies that are best for taxpayers, businesses and workers alike.

A Message from

President Brian Sampson

The merit shop movement has grown exponentially both across the country and right here in New York State. Reasons for the growth are clear: Merit shop contractors have proven to be innovative, efficient and provide top quality work at a great value.

Unfortunately, despite this growth, policies are still in place and being pushed forward that hinder free market policies and hurt taxpayers, businesses and workers. Some of these issues have been around a long time with officials reluctant to change; others are pushed by special interests with the intent of excluding competition where they can't compete.

What our members are looking for is simple. We want to be able to build the best quality work safely and responsibly without government constantly getting in our way making this more difficult. Taxpayers deserve the best value at the best price, and businesses and employees all deserve a fair chance at work.

This is what we fight for, and we fight with a purpose. We are the voice of nearly 400 small business owners, and thousands of employees who support their families through their hard work.

We look forward to working together with you to help keep these men and women working.

Regards,


Brian Sampson
President

State Issues

Prevailing Wage Reform
DERA Retrofit
Scaffold Law
Minimum Wage
Annualization

Prevailing Wage

New Yorkers want their government to jumpstart the economy, fix crumbling infrastructure and do a better job of spending their tax dollars at the same time. Prevailing wage rates in the state are up to twice the market wage due to New York State's flawed system of using collective bargaining agreements to establish wage rates. This system is likely invalid given NYS law requires the agreements to cover 30% of a local workforce and union membership is presently lower than that. Unions now represent only 24% of the state's construction workforce, yet New York State still utilizes union collective bargaining agreements.

Annualization

Currently, the New York State Department of Labor calculations annualize both private and public benefits by the same method, resulting in excessive costs to contractors already providing benefits to their workers. Because of these calculations, many contractors are eliminating traditional benefit packages and, instead, are offering the benefits as a cash supplement in the employee's paycheck. This growing practice eliminates the double payment as previously offered benefits by contractors, but exposes the employee to higher taxes and the employer to more payments in payroll taxes and other burdens, all without the employee receiving important benefits. We support Annualization reform that would allow contractors to provide, and employees to receive, benefits, without penalty.

Minimum Wage

The \$15 minimum wage that is currently proposed in New York State would devastate small businesses in industries across the board. It would also add tremendous costs to construction, both public and private, leading to less work. Additionally, it is estimated that this increase could cost upwards of 500,000 jobs across New York State.

Scaffold Law

This antiquated law exposes owners and contractors to absolute liability, which makes insurance prohibitively expensive and ultimately drives up the cost of construction in New York State. New York is the only state that still keeps this law on the books, costing taxpayers upwards of \$785 million dollars annually. The current standard of "absolute liability" isn't working and must be replaced with a standard of "comparative negligence." Under this common-sense reform, liability is apportioned by a jury, in proportion to the actual fault.



DERA Retrofit

The DERA statute requires, in part, the installation of best available retrofit technology for diesel powered heavy duty vehicles that are owned by the state and those operated by contractors on behalf of the state. At the time it was passed as a positive step for the environment and economic development. Nearly a decade later we are reaping positive results from the use of ultra-low sulfur diesel fuels; however, the retrofit requirement is not working and cannot work practically. The retrofit technology is proven to be very costly and those vehicles fitted with it consume more fuel and thus produce more emissions. The ABC supports efforts to exempt contractors working "on behalf of" the state.



Local Issues

Project Labor Agreements
Mandated Apprenticeship Programs

Project Labor Agreements

These exclusionary agreements prevent open, fair competition and drive up costs upwards of 18-30% to taxpayers. We support a process open to everyone, where the contractor who offers the best value at the best price is selected for the work.



Mandated Apprenticeship Programs

We support training and education—including formal apprenticeship programs. The issue has become that taxpayer dependent special interest groups have pushed municipalities to unfairly utilize mandated apprenticeship programs to exclude qualified contractors. This mandate also ignores the time-tested tradition of on-the-job training. Complicating the problem further, the New York State Department of Labor had a moratorium on approving apprenticeship programs for many years, only just now accepting applications again. Additionally, the state DOL has shown a reluctance to approve merit shop joint-employer apprenticeship programs. These conditions not only deter qualified contractor-sponsored programs from being established, they create an unfair advantage in favor of union-only contractors.

Federal Issues

Government Neutrality in Contracting
Davis-Bacon Act
National Labor Relations Board Reform

Government Neutrality in Contracting

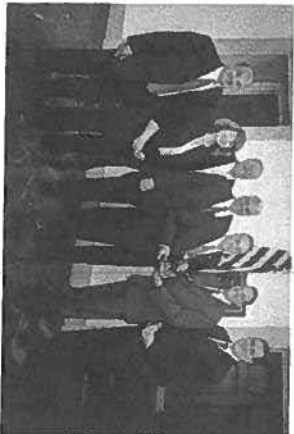
We support Federal construction contracts being awarded based on sound and credible criteria, such as quality of work, experience and cost—not a company's union affiliation and willingness to execute a PLA. The Government Neutrality in Contracting Act (H.R. 1671/S. 71) supports this position.

Davis Bacon Act

This mandates so-called "prevailing" wages for work performed on federally financed construction projects. Davis-Bacon hinders economic growth, increases the federal deficit, imposes enormous burdens that stifle contractor productivity, ignores skill differences for different jobs, and imposes rigid craft work rules. We support repealing the Davis-Bacon Act.

National Labor Relations Board Reform

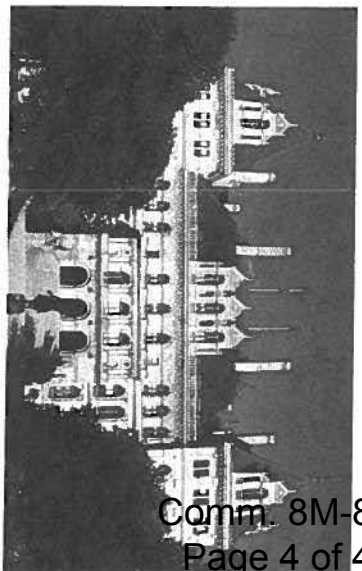
The NLRB is tasked with interpreting and enforcing the National Labor Relations Act. The agency is supposed to serve as a neutral arbiter of federal labor law, but under the current administration it has promoted the narrow policy goals of the politically powerful unions. We support balanced policies that reflect to the NLRB's original mission to fairly interpret and enforce federal labor law.



ABC members present Congressman Chris Collins with a "Champion of the Merit Shop" Eagle Award.



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2016 Merit Shop Agenda



Empire State
Chapter

