



Connecticut Chapter

Testimony by Lelah Camp, President of
Associated Builders & Contractors

Before the Committee on Labor and Public Employees on February 18, 2010

Supporting SB 97 AN ACT CREATING A CIVIL ACTION TO ALLOW
CONTRACTORS TO RECOVER UNPAID EMPLOYEE PENSION OBLIGATIONS
FROM SUBCONTRACTORS.

I am the President (Executive Director) of Associated Builders and Contractors of Connecticut (CT ABC). CT ABC is a statewide membership association that represents merit contractors and is the largest construction association in Connecticut.

We come before you today to respectfully seek your support of SB 97 AN ACT CREATING A CIVIL ACTION TO ALLOW CONTRACTORS TO RECOVER UNPAID EMPLOYEE PENSION OBLIGATIONS FROM SUBCONTRACTORS.

General Contractors performing work in Connecticut on state funded projects that mandate the payment of prevailing wage are exposed to "double jeopardy". This act seeks to give GCs a method to seek reimbursement if they find one of their subs has committed fraud on a prevailing wage project. GCs are required to receive certification that their subcontractors paid proper wages and benefits to the sub's employees. These certified payroll affidavits contain a statement that the records are correct, the rates paid are correct, and that contributions and benefits paid on behalf of the employee to certain pension-type funds have been made. It is a Class D felony to falsify this affidavit, but unfortunately it still happens.

Many GCs have experienced a situation like the following example: A subcontractor was paid 100% of the contract amount due to them. After the completion of the project, the GC receives a call from the Department of Labor that pension fund deposits were not made on behalf of the employees working for this subcontractor on the project. The Department of Labor asks the GC to withhold further payments, which is not possible as there are no further funds due to this subcontractor. The Department of Labor has the right to have the GC pay the contributions even though the GC did their due diligence and already paid the subcontractor in full.

Unfortunately, this situation has happened to almost every major GC in the industry. With the recession we fear we may see it happen even more frequently.

If a GC is caught in this "double jeopardy" scenario and makes the employees of a subcontractor 'whole', the industry needs an avenue to pursue these unethical firms even if they close their doors. We have seen firms close operations only to change their name and reopen having skirted paying their employees.

While this bill is by no means a hard and fast method to prevent this from happening, it does give GCs a tool to collect the money that they will have paid out twice.

We thank the committee and urge their support for SB 97.