would have the effect of increasing the maximum benefit from $49 to $61. He said that virtually every state that has a higher maximum benefit than we have at the present time has considerably higher tax rates on a higher taxable wage base than $3600, which we are now using. We have among the highest tax rates of any state in the United States. Mr. Donaca distributed sheets showing the impact today of taxes on the average weekly wage. He said he would prepare a list of proposals to change the bill and submit it to the committee during the next few days.

SB 281

Chris Wheeler, State Engineer, said the Oregon Drilling Association had discussed the proposed bill with him earlier this year and asked him to draft suggested amendments to cover problems he had raised. He submitted a written statement listing his suggested amendments. He went through this with the committee. He said he is connected with the licensing of water well contractors.

Chairman Lent asked Senator Atiyeh, who had sponsored the bill, to find out if the people who had requested this would like to give the committee a written statement in regard to it.

SB 230

Ed Whelan, President, Oregon AFL-CIO, (proponent) explained that in 1959 there was passed in Oregon the "Little Davis-Bacon Act," which, patterned after federal law, requires that the prevailing rate of pay be paid on public works. This bill brings it into conformity with the Federal act, which provides for the payment of fringe benefits along with the prevailing rate of pay. Mr. Whelan concluded with the request that a deferred hearing be held on this bill.

Ray Beeler, representing Associated General Contractors, said he had not been instructed to speak on this bill at this time; however, in the past they had opposed legislation of this nature both on national and local levels.

The Chairman said SB 230 would be rescheduled for March 17. Mr. Beeler and Mr. Whelan might have their witnesses at that time.

The Chairman told Mr. Brown, who had requested time to reply to some of Mr. Donaca's remarks on Senate Bill 177, that he might submit something in writing to the committee.

Meeting adjourned at 9:40 a.m.

Respectfully submitted,

Leona Tokerud
Committee Clerk

This amendment was suggested by the Attorney General and supported by the City of Portland, and the Transit Employes Union. Representative McCready recommended passage of the bill.

Dick Braman, City of Portland, (proponent) said he had nothing to add to the previous testimony. The City of Portland is in favor of this bill.

Action: It was moved by Senator Atiyeh that HB 1438 be reported out Do Pass. Motion carried unanimously (Cook excused).

SB 230

Ed Whelan, President, Oregon AFL-CIO, (proponent) recalled that he had outlined the needs for this bill at a previous hearing on March 3, at which time he had requested deferment for the purpose of securing additional witnesses. He introduced Robert Stanfill, Secretary of the Oregon Building and Construction Trades Council.

Robert Stanfill, (proponent) said the Federal Congress some four years ago had amended the Davis-Bacon Act to include the fringe benefits under the prevailing wage scales. The State of Oregon enacted legislation some years ago--which is called the "Little Davis-Bacon Act"--however, they did not include the fringe benefits. This bill would take care of the inequities that are affecting state projects. He urged favorable consideration.

Thomas N. Trotta, Assistant Attorney General assigned to the Bureau of Labor, (proponent) said that basically the Bureau of Labor is in favor of the bill. However, there are two administrative problems that they see in the law. He presented proposed amendments (1) in regard to how liquidated damages should be computed, and (2) as to the locality in which the prevailing wage is determined. Senator Atiyeh had some questions about the bill, and Mr. Trotta was asked to give his thoughts some study and submit some alternate amendments by the next afternoon.

Ray Beeler, (proponent) representing the Associated General Contractors, said the consensus of their legislative committee is that they support the bill, but they felt there might be a problem in regard to how these fringe benefits are paid.

The Chairman requested the three witnesses--Mr. Stanfill, Mr. Trotta, and Mr. Beeler--to go over these problems together and come to some consensus as to amendments by the following afternoon for submission to the committee.

Work Session
SB's 230, 383, 71, 177, 392

Senate Labor and Industries Committee

March 19, 1969 9:00 a.m. 401 State Capitol

Members Present: Lent, Chairman; Dement, Vice Chairman; Atiyeh, Cook, Raymond

SB 230

The Chairman recalled the hearing on SB 230 on March 17, at which Mr. Stanfill, Mr. Trotta, and Mr. Beeler had testified, at which time they had been requested to meet and come to some consensus as to amendments to the bill. The Chairman had since received a letter from Mr. Trotta transmitting amendments which were agreed upon by the Bureau of Labor, the Oregon State Building and Construction Trades Council, and Associated General Contractors.

Action: Senator Atiyeh moved the adoption of the amendments. Motion carried unanimously.

Senator Atiyeh moved that SB 230 be reported out with a Do Pass as Amended recommendation. Motion carried unanimously.

SB 383

Action: Senator Dement moved that SB 383 be reported out with a Do Pass recommendation. Motion carried 3-2, Senators Atiyeh and Raymond voting No.

SB 71

Action: Senator Cook moved that SB 71 be reported out with a Do Pass recommendation. Motion failed 3-2, Atiyeh, Dement and Raymond voting No.

Action: Senator Atiyeh moved that SB 71 be tabled. Motion carried 3-2, Cook and Lent voting No.

SB 177

The Chairman requested the members to study the material on this bill which they had been given by the AOI, the Oregon AFL-CIO, and the Department of Employment. Tom Donaca said his figures had been corrected, and the position of the AOI remains the same as presented at the hearing on March 3--they prefer to do it on a straight dollar amount rather than percentages. The Oregon AFL-CIO said their position is the same as given at the March 3rd hearing--50% of gross, which shows as $61 in the right hand column of the tabulation just compiled.

The Chairman said that SB 177 would be taken up at the next work session, on March 26.

File copy

SB 230

NORMAN O. NILSEN
COMMISSIONER OF LABOR

1400 S. W. FIFTH AVE.
PORTLAND, OREGON 97201

STATE OF OREGON
BUREAU OF LABOR

Portland, Oregon 97201
March 18, 1969

OFFICE OF THE COMMISSIONER OF LABOR

Senator Berkeley Lent
Chairman
Senate Labor & Industries Committee
Room 401 State Capitol Building
Salem, Oregon

Dear Senator Lent:

At the hearing on SB 230 on March 17, 1969, proposed amendments to the printed bill were made by the Bureau of Labor and problems were enumerated by the Associated General Contractors. Senator Atiyeh requested definite guidelines for the term "locality" in the law.

At the conclusion of the hearing you requested representatives of the Bureau of Labor, Associated General Contractors and the Oregon State Building and Construction Trades Council to meet and work out solutions we may have and submit the results to you.

We have held our meeting and the enclosed amendments are submitted in lieu of those proposed at the hearing.

I am taking the liberty of sending a copy to Senator Atiyeh because of his concern over a definition for the term "locality".

If I may be of any further assistance please do not hesitate to contact me.

Very truly yours,

ROBERT Y. THORNTON, ATTORNEY GENERAL

BY _____
Thomas N. Trotta, Asst. Atty. Gen.
Assigned to the Bureau of Labor

ENC:
TNT:P
cc: Mr. Ray Beeler, Ass'd. Gen. Con. Marion Hotel, Salem, Oregon
cc: Mr. Robert Stanfill, Exec. Sec. Oregon State Building and Construction Trades Council,
213 Portland Labor Center, 201 S.W. Arthur, Portland, Oregon
cc: Senator Victor Atiyeh, State Capitol Building, Salem, Oregon

adopted 3/19

SENATE AMENDMENTS TO

SENATE BILL 230

(Proposed by Bureau of Labor, Oregon State Building and Construction Trades Council, and Associated General Contractors)

On page 2 line 22 of the printed bill after "city" insert "and its immediate vicinity"

On page 4 line 3 of the printed bill after "amount" insert "equal to said unpaid wages"

HOUSE BILLS 1084, 1389, 1581, 1772, SENATE BILLS 230, 348

HOUSE COMMITTEE ON LABOR AND MANAGEMENT

April 18, 1969 1:15 P.M. 321 State Capitol

Members Present: Rogers, Chm.; Skelton, Vice Chm.; Bazett, Bennett, Dielschneider, Ingalls, Turner

Delayed: Eymann, Martin

Witnesses:
George Brown, Oregon AFL-CIO
Robert L. Stanfill, Secretary, Oregon State Building & Construction Trades Council
Jack Kalinoski, Associated General Contractors of America
Harold Sweet, Cascade Employers Association
Tom Donaca, Associated Oregon Industries
Wm. Callahan, Workmen's Compensation Board
Ed Westerdahl, Executive Assistant to the Governor

Tape 22

1 The meeting was called to order by the chairman, Rep. Rogers.

Rep. Ingalls made the motion that the amendments to HB 1084 be adopted.

Roll call vote was taken with the motion passing unanimously, Reps. Eymann and Martin not present for the vote.

Rep. Rogers explained that HB 1581 was one of the benefit bills that is a sub-committee recommendation.

Rep. Ingalls made the motion the amendments to HB 1581 be adopted.

Roll call vote was taken with the motion passing unanimously, Reps. Eymann and Martin not present for the vote.

2 Rep. Skelton explained that HB 1389 is the minimum wage bill. He has some amendments that he would like to prepare to present to the committee if enough interest is shown. The committee agreed that they would like to see the amendments.

Mr. George Brown explained that the purpose of SB 230 is to add fringe benefits to the rate of wages. The federal Bacon-Davis Act specifies that fringe benefits be considered as part of wages in determining the hourly rate of wage in public construction where federal funds are involved, and this will do the same thing on the state level where federal funds are not involved.

Mr. Robert Stanfill testified in support of SB 230 by stating that the State Building Trades Council has gone on record in support of this type of legislation.

Committee discussion followed with Mr. Stanfill at which it was pointed out that the bill allows the Oregon State Bureau of Labor to enter and investigate the contractor's records, where, in the federal, the employer has to submit the weekly and monthly payroll records. Mr. Stanfill said they have no objection to which method is used.

All SB 230 does is require both the general contractor and sub-contractors to include the fringe benefits as part of the prevailing wage as determined by the State Bureau of Labor.

Mr. Jack Kalinoski stated that the Associated General Contractors is in favor of SB 230 with the amendments presented. He explained that in the administration of public contracts that do not have federal assistance, the owner is required to put the prevailing wage in the specifications, so a contractor realizes that according to the Oregon law he must pay not less than those prevailing wages.

In answer to questions by the committee, Mr. Kalinoski said that A.G.C. is in favor of this because they feel that for equity between contractors bidding on jobs, if they are all required to pay fringe benefits the competiveness is not upset. When asked about Section 5, he said they felt this wouldn't be a problem because the Bureau of Labor people would be rational reasonable people. At the present time they submit a certified copy of the weekly payroll.

Rep. Dielschneider made the motion to table SB 230.

Roll call vote was taken with the majority voting "Aye", Reps. Bennett, Eymann, Turner and Skelton voting "No".

Mr. Harold Sweet submitted a statement in opposition to SB 230 (copy attached).

Mr. Tom Donaca explained that SB 348 provides that any party in an unemployment compensation benefit hearing may be represented by an agent authorized by that party. And there is protection for the claimant also.

Rep. Martin made the motion to send SB 348 to the floor with a Do Pass recommendation.

Mr. George Brown spoke in favor of SB 348 by saying the effect is simply that no longer can lawyers and attorneys represent someone with a simple claim, whether he is going to be denied benefits for that week or not. Under the order that individual can either represent himself or he must hire an attorney, and if he hires an attorney he is going to have to pay him more than if he won the

April 10, 1969

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 230

On page 3 of the printed engrossed bill, after line 13 insert:

"Section 4a. (1) The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Commissioner of the Bureau of Labor, pursuant to ORS 279.348 to 279.356 and other laws, may be discharged by the making of payments in cash, by the making of contributions of a type referred to in subsection (1) of section 3 of this 1969 Act, or by the assumption of an enforcible commitment to bear the costs of a plan or program of a type referred to in subsection (2) of section 3 of this 1969 Act, or any combination thereof, if the aggregate of any such payments, contributions and costs is not less than:

"(a) The prevailing rate of wage, as defined in ORS 279.348; plus

"(b) Fringe benefits, as defined in section 3 of this 1969 Act.

"(2) In determining for purposes of ORS 279.348 to 279.356 the overtime pay to which a laborer or mechanic is

entitled under any federal law, his regular or basic hourly rate of pay, or other alternative rate on which premium rate of overtime compensation is computed, is considered to be the prevailing rate of wage computed under ORS 279.348. However, if the amount of payments, contributions or costs incurred with respect to him exceeds the prevailing rate of wage applicable to him under ORS 279.348 to 279.356, such regular or basic hourly rate of pay, or such other alternative rate, shall be computed by deducting from the amount of payments, contributions or costs actually incurred with respect to him, whichever of the following amounts is greater:

"(a) The amount of contributions or costs of the type described in section 3 of this 1969 Act, actually incurred with respect to him; or

"(b) The amount determined under section 3 of this 1969 Act, but not actually paid.".

PROPOSED HOUSE AMENDMENTS TO SENATE BILL 230

On page 3 of the printed bill, after line 13, insert "Section 5. ORS 279.350 is amended to read: 279.350. The hourly rate of wage to be paid by any contractor or subcontractor to workmen upon all public works shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed. When a contractor or subcontractor is a party to a state-wide agreement in effect with any labor organization, the rate of wages as established in the agreement shall be considered to be the prevailing rate in the locality. ORS 279.348 to 279.356 shall not apply to workmen or other persons regularly employed on monthly or per diem salary. Provided, that the obligation of a contractor or subcontractor to make payment in accorance with the prevailing wage determinations of the Commissioner of the Bureau of Labor, insofar as this Act and other Acts incorporating this Act by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in subsection (1) of Section 3 of this Act, or by the assumption of an enforcible commitment to bear the costs of a plan or program of a type referred to in subsection (2) of Section 3 of this Act, or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in Section 1 of this Act plus the amount referred to in Section 3 of this Act. In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under Section 1 of this Act, except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under this Act, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types

described in Section 3 of this Act actually incurred with respect to him, or the amount determined under Section 3 of this Act but not actually paid, whichever amount is the greater.

On page 2 of the printed bill, line 27, change "5" to "6".

On page 3 of the printed bill, line 14, change "5" to "6".

In line 30, change "6" to "7".

On page 4 of the printed bill, line 7, change "7" to "8".

In line 28, change "8" to "9".

add
line 9

(1) the basic hourly rate of pay; and

(2) the amount of—

(A) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforcible commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected,

for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other Federal, State, or local law to provide any of such benefits:

Provided, That the obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, insofar as this Act and other Acts incorporating this Act by reference are concerned may be discharged by the making of payments in cash, by the making of contributions of a type referred to in paragraph (2)(A), or by the assumption of an enforcible commitment to bear the costs of a plan or program of a type referred to in paragraph (2)(B), or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in paragraph (1) plus the amount referred to in paragraph (2).

In determining the overtime pay to which the laborer or mechanic is entitled under any Federal law, his regular or basic hourly rate of pay (or other alternative rate upon which premium rate of overtime compensation is computed) shall be deemed to be the rate computed under paragraph (1), except that where the amount of payments, contributions, or costs incurred with respect to him exceeds the prevailing wage applicable to him under this Act, such regular or basic hourly rate of pay (or such other alternative rate) shall be arrived at by deducting from the amount of payments, contributions, or costs actually incurred with respect to him, the amount of contributions or costs of the types described in paragraph (2) actually incurred with respect to him, or the amount determined under paragraph (2) but not actually paid, whichever amount is the greater.

TO: House Labor and Industries Committee

FROM: Cascade Employers Association

RE: SB 230

As a member of the National Industrial Council discussing the problems of prevailing rates and fringe benefits, we find the Nation greatly concerned over the use of these faulty yardsticks in setting up so-called uniform conditions for employment of people for work being performed for political subdivisions of Government. Already it has been demonstrated on the National scene that the use of the Davis-Bacon Act with its attendant wage rates and fringe benefits accepted per se from the Associated General Contractors and the various Unions, is causing great concern in the rapid acceleration of construction costs. In fact, the Federal Government itself is rapidly becoming concerned since it is directly involved in approximately 60% of all heavy construction in the country at the present time.

As we get closer to home we find the State of Washington involved in a similar situation because of their so-called prevailing wage law for all political subdivisions of government. At this time, Cascade Employers Association is embroiled in a dispute with the Department of Labor and Industry in the State of Washington because of their failure to make the necessary investigation to establish prevailing wage and fringe benefits in the Walla Walla area. This is because the Department failed to observe the terms and conditions of the law in making such investigation prior to certifying Union contract scales and conditions as being the criteria to be used for the City of Walla Walla.

It does not seem proper for the State, under provisions of this bill, to attempt to fix rates and conditions based solely upon the Union contracts negotiated by a particular group of people and then have those rates and conditions apply to all other construction firms in the State. In a recent survey made in the State of Oregon by the Home Builders Association, it was indicated to the satisfaction of the United States Department of Labor that well over 50% of all of the carpenters employed in the State were actually working for non-union contractors whose rates and fringe benefits are considerably less than those paid in the heavy construction field under Union contract.

It would appear that if the State is to enter the field of fixing wage rates and other conditions of employment in the construction industry, it should do somewhat as follows: Make a survey to include the following information:

(1) all rates; (2) fringe benefits; (3) specific working conditions.

Accordingly, establish a code under the Wage and Hour Division which would be recognized until changed by a further investigation or survey.

In addition to this, it would appear proper for the State to accept these terms and conditions of employment for all of its own employees engaged in the construction field.

It might also be well for the State to provide that these terms and conditions, similar to the Federal Walsh-Healy Act, should require that all items or material manufactured should be produced under the same conditions as required by this proposed State law and under its specific conditions.

At the present time confusion reigns supreme even within the framework of the contracts negotiated between Union contractors and the various Unions. Health and welfare and pension programs have costs ranging from 15¢ per hour to 35¢ per hour. Vacation plans, apprenticeship plans and Industry Promotion Fund programs have costs of anywhere from 1/2¢ per hour to 2 or 3¢ per hour. All of these items vary within the jurisdiction of the Local Unions.

It is difficult enough now for contractors going from one area to the other to keep track of the various terms and conditions they must meet without having the State compound this further or aid and abet the exorbitant rate and fringe benefit structure brought about by Union negotiations.

We trust that your Committee will refer this entire matter to an interim study group that might make a complete investigation of the whole problem of construction costs, including wages and fringe benefits, before attempting to saddle such a program upon the contractors and/or suppliers of the State of Oregon.

Rep. Eymann said he would like to amend the proposed amendments to delete Section 1, and do the necessary renumbering. This would mean that while the State Labor Management Relations Board would not be funded, its abolition would not occur until the next session of the legislature.

Rep. Rogers stated the amendments should be adopted first and
15 roll call vote was taken on Rep. Skelton's motion to adopt the amendments as prepared. The motion passed unanimously, Rep. Turner not present.

Roll call vote was taken on Rep. Skelton's motion to delete on page 4 of the amendments, the sum of $15,000. The majority answered "Aye", Reps. Martin and Rogers, answered "No", Rep. Turner not present.

Roll call vote was taken on Rep. Eymann's motion to delete Section 1, with the majority answering "Aye", Reps. Bennett and Rogers answering "No", Rep. Turner not present for the vote.

Rep. Martin made the motion to send HB 2053 to the floor with a Do Pass as Amended recommendation and refer to the Ways & Means Committee.

Roll call vote was taken with the motion passing unanimously, Rep. Turner not present.

Rep. Martin made the motion to take SB 230 off the table.

Rep. Ingalls distributed copies of proposed amendments to SB 230.

17 Roll call vote was taken with the majority answering "Aye", Reps. Bazett and Rogers answering "No", Rep. Turner not present.

Rep. Ingalls moved the adoption of the amendments to SB 230.

Roll call vote was taken with the motion passing unanimously, Rep. Turner not present.

Rep. Martin made the motion that Engrossed SB 230 be sent to the floor with a Do Pass as Amended recommendation.

Roll call vote was taken with the majority answering "Aye", Reps. Bazett and Rogers answering "No", Rep. Turner not present. Rep. Martin will lead the floor discussion.

Rep. Ingalls stated he had a proposed bill to be introduced as a committee bill. It has to do with apprenticeship for barbers.

May 8, 1969

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 230

On page 3 of the printed engrossed bill, line 21, after "inspection" insert "during normal business hours and".

On page 3, line 22, after "request" insert "made a reasonable time in advance".