

Wisconsin Chapter NECA  
2200 Kilgust Rd.  
Madison WI 53713

**Chapter Officers:**

**Governor :** Gerald Schulz  
Michels Power, Neenah  
**President:** Bernie Cleppe  
Roman Electric, Sturtevant  
**Vice Pres:** Mark Hady  
Hady Electric, Watertown  
**Treasurer:** Joel Westphal  
QWEST Electric, Green Bay  
**Executive Vice President:**  
Loyal D. O'Leary

**Chapter Board of Directors:**

**Darrell Braun**, Madison  
**Bernie Cleppe**, Racine  
**Mark Hady**, Janesville-Beloit  
**Arlan Hanson**, Indianhead  
**Greg Dewitz**, Kenosha  
**Tim Padesky**, La Crosse  
**Larry Navarrete**, Fox Valley  
**Bob Van Ert**, Wisconsin Valley  
**Joel Westphal**, Northeastern



**Inside this issue:**

Seminars Announced	2
ECPAC Supports Ryan	2
Attorney Andersen's Letter	3
November 2009 Calendar	3
Senate Bans Texting	4
Tom's Code Corner	4
Manpower Statistics	5
Man-hour Comparison	6



**October-November 2009**

## State PW Law Changes Affect Non-Union

Some new changes to the prevailing wage law will begin to affect contractors January 1, 2010. Any project, private or public, which receives public money of \$1 million or more, such as TIF funds, will now fall under the prevailing wage classification. A new lower threshold at which prevailing wages must be paid will be \$25,000 (down from \$234,000), and will affect all projects bid or negotiated after January 1, 2010.

Additionally, non-union contractors will be required to submit a certified record of employees (payroll records) electronically to DWD, for all prevailing wage projects, including those that are already in progress prior to January 1. Those records will then be posted on the DWD website.

For contractors with all employees covered under a collective bargaining agreement (union contractors), they are not required to file the certified record, as long as the wage rates are not less than the prevailing rate. They will be required to submit an electronic copy of the collective bargaining agreement to the DWD, which will also be posted on the DWD site.

The non-union sector is upset that the rule becomes effective January 1 for all projects, including those already in progress, citing the extra record-keeping needed as an extra expense.

If the DWD determines that a contractor failed to pay the prevailing wage rate and/or overtime, the contractor must pay the affected employee(s) the amount of unpaid wages plus 100% of that amount as liquidated damages.

The changes to the law were approved in the 2009-2011 state budget, and are posted on the DWD website as well.

## Federated Insurance Company

NECA is proud to welcome a new Premier Partner, Federated Insurance Company. The Federated Insurance Company comes in as an "Official Partner" with a long-term commitment to NECA. Federated offers property, business, liability, auto, workers compensation, group health, life and disability income insurance to all businesses. More information on their offerings can be found at [www.federatedinsurance.com](http://www.federatedinsurance.com), or contact Dan Walter at NECA National for more information.

The Wisconsin Chapter will again be sponsoring the “**Hard Hat Productivity: The 9 Critical Factors for Maximizing Profits**” seminar this year. The popular seminar, led by Norb Slowikowski, has been a sell-out the two previous times it was offered.

Focusing on key aspects that influence the productivity of a project, this program will teach participants how to improve productivity by planning, and creating a better team for the project. Norb covers planning, communications, leadership, motivation, and how to retain good employees in this program.

This year’s seminar will be held Wednesday, December 2, 2009 at the Cambria Suites in Appleton, and runs from 8:00 a.m. to 5:00 p.m. The registration fee, \$225, includes all course materials, continental breakfast, lunch and breaks for all participants.

A registration form is included with this newsletter. To register, complete the form and fax it back to the Chapter Office (608) 221-4652 no later than **November 16, 2009**.

Don’t delay; this seminar is expected to fill quickly.



## Learn How to Do an Energy Audit

The first step to winning a green energy project is proving to your customer that you understand their energy needs – and that you can do the work to meet their green building goals. Conducting a facility energy audit gives you both!

But what if you’ve never done an energy audit and don’t know how to get started?

Learn everything you need to know about conducting facility energy audits at “Facilities Energy Audit Education”, Friday, December 11, 2009 at the new Milwaukee JATC. At this all-day workshop, attendees will learn how to conduct a Facility Energy Screening Audit – the first step of a multiphase Comprehensive Facility Energy Audit. Attendees will learn to identify electrical, mechanical and building envelope energy efficiency project opportunities in commercial, industrial and institutional facilities. This new course debuted to rave reviews at the recent NECA Convention in Seattle was developed specifically for electrical contractors. Get a jump on your competition by being among the first to add this training to your skill set! Don’t wait until the opportunity passes

you by.

Owners tell us that the firm who does their energy audit is usually the same contractor who creates their green energy project and controls the work. Energy audit expertise is a highly valuable addition to a NECA member’s green energy business and profit development toolkit. Don’t let a lack of training in energy audits hold your company back. Check out the

## ECPAC Dollars At Work

Members of the Wisconsin Chapter and American Line Builders Chapter of NECA met with U.S. Representative Paul Ryan recently to discuss NECA’s legislative agenda and present him with a check from ECPAC. Pictured at the meeting are: from left: Fred Davie (Hooper Corporation), Mark Hady (Hady Electric and Political Leadership Council), Shari Brunner (Wisconsin Chapter NECA), Rep. Paul Ryan, Loyal O’Leary (Wisconsin Chapter NECA).



Keep high aspirations, moderate expectations and small needs.

-H. Stein

## From the Desk of Attorney Randy Andersen



### LIEN WAIVERS

Subcontractors and material suppliers are sometimes asked to provide lien waivers prior to receiving payment.

A clause in a construction contract which requires a party to waive its lien rights before being paid is void and unenforceable pursuant to §779.135(1), Wisconsin Statutes. Therefore, a subcontractor cannot be forced to provide a lien waiver prior to receiving payment, even if the contract says that the subcontractor is required to do so. Note that this statute only applies to contracts for the improvement of real estate located in Wisconsin.

Assume a subcontractor provides a signed lien waiver pursuant to a contract which requires that it do so prior to receiving payment. What if the subcontractor is never paid? Is the lien waiver still valid? The Wisconsin Court of Appeals answered this question in the case of Tri-State Mechanical, Inc. v. Northland College. The Tri-State case involved the construction of a new science building on the Northland College campus. The general contractor entered into a contract with a subcontractor which required the subcontractor to sign a lien waiver as a condition of receiving its final payment on the project. At the end of the project, the subcontractor provided a signed lien waiver, but the general contractor failed to pay the balance of \$96,800.00 owed to the subcontractor. The general contractor went out of business, and the subcontractor attempted to file a construction lien against the project.

The subcontractor claimed that the lien waiver was invalid, because it was issued pursuant to a contractual provision which violated §779.135, Wisconsin Statutes. The Court of Appeals disagreed. It found that the clause requiring the subcontractor to sign a lien waiver before receiving final payment was void and unenforceable. However, the Court concluded that the lien waiver itself was valid. The Court stated that the subcontractor could have refused to sign the lien waiver before receiving payment. By signing the lien waiver, the subcontractor had waived its right to file a construction lien against the property.

Subcontractors are often asked to sign partial lien waivers as progress payments are made on a project. The biggest problem we see with partial lien waivers is that they are often unclear as to what rights are being waived, and what rights are retained.

Section 779.05(1), Wisconsin Statutes, provides that any document signed by a lien claimant or potential lien claimant purporting to be a waiver of construction lien rights is valid and binding as a waiver regardless of whether payment is received. The statute also provides that any waiver document will be considered to constitute a waiver of all lien rights unless the document specifically and expressly limits the waiver to apply to a particular portion of the labor, services, materials, plans or specifications. Therefore, before signing a partial lien waiver, the electrical contractor should make sure that it clearly states which rights are being waived and what rights are being retained.

### November 2009

#### **November 4**

Madison Membership  
Janesville-Beloit Membership

#### **November 5**

La Crosse Membership

#### **November 9**

Kenosha-Racine Membership  
Managing Field Productivity  
Seminar-Madison

#### **November 11**

Fox Valley-Northeast Joint  
Membership

#### **November 12**

Indianhead Membership  
NECA-OSHA Alliance –Madison

#### **November 19**

Wisconsin Valley Membership

### Upcoming Meetings

#### **January 29-30, 2010**

NECA Winter Meeting  
Holiday Inn, Manitowoc

Attorney Randy Andersen 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](http://www.kayandandersen.com)

The Wisconsin State Senate passed a bill recently which would ban all Wisconsin drivers from text-messaging while driving.

When originally discussed, the bill would have applied only to drivers who were under the age of 18, however some Senate members successfully argued that if texting while driving was unsafe for young drivers, it was unsafe for all drivers regardless of their age.



The law prohibits a driver from sending a text from a cell phone, iPhone, BlackBerry or other similar device. The penalties would be between \$20 and \$400 for the offense, which is similar to the penalty for disorderly driving.

The bill passed by an overwhelming 27 – 5 vote.



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

## Holiday Fantasy in Lights

2009 marks the 21st year of Madison's annual Holiday Fantasy in Lights display. Sponsored by the local LMCC fund, the annual holiday display is the major project presented by the fund. At its inception, contractors and their employees built structures that were then wired with thousand of Christmas lights, and were delivered to the park during the setup process. In recent years, the committee had leased the displays from a national company, who would deliver the displays to the park, and then pick them up after the event.

In an effort to control costs, and to be more environmentally friendly, the committee made the decision this year to terminate the lease and hold the event using displays they owned, including new locally built displays. The new displays are a cooperative project of the Ironworkers Local, who built the frames; the Painters Local, who painted the frames; and the IBEW Local #159 Special Projects fund, which is paying members to wire the lights to the displays. An exciting twist to the entire event is that all displays will be lit in LED rather than incandescent bulbs, creating an expected cost savings on the electricity bill. Also this year, one of the displays will be lit by solar power. Moving forward, the committee expects to continue the trend to hold a "Green" Holiday Fantasy in Lights display. A large memory tree is lit in remembrance of loved ones who have passed away, including original Fantasy in Lights Committee members, Jerry Hill, Ron Steiner, and Robert Palmer. Additional lights can be purchased by the public in memory of their loved ones for \$50.



If you are in Madison between November 16, 2009 and January 2, 2010, stop by Olin Park and tour the display. Admission to the event is

## Tom's Code Corner

**Question:** We supplied several RTU's through a conduit rack run across the surface of the roof. Each RTU was supplied through its own conduit. The nameplate rating was 37.8 amperes at 480-volts, 3-phase. The top of the "uni-strut" rack is 3 inches above the roof. The plan says to use 8 AWG THWN-2 conductors. What do you say?

**Answer:** We think the electrical engineer took into account the new requirement in 310.15(B)(2)(c). This section requires additional "derating" for conduits exposed to sunlight on rooftops. Adjustment factors have been a requirement for ambient temperature. This new requirement adds an additional correction factor to take into account the reflected heat from the roof.

The temperature adder in Table 310.15(B)(2)(c) shall be added to the average outdoor temperature to determine the proper temperature correction factors in Table 310.16.

The adder in this case is 40° F. We added this to an average ambient temperature of 90° F for a total of 130° F. The correction factor is taken to be 0.82 based upon the 90° C rating of the insulation. The Table ampacity of a 8 THWN-2 is 55 amperes at 90° C. The adjusted value is 45 amperes. The conductor is still adequate for the load without considering voltage drop.

### MANPOWER STATISTICS

For the Month of -- **August 2009**

Local Union #	14	127	158	159	388	430	577	890	TOTAL
Local Contractors: NECA	7	4	4	17	5	5	3	6	51
Non-NECA	32	8	14	18	9	17	7	15	120
<b>Total Local Contractors:</b>	<b>39</b>	<b>12</b>	<b>18</b>	<b>35</b>	<b>14</b>	<b>22</b>	<b>10</b>	<b>21</b>	<b>171</b>
Traveling Contractors: NECA	8	6	6	2	3	3	6	8	42
Non-NECA	5	9	5	3	1	3	1	1	28
<b>Total Traveling Contractors:</b>	<b>13</b>	<b>15</b>	<b>11</b>	<b>5</b>	<b>4</b>	<b>6</b>	<b>7</b>	<b>9</b>	<b>70</b>
<b>TOTAL # OF CONTRACTORS - LOCAL AND TRAVELERS:</b>	<b>52</b>	<b>27</b>	<b>29</b>	<b>40</b>	<b>18</b>	<b>28</b>	<b>17</b>	<b>30</b>	<b>241</b>
Contractors More Than Two Months Delinquent in N.E.B.F.	3	2	2	0	3	0	1	0	11
Total Number of Contributing Contractors in Area:	55	29	31	40	21	28	18	30	252
Employees: NECA	289	48	102	553	211	39	123	170	1535
Non-NECA	241	80	160	78	41	58	46	59	763
<b>TOTAL EMPLOYED:</b>	<b>530</b>	<b>128</b>	<b>262</b>	<b>631</b>	<b>252</b>	<b>97</b>	<b>169</b>	<b>229</b>	<b>2298</b>

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

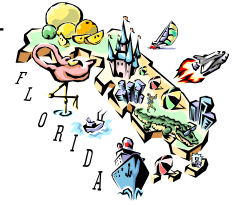
NOTE: These figures only reflect employees of contractors not more than 2 months delinquent in their N.E.B.F. payments.



Looking for more ways to “go green”? We’re still adding names to the list of members who would like to receive only the electronic version of the Watts News every month. It saves money, helps the environment, and it’s easy! Simply e-mail or call Tavia Brunner at the Chapter Office and give her your e-mail address: [tavia@wisneca.com](mailto:tavia@wisneca.com) or (608) 221-4650.

## IBEW-NECA Employee Benefits Conference In January

The IBEW-NECA Employee Benefits Conference will be held January 28 – 29, 2010 at the Naples Beach Hotel and Golf Club in Naples, Florida. Items to be discussed at the conference include a review of the administration of Reciprocal Agreements and benefit trust funds. The conference provides a forum for interested parties to review administration of reciprocal agreements and to discuss issues of common interest related to benefit trust funds. The primary goal of the conference is to improve the working relationships between NECA and IBEW trustees. This conference is strictly for IBEW or NECA administrators and Trustees, and is different from the New and Advanced Trustees Institutes offered through the International Foundation of Employee Benefit Funds.



If you are a Pension or Health & Welfare Trustee, and are interested in attending the IBEW- NECA Employee Benefits Conference, contact Loyal O'Leary for further information.

## New Man-hour Comparison Chart

Each month we include the "Manpower Statistics Report" on Page 5 of this newsletter. While this information is helpful, the data may not show the complete picture. We have been asked to provide a simple comparison on the number of hours worked in each local this year vs. the same period last year. That chart detailing monthly and year-to-date hour comparisons is found below. Please contact Shari Brunner at the Chapter Office (608-221-4650) if you have questions regarding the new Comparison Chart.

### Local and Chapter Man-hour Comparison

	Hours Aug-09	Hours Aug-08	2009 vs. 2008	% Change	Hours 2009 YTD	Hours 2008 YTD	2009 vs. 2008	% Change
Local #14	76670	75632	1,038	1%	514702	577658	-62,956	-10%
Local #127	24262	24029	233	1%	202091	187884	14,207	7%
Local #158	41578	45740	-4,162	-9%	319699	450279	-130,580	-28%
Local #159	89068	113101	-24,033	-21%	667277	928852	-261,575	-28%
Local #388	40038	55121	-15,083	-27%	279762	380933	-101,171	-26%
Local #430	19441	22016	-2,575	-11%	140783	163178	-22,395	-13%
Local #577	25970	39774	-13,804	-34%	234290	292005	-57,715	-19%
Local #890	33141	60334	-27,193	-45%	254540	399798	-145,258	-36%
<b>Chapter</b>	<b>350168</b>	<b>435747</b>	<b>-85,579</b>	<b>-19%</b>	<b>2613114</b>	<b>3380587</b>	<b>-767,473</b>	<b>-22%</b>

\*YTD numbers January through August

	Hours Sep-09	Hours Sep-08	2009 vs. 2008	% Change	Hours 2009 YTD	Hours 2008 YTD	2009 vs. 2008	% Change
Local #14	71322	70747	575	1%	586024	648405	-62,381	-10%
Local #127	21773	23868	-2,095	-9%	223864	211752	12,112	6%
Local #158	54048	40503	13,545	33%	373747	490782	-117,035	-24%
Local #159	87515	90995	-3,480	-4%	754792	1019847	-265,055	-26%
Local #388	34406	45011	-10,605	-24%	314168	425944	-111,776	-26%
Local #430	15790	19123	-3,333	-17%	156573	182301	-25,728	-14%
Local #577	27395	35368	-7,973	-23%	261685	327373	-65,688	-20%
Local #890	29229	51175	-21,946	-43%	283739	450973	-167,234	-37%
<b>Chapter</b>	<b>341478</b>	<b>376790</b>	<b>-35,312</b>	<b>-9%</b>	<b>2954592</b>	<b>3757377</b>	<b>-802,785</b>	<b>-21%</b>

\*YTD numbers January through September