

Wisconsin Chapter NECA
2200 Kilgust Rd.
Madison WI 53713



September 2008

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Inside this issue:

National Drug-Free Week	2
Homeless Students	2
Attorney Bob Kay's Letter	3
October 2008 Calendar	3
Infrastructure at Risk	4
Tom's Code Corner	4
Manpower Statistics	5

Green Bay Packer Tickets Online

The Packer Ticket Auction is now open. As we noted last month, the Chapter still has four sets of club seat tickets for the following Packer games:

Atlanta Falcons – Sunday, October 5 at noon
Indianapolis Colts – Sunday, October 19 at 3:15 p.m.
Houston Texans – Sunday, December 7 at noon
Detroit Lions – Sunday, December 28 at noon



The minimum bid for the tickets is \$250 per ticket which is roughly face value of the seats. Club seat amenities include a stadium chair with cup holders, private gate entrance and game day access to the amenities and special concessions of the club and suite levels at Lambeau Field, as well as restroom facilities. Arrive early and have a snack and cocktail at the Legends bar overlooking the Lambeau Field Atrium. The seats themselves are outdoor club seats, meaning you get the best of both the suite level and the great atmosphere of Lambeau Field on game day.

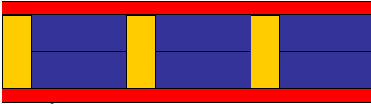
To bid on the tickets, go to the Chapter website www.wisneca.com click on the link at the bottom of the home page for "ECPAC Auction" then click on the link for "ECPAC Auction for Packers tickets".

NECA Convention Offers CEUs

The Wisconsin Chapter has applied for CEU credit for many of the technical seminars offered at the NECA Convention, and we are waiting to hear from Chief Electrical Inspector, Joe Hertel, to see which ones are approved. In the past there have been 20-30 of them approved, many of them are offered at multiple times during the course of the convention, so there is ample opportunity to get CEUs while attending the NECA Convention.

Once we receive approval, we will send a list of approved classes prior to the convention for those of you who plan to attend.

For more information on the schedule of seminars, check out the official NECA Convention website: www.necaconvention.org.



Commercial property investors are turning toward a new source for financing – hedge funds. The housing slump has created a credit crunch for many investors as banks are no longer eager to lend, and the commercial mortgage sector has been cut way back.

Even commercial borrowers with good track records and decent credit are finding the financing hard to come by through the traditional bank mortgages, and are therefore forced to seek alternative methods of financing even though they come at a higher interest rate.

Enter the hedge fund market, which sees these loans as a way to yield higher returns relative to the low risk they are taking. Defaults on commercial mortgages are right around 1 percent, a far cry from the housing market defaults. The mortgage loans also provide a method to generate returns for their fund that is unrelated to equity and bond markets.

While it is not for everyone, the trend is growing, with as many as 140 hedge funds providing commercial real-estate lending.



National Drug-Free Week

The week of October 20-26, 2008 is National Drug-Free Work Week and NECA members are encouraged to participate by reminding their employees of the importance of a safe, drug-free workplace. The purpose of Drug-Free Work Week is to highlight that being drug free is key to workplace safety and health and to encourage workers with alcohol and drug problems to seek help.

Drug-Free Work Week sponsored by the U.S. Department of Labor in coordination with members of its Drug-Free Workplace Alliance. This cooperative program, which represents both employer/contractor associations and labor unions, aims to improve safety and health through drug-free workplace programs. It focuses on the construction industry because research indicates that it has higher than average rates of worker alcohol and drug abuse – a serious concern given that it also tops the list of industries with the highest rates of workplace accidents and injuries.

NECA and the IBEW have made drug-free workplaces a priority and as you know, we have recently implemented new drug testing programs in all our local unions.



During National Drug-Free Work Week, employers are encouraged to communicate with employees and remind them that NECA-IBEW now has a drug-testing program designed to create a drug-free workplace for them and their coworkers. It is also an opportunity to discuss how this program is beneficial to everyone as it makes the job site safer as employees who have an alcohol or drug problem seek treatment.

Homeless Students is Growing Problem

The topic of homelessness usually brings to mind adults living out of a shopping cart or sleeping under cardboard boxes because of the lack of adequate shelters. Unfortunately, in Wisconsin, homelessness also means public school students who have no permanent address. The State Department of Public Instruction said more than 8,000 students across the state were identified as homeless at the end of the 2006-07 school year. Many of them have parents who work but do not earn enough to pay rent, or to put down the necessary first and last month rent and security deposit.



Some of these children leave school at the end of the day and do not know where they are going to spend the night, whether they will eat, or if they will have access to a shower and clean clothes. This means they are less likely to be able to focus on doing homework, getting a proper night's rest, and receiving the family support they need to be able to succeed in school. They are also more likely to move from school to school or to miss time because of not having a means of getting to school. State law requires that each school district must designate a homeless liaison to enroll the students and then help them to succeed in school.

The Janesville school district estimates that they have 300 homeless students, while Madison estimates their number to be more than 600.

From the Desk of Attorney Kay



SOME VOID CONSTRUCTION CONTRACT PROVISIONS

I believe that one specific section of Chapter 779 of the Wisconsin Statutes which provides for construction liens should be reviewed at this time to remind electrical contractors of some provisions that are designed to protect them. The section I have in mind is § 779.135 of the Wisconsin Statutes, which invalidates three kinds of provisions in contracts for the improvement of land. The statute reads as follows:

779.135 Construction contracts, form of contract. The following provisions in contracts for the improvement of land in this state are void:

(1) Provisions requiring any person entitled to a construction lien to waive his or her right to a construction lien or to a claim against a payment bond before he or she has been paid for the labor, services, materials, plans, or specifications that he or she performed, furnished, or procured.

(2) Provisions making the contract subject to the laws of another state or requiring that any litigation, arbitration or other dispute resolution process on the contract occur in another state.

(3) Provisions making a payment to a prime contractor from any person who does not have a contractual agreement with the subcontractor, supplier, or service provider a condition precedent to a prime contractor's payment to a subcontractor, supplier, or service provider. This subsection does not prohibit contract provisions that may delay a payment to a subcontractor until the prime contractor receives payment from any person who does not have a contractual agreement with the subcontractor, supplier, or service provider.

This statute was enacted by the legislature in 1991 and is therefore 17 years old. However, many contractors appear to be uninformed regarding its existence.

Subparagraph (1) of § 779.135 renders invalid any provision in a construction contract requiring the contractor to waive lien rights or to waive claims against a payment bond before the contractor has been paid for the labor and materials that have been furnished or installed. While the business practice of contractors often subjects the contractor to a request that the lien waivers be furnished prior to payment, any provision in a construction contract that requires a prepayment waiver is void and will not be enforced by a court.

Subparagraph (2) renders void any provision in a construction contract that makes the construction lien rights subject to the laws of another state

(Continued on page 6)

October 2008

October 2

La Crosse Membership

October 9

Indianhead Membership

October 13

Kenosha-Racine Membership

October 15

NE-FV Membership

October 23

Wisconsin Valley Membership

Upcoming Meetings

October 4-7, 2008

NECA Convention

Chicago, IL

January 23-24, 2009

Winter Meeting

Kalahari Resort, Wisconsin Dells

March 22-25, 2009

Midwest Regional Spring Conf.

Kauai, Hawaii

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The Wisconsin Chapter NECA recently mailed a survey to all member firms requesting your feedback on our current Winter and Summer Meetings. The survey questions range from the seminar presentations, to the locations and schedule of the meetings as they are currently offered.

The current meeting structure has been in place for many years, and we want to make sure it is still meeting the needs of you, our members.

Please take a few minutes to complete and return the survey form to the Chapter Office so we can take steps to improve our meetings in the future. The survey form is available online to be downloaded and faxed back to the Chapter. Go to the Chapter site, <http://wisneca.com/meetings.htm> to access the survey form.

The survey forms are due on September 30, 2008.



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

National Infrastructure At Risk

The United States has stepped up security at levees, dams and power grids to keep them safe from terror attacks, however, the systems themselves may be poorly maintained and in danger of failing without attack.

In 2005 a study by the American Society of Civil Engineers estimated it would cost \$1.6 trillion over five years to bring U.S. physical infrastructure to acceptable levels, after years of neglecting routine maintenance and upgrades. Other studies have also recommended large expenditures on maintenance to the nation's infrastructure.

Homeland Security Secretary Michael Chertoff stated, "When it comes to making long-term investments simply to maintain things we rely upon ... we have failed time and again." The Bush administration recently asked Congress for \$8 billion to reimburse states for highway projects funded by the federal gasoline taxes, which have fallen recently due to higher gas prices.

In his speech given in New Orleans in advance of Hurricane Gustav, Chertoff urged states to inventory their infrastructures that have become vulnerable to natural disasters, and then create a plan to maintain, replace, and then protect those structures that are at risk.

One example he pointed out was a huge steel gate that can close to protect the canal from rising waters on Lake Pontchartrain. The gate was proposed a decade ago, yet the project was not funded until after Hurricane Katrina's devastation of the area brought attention to the problem. He noted that other cities in America have similar infrastructures at risk for catastrophic failure, but politicians hesitate to designate funds to projects that don't provide an immediate impact.



The unemployment rate rose from 5.7 to 6.1 percent in August, and non-farm payroll employment continued to trend down (-84,000), the Bureau of Labor Statistics of the U.S. Department of Labor announced in their latest report. Over the past 12 months, the unemployment rate has risen by 1.4 percent, with most of the increase occurring over the past four months.

In August, employment fell in manufacturing and employment services, while mining and health care continued to add jobs. Average hourly earnings rose by 7 cents, or 0.4 percent, over the month.

Tom's Code Corner

Question: Box in attic, buried in insulation, accessible or not?

Answer: The box is accessible.

Definition: "Accessible (as applied to wiring methods) Capable of being removed or exposed without damaging the building structure or finish or not permanently closed in by the structure or finish of the building."

MANPOWER STATISTICS

For the Month of --

July 2008

Local Union #	14	127	158	159	388	430	577	890	TOTAL
	=====	=====	=====	=====	=====	=====	=====	=====	=====
Local Contractors: NECA	8	4	3	18	5	5	2	6	51
Non-NECA	35	9	15	18	15	15	10	16	133
Total Local Contractors:	43	13	18	36	20	20	12	22	184
Traveling Contractors: NECA	11	4	6	1	4	5	5	8	44
Non-NECA	7	12	7	3	2	5	0	4	40
Total Traveling Contractors:	18	16	13	4	6	10	5	12	84
TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:	61	29	31	40	26	30	17	34	268
Contractors More Than Two Months Delinquent in N.E.B.F.	1	2	0	1	1	0	0	0	5
Total Number of Contributing Contractors in Area:	62	31	31	41	27	30	17	34	273
Employees: NECA	283	51	126	793	117	52	165	252	1839
Non-NECA	212	66	147	98	56	67	65	78	789
TOTAL EMPLOYED:	495	117	273	891	173	119	230	330	2628

<u>Union #</u>	<u>NECA Division Name</u>
127	Kenosha Division
158	Northeastern Division
159	Madison Division
388	Wisconsin Valley Division
430	Racine Division
577	Fox Valley Division
890	Janesville-Beloit Division
14	Indianhead/La Crosse Divisions

NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.

The Milwaukee County Labor Council is working to ensure that projects receiving public money will guarantee that post-construction jobs will go to union members. The labor council and union "Unite Here" members held a picket at the Park East property in Milwaukee, where the developers plan to use city money to build the \$145 million hotel and condo project. The groups say that using union workers for the hotel fits the community-benefits model the Milwaukee Building and Construction Trades Council supports, which would require projects receiving \$500,000 or more from the city to hire and train residents in construction jobs and to pay prevailing wages.

The group maintains that it is important for the jobs to be union, not just because of higher wages, but because the contracts between the unions and employers offer protections against favoritism and discrimination.

The city attorney's office has said it is illegal for the city to impose such a union-only mandate, but Alderman Ashanti Hamilton has drafted a community benefits ordinance that would require 74 percent of post-construction employees to be paid at least \$8.46 per hour. It also requires the city to create a recruitment program to connect Milwaukee residents to jobs opening up in new buildings.

From the Desk of Attorney Kay (continued)

(Continued from page 3)

or requires that the contractor litigate or arbitrate any dispute in another state. While it is common to find in a contract between parties which is being performed in Wisconsin a provision that the enforcement of the contract is subject to the laws of another state or that any legal proceeding be brought in another state, any such provision in a construction contract is void.

Subparagraph (3) renders void any provision in a construction contract making payment to a prime contractor a condition precedent to the right of a subcontractor to receive payment from the prime contractor. Such a provision is sometimes referred to as a “pay-if-paid” provision. However, the subsection goes on to clarify that a “pay-when-paid” provision is not void. In other words, a contract provision in a construction contract that delays payments to an electrical subcontractor until the prime contractor receives payment for that service is not void.



Since the provisions I have just referred to are *void*, an electrical subcontractor need not object to the provisions at the time the subcontract is signed. However, if the subcontractor furnishes a lien waiver before being paid, the lien waiver will be valid.

Electrical contractors should not provide lien waivers before they are paid unless they can be absolutely assured that they will be paid after providing the lien waiver. While there used to be a practice of giving a lien waiver in trust to the prime contractor in an effort to protect the validity of the lien waiver in the event payment was not ultimately made, I do not recommend that practice. It is far better to arrange for the transfer of payment and the signing of the lien waiver at the same time and place.

Wright Was Green Pioneer

Built in 1911, Frank Lloyd Wright’s home, Taliesin, stands today as an example of “organic architecture”, using local materials and “green” technologies to blend with the local landscape. The house was built using local limestone and mixed sand from the Wisconsin River valley below the home. This “green”



idea means that there are fewer transportation costs associated with the construction materials, as well as providing more harmony with the home’s surroundings.

Wright’s design ideas were possibly too far ahead of their time, as the actual construction of his projects was often problematic, and many of the properties have suffered due to maintenance issues. For example, Wright created tall windows in the living room of the house, which provide spectacular views of the area. The windows provide natural light to the room, which is diffused by the overhanging roof to help it stay cool. Wright, however, did not bother to have grooves cut into the stone so the window glass could be inserted and sealed, meaning the gaps between the window panes and stone walls allow air and moisture in.

About 21,000 people visit Taliesin annually between May 1 and October 31. Tours cannot be conducted during the winter months because the home has no heat: Wright removed the furnaces from the home once he started spending his winters in Arizona. It is, nonetheless, a beautiful property and one that perfectly illustrates the beauty of southwestern Wisconsin.

The City of Beloit has some grand plans in store for Mill Street, including resurfacing, rerouting, and improved parking. The plan will shift the north-south street to run west and then south along the Rock River.

Moving the route of the street toward the river will allow for additional parking at City Hall and the post office, and will free up space for construction of a new bus transfer center.

The proposed plan also leaves room for the addition of rain gardens and green space; however, those improvements are dependent on seeing the costs for the street work first.