

Wisconsin Chapter NECA
2200 Kilgust Rd.
Madison WI 53713



September 2006

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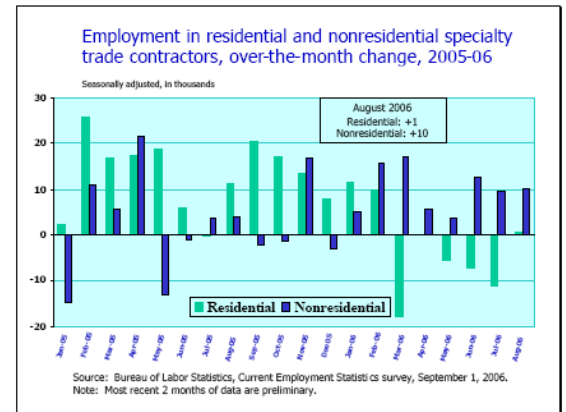
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Non-Residential Construction is Strong

The U.S. Bureau of Labor Statistics (BLS) reported that construction accounted for 17,000 of the 128,000 net new payroll jobs that the non-farm economy added in August.

For the first seven months of 2006 compared to the same period of 2005, private nonresidential spending has risen an impressive 16 percent and public construction 10 percent. Much of August's growth in construction occurred within nonresidential specialty trade contractors (+10,000). This makes seven consecutive months in which nonresidential specialty trade contractors have outpaced the residential component. Since reaching a high point in February 2006, residential specialty trade contractors have shed 41,000 jobs. Over the same time period, nonresidential specialty trade contractors have added 59,000. Residential building construction has added just 3,000 jobs to payrolls since February 2006 while employment in nonresidential building construction increased by 14,000 for the same period.

Private nonresidential construction is expected to maintain its strong pace for the next several months.



Gas Prices Expected to Continue to Drop

Gasoline prices are falling fast and could keep dropping for months. "The only place they have to go is down," says Fred Rozell, gasoline analyst at the Oil Price Information Service (OPIS). "We'll be closer to \$2 than \$3 come Thanksgiving." It's good news for consumers and the economy. Continued lower prices "may act like a tax cut" and stimulate spending, says Richard DeKaser, chief economist at National City in Cleveland. The U.S. average for a gallon of regular peaked this year at \$3.036 Aug. 10, according to OPIS/AAA daily surveys. That's slightly under the high of \$3.057 Sept. 5, 2005, a week after Hurricane Katrina battered petroleum production in the Gulf of Mexico and caused fears of fuel shortages.

OPIS' Rozell figures prices will jump again next spring.

So far in 2006 ECPAC has collected over \$508,000 from 602 contributors. This includes 167 gifts of \$1,000 or more and 43 individual Political Leadership Council-level gifts of \$5,000 each.

In 2005 ECPAC collected \$550,480 from 862 contributors, bringing the election cycle total to \$1,058,480. ECPAC already has received thousands of requests for funds for 2006 election races, and has disbursed over \$563,000 to 142 House and Senate candidates and committees.

NECA's target remains expansion of our million-dollar-plus political action effort to at least \$1.1 million in the 2006 election cycle.

Pension Reform Passes

The U.S. Senate delivered a big victory to NECA late on Thursday, August 3, on a **pension law reform measure** and another delay on **estate tax reform**.

The pension reform measure, which included the language sought by NECA and the Multiemployer Pension Plan Coalition, passed overwhelmingly, 93 to 5 and now goes to President Bush to be signed into law. The Coalition has worked tirelessly on this bill for two years, and this is a major and much needed victory for our industry.

Before passage of the pension reform bill, the Senate wrangled over the so-called "trifecta" measure that combined a 40 percent increase in the minimum wage with a reform (not outright repeal) of the estate tax and several tax break extensions. There were two significant compromises made by the Republicans in this bill: the minimum wage increase would have been a gigantic compromise, and the movement off complete repeal of the estate tax to a relatively modest reform proposal. In the end, nothing survived. At 10:05 p.m., the Senate voted 57-41 to cut off the filibuster (cloture). Since 60 votes are needed for cloture, the bill itself could not be acted on.

These final votes as the Senate enters its summer recess can be summed up as NECA won a big victory on pension reform, with action deferred - again - on the estate tax.



Implementing a Successful Electrical Safety Program

The National Fire Protection Association's Standard for Electrical Safety in the Workplace (NFPA 70E) has been a concern of contractors in recent years, writes Drake Drobnick, a principal member of the NFPA 70E technical committee who gives presentations for the Thomas A. Edison Institute. Though contractors may find NFPA 70E difficult to implement, it is key to establishing an electrical safety program because it is designed to serve as a guide for meeting the electrical safety requirements of OSHA and could aid contractors in the event of enforcement action or litigation. NFPA 70E offers a best practice for most workplaces in protecting workers who are involved in activities near energized parts over 50V.

Employers should create their own electrical safety program first, then implement the requirements of NFPA 70E, such as agreeing to and signing a work permit on de-energizing equipment with the owner of the equipment. NFPA 70E can also serve as a reference for conducting shock and flash hazard assessments. Moreover, NFPA 70E can aid contractors when they make investments in the protective equipment needed to perform energized work.



Smile... it makes people wonder what you've been up to!

The newest National Electrical Installation Standard is now available. "Standard for Installing Commercial Building Telecommunications Cabling (ANSI)" was developed jointly by NECA and BICSI to update an earlier standard. The revised standard addresses the importance of proper installation of telecommunications premises systems, including cabling and the associated pathways and spaces. The publication is available to NECA members for free as a download from the NECA website: <http://neca-neis.org> for a limited time. Additional copies can also be ordered by contacting Jen at the Chapter Office (608) 221-4650.



From the Desk of Attorney Kay

There have been some minor but important changes to the construction lien law in Wisconsin under 2005 Wisconsin Act 204 which became effective April 10, 2006. The amendments mostly clarify, but, to some limited respect, extend the lien law relief.

The amendments clarify that repairing and remodeling constitutes an improvement for which a contractor may claim a lien. In addition, the lien is given not only to a person who performs work, but also who procures it.

The lien is also given to anyone who prepares plans and specifications, as well as to anyone that provides material, labor or services in the improvement of real estate. The emphasis placed in the amendments to granting a lien to those who prepare plans or specifications results in a lien being granted to all who furnish design work in the course of improving real estate. This of course would include electrical designers.

The section of Chapter 779 relating to theft by contractors has been expanded and clarified. Payment of mortgage proceeds to any prime contractor or subcontractor who performs labor or services, or provides materials, plans and specifications used for the improvements, constitutes a trust fund only in the hands of the prime contractor or subcontractor to whom payment is made. This trust fund continues until those entitled to be paid out of the monies have received payment. If the prime contractor or subcontractor is a corporation, limited liability company or other legal entity, such as a partnership, other than a sole proprietorship, any misappropriation of the funds paid is deemed theft by any officers, directors, members, partners, or agents responsible for the misappropriation.



In addition to the previously mentioned amendments under the theft by contractors portion of the statutes, a substantial extension of liability is provided. As I previously mentioned, payments made to a prime contractor or subcontractor for labor, services, materials, plans, and specifications for improvements creates a trust fund in the hands of the contractor until all claims have been paid. Any use of those monies by the prime or sub for any other purpose but the payment of claims constitutes misappropriation of the funds. In determining when all claims are paid, there is an exception for those that are subject to a bonafide dispute, to the extent of the amount actually in dispute. Those monies may be withheld without theft by contractor occurring. However, when a misappropriation of such funds does occur, not only are all officers, directors, members, partners or agents responsible for the misappropriation, their receipt of salary, dividends, loan repayments, capitol distribution or otherwise, including by any shareholder, constitutes a civil liability of that person and may be recovered and restored to the trust fund. These amendments in effect establishes personal liability exposure of all shareholders, officers, directors, members, partners, and agents for the misappropriation of funds by a contractor, even if they are not responsible for the misappropriation.

One significant change occurs in the notice provisions of the construc-

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September 2006

September 6

Janesville-Beloit Membership

September 7

La Crosse Membership

September 11

Racine-Kenosha Membership

September 13

Fox Valley Membership

September 14

Indianhead Membership

September 20

Madison Golf Outing

Northeastern Membership

September 28

Wisconsin Valley Membership

Upcoming Meetings

October 7 - 10, 2006

NECA Convention

Boston, MA

January 26 - 27, 2007

Winter Meeting

Madison, WI

March 18 - 21, 2007

Spring Conference

Tucson, AZ

July 26 - 28, 2007

Summer Meeting

Sheboygan, WI

Attorney Robert J. Kay can be reached at

Kay & Andersen, S.C.

One Point Place, Suite 201

Madison, Wisconsin 53719

Phone: 608-833-0077

Fax: 608-833-3901

www.kayandandersen.com



Wisconsin Chapter NECA
2200 Kilgust Rd.
Madison WI 53713
Phone: 608-221-4650
Fax: 608-221-4652
www.wisneca.com

Construction Success

The Wisconsin Chapter had 24 attendees at the Pre-Construction Planning seminar held in the Dells September 6th. Comments were favorable overall and many participants cited new ideas, or new ways to tackle the problems of tracking job completion, and increasing the overall productivity of a job as information they will use. Professor Hanna reminded attendees they are in business to make money, not to outbid other contractors on every job. He noted sometimes it is better to NOT win a job, and provided methods to use before bidding, to decide if this is one of those jobs, and ways to stay productive with the jobs you win, so **you can make money.**



Have you got a code question for Tom? Let us know and we'll ask him to answer it in a future newsletter.

IBEW Unveils Hour Power Website

The IBEW has created a new website to help reinforce President Ed Hill's State of the Union message, promote increased awareness of the need to change the culture of jobsites and remind workers that "every hour counts". The new site is called IBEWHourPower.com and features streaming videos and short articles describing industry successes and ways to increase public awareness of the professionalism and productivity of union labor.

The IBEW is listening to NECA's plea for change in the industry and is asking our assistance in promoting the IBEWHourPower.com website. To help, go to the site, click on "Promoting Hour Power" on the bottom of the page. From there you will be able to download and print flyers or handbills to distribute to your employees.

Whether you print flyers or not, we encourage you to visit the site to become familiar with this new productivity effort on the part of the



Small Businesses Need Security Too

Though data breaches at large companies or government agencies dominate the headlines, small businesses and self-employed workers with home offices are often at a greater risk of falling prey to cyber-criminals. Small businesses do not have security departments, and lack the budget for even a part-time information security officer. Security is also commonly not prioritized as business owners scramble to satisfy customers and make payroll, but with information technology increasingly linked to the success of companies of any size, business leaders ignore security at their own peril. Just like their larger counterparts, small businesses need to create information-management plans that detail how data is stored, backed up, and employee usage policies. In addition, companies also face liabilities if they do not sufficiently protect employees' medical records. Some new technologies can help small businesses tighten up their security without breaking the budget, such as external biometric readers that verify a user's identity through a fingerprint scan. There are also companies that offer secure backup data storage over the Internet at modest prices.

Tom's Code Corner

Question: A new strip mall is Type III construction. Can I use Type NM cable? How about above the suspended ceiling in the tenant spaces? Can I use 334.30(B)(2) to wire the fixtures in the suspended ceiling?

Answer: Yes. No. No. Comm 16.327 and 334.12(2) and 334.15(C)

Comm 16.327 permits Type NM cable to be used in non-dwelling occupancies of Type III, IV, or V construction. The use of the Cable in all occupancies is subject to the uses prohibited in 334.12.

334.12(2) prohibits Type NM cable from being used in drop or suspended ceilings in other than dwelling units.

So using unsupported NM to wire a fixture located in a suspended ceiling is prohibited in non-dwelling occupancies.

Remember, 518.4 further restricts the use of nonmetallic cables and raceways in assembly occupancies. A restaurant with a capacity above 100 persons is an assembly occupancy.

MANPOWER STATISTICS

For the Month of -- **July 2006**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
Local Contractors: NECA	10	5	3	18	5	5	4	6	56
Non-NECA	36	14	16	20	16	16	12	20	150
Total Local Contractors:	46	19	19	38	21	21	16	26	206
Traveling Contractors: NECA	7	7	7	5	5	4	5	5	45
Non-NECA	2	8	4	2	1	4	2	2	25
Total Traveling Contractors:	9	15	11	7	6	8	7	7	70
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	55	34	30	45	27	29	23	33	276
Contractors More Than Two Months Delinquent in N.E.B.F.	2	1	1	0	2	1	0	0	7
Total Number of Contributing Contractors in Area:	57	35	31	45	29	30	23	33	283
Employees: NECA	319	64	124	648	273	49	214	274	1965
Non-NECA	225	184	177	100	47	66	72	72	943
TOTAL EMPLOYED:	544	248	301	748	320	115	286	346	2908

From the Desk of Attorney Kay

(Continued from page 3)

tion lien law. Under the existing statutes, anyone furnishing labor or materials on a real estate improvement has six months from the date of last performing labor or furnishing services to file a lien claim. However, under existing law and under the amended law, notice of intent to file a lien must be given at least 30 days prior to filing the lien claim. In 2005 Wisconsin Act 204, a new notice provision is required after the lien claim is filed. The lien claimant must serve a copy of a claim for lien on the owner of the property in which the lien is placed within 30 days after filing the claim. The failure to furnish that notice voids the lien claim filed. Therefore, it is important to remember that not only must the intent to file a lien claim be served 30 days before timely filing the lien claim, within 30 days after filing the lien claim the lien claimant must serve a copy of the claim filed on the owner of the property.

It is evident that the Wisconsin legislature wishes to expand the benefits of the Wisconsin construction lien law, particularly to those who provide plans and specifications and are seeking payment for those services. However, in exchange for such expansion, the legislature has clearly increased the liability exposure of officers, directors and shareholders of prime contractors and subcontractors who are guilty of theft by contractor and it has added two new notice requirements.

