

Spring/Summer 2022

# The Monitor

RAISING THE BAR BY MONITORING THE CONSTRUCTION INDUSTRY



## **Davis-Bacon Act Regulations up for Consideration with the U.S. Department of Labor**

The update to the Act would be the first time in nearly 50 years.

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# GAS TAX HOLIDAYS ARE BAD POLICY

States across the country have considered passing short-term gas tax holidays in response to the rising price of gas. Four states have followed through, including Maryland, Georgia, Connecticut, and New York. Maryland suspended its gas tax for 30 days, while Connecticut suspended its gas tax for three months.

In Illinois, the historic \$45 billion capital bill, *Rebuild Illinois*, resulted in robust funding mechanisms that provided necessary revenue for the state's transportation and infrastructure needs. One of the main funding improvements was to raise the state motor fuel tax (MFT) after nearly 30 years and index it to inflation. Illinois – while deciding not to suspend its gas tax – has decided to postpone its gas tax increase that was scheduled to take effect in July 2022 until January 2023.

While everyone is experiencing significant pain when filling up their tank, gas tax holidays have little to no effect on the price of gas in the short term. According to a 2020 report from the American Road & Transportation Builders Association, only one-third of an increase or decrease in state gas tax rates are passed on to consumers. Retail gas prices are influenced by complex factors, including the price of crude oil and supply-and-demand pressures. In addition, there is no law forcing gas stations to pass along all the savings to consumers, leading to concerns that consumers will not even experience a reduction during gas tax holidays.

Instead, gas tax holidays create fiscal consequences that come at the expense of other priorities, including infrastructure investment to fix, repair, and expand roads, bridges, and mass transit. Roads and bridges don't magically fix themselves for free, after all. These efforts

*Gas tax holidays create fiscal consequences that come at the expense of other priorities, including infrastructure investment.*



**Marc Poulos**  
EXECUTIVE DIRECTOR

only save drivers a handful of dollars but create large gaps in infrastructure revenues that impact the long-term goals of infrastructure investment, job creation, and economic growth.

For example, postponing Illinois' 2-cent MFT increase will only save the average driver \$6.84 over six months, but the overall loss of tax revenue is estimated to be \$140 million. Fortunately, a deal was made that replaces lost revenue from postponing the gas tax increase with funds from the Leaking Underground Storage Tank Fund.

Ultimately, Illinois will maintain infrastructure revenue this year while helping consumers and families during this period of high inflation. But the games that politicians are playing with the motor fuel tax must stop before they have real, long-term fiscal consequences on commitments to infrastructure investments in Chicago and across Illinois.

Regardless, if these shortsighted gimmicks continue in the future in Illinois, Indiana, or Iowa, we will be there to push back and fight for better policies and reliable infrastructure funding. Our local economies rely on it.



"How State Motor Fuel Tax Increases Affect the Retail Price of Gasoline: An Economic Analysis of Rate Changes and Daily Gasoline Prices, 2013 to 2018." American Road & Transportation Builders Association. Accessed May 10, 2022. [https://transportationinvestment.org/wp-content/uploads/2022/02/TIAC\\_June2020\\_Report\\_v21.pdf](https://transportationinvestment.org/wp-content/uploads/2022/02/TIAC_June2020_Report_v21.pdf)

"Illinois Lawmakers Pass \$46B Budget Saturday, Bringing Tax Relief to Residents." NBC Chicago. Accessed May 5, 2022. <https://www.nbcchicago.com/news/local/chicago-politics/illinois-lawmakers-pass-46b-budget-saturday-morning-bringing-tax-relief-to-residents/2803203/>

# 2022: THE YEAR OF WORKERS' RIGHTS

Supporting workers is popular across America. With polling showing that record numbers of Americans are supportive of labor unions, efforts are underway in Illinois to strengthen collective bargaining in 2022.

Over the past year, workers across the country have been fighting for more rights in the workplace. Employees at a Buffalo, NY Starbucks store voted to form a union in early December 2021, making it the only one of the nearly 9,000 company-owned stores in the country to be organized. In April 2022, independent Amazon Labor Union (ALU) won its union election at an Amazon warehouse in New York's Staten Island, becoming the first union at the company within the United States.

These labor movement victories come at a time when workers across the country are expressing frustration with wages and working conditions. In fact, employees at four additional Starbucks across the U.S. filed to unionize just a few weeks after the victory in Buffalo. Now, over 100 Starbucks have filed to form a union, with more announcing plans to organize. Workers know that their labor is valuable, and that they deserve family-sustaining wages and safe working conditions.

In June 2021, there was bipartisan support in both the Illinois House of Representatives and Illinois Senate to pass the Workers' Rights Amendment (WRA). This vote warranted the Amendment would be on the November 2022 Election ballot, giving Illinois voters the opportunity to vote for the fundamental right of all Illinois workers to collectively bargain.

While workers in Illinois already have the right to organize and collectively bargain, this new section to the Illinois Constitution would protect existing rights and prevent politicians and special interests from weakening workers' rights now and in the future. Because these rights will be

enshrined in the Constitution, workers will no longer have to fear for their livelihood with every passing election cycle.

The WRA protects the rights of workers to fight for better wages, benefits, and safety at work. As costs of goods and services keep rising across the country, the WRA would ensure workers can negotiate for pay raises and better benefits that help deal with high prices that are hurting working families. In addition, the amendment ensures workers can speak out about dangerous situations that put Illinoisans at risk, and collectively bargain to make their workplaces safer. Numerous jobs are hazardous and dangerous. The WRA would ensure workers have the proper training to do their jobs well and do them safely, provide more resources for first responders, and would protect workers against employers who cut corners and are not focused on safety.

Economic research continues to show that collective bargaining offers workers solid pathways into good, middle-class jobs with family-supporting wages and benefits. Workers – even those without a college degree – who have the opportunity to collectively bargain at their workplaces have better wages, more health insurance coverage, and are more productive overall. These economic outcomes result in faster economic growth for the local and state economy that benefit businesses, workers, and taxpayers. Ultimately, everyone fares better in states with stronger collective bargaining rights.

The WRA is not just for union members, it's for all workers. We need to act now to protect workers' freedom to speak up for their safety, to have a say in their conditions at work, and to have a path to economic freedom. On November 8, Illinois voters have the opportunity to take a stand and constitutionally protect workers' rights by voting for the Workers' Rights Amendment.

# PUBLIC BODIES SPOTLIGHT

City of Elkhart, Indiana

## CITY OF ELKART UPDATES RBO TO INCLUDE APPRENTICESHIP LANGUAGE

In February, the City of Elkhart, Indiana passed a Responsible Bidder Ordinance (RBO) that included recently updated apprenticeship requirements. The new apprenticeship clause of the RBO includes language that a contractor is only deemed responsible if they are registered in a U.S. Department of Labor (USDOL) recognized apprenticeship program that has graduated at least five apprentices within the last five years. The updated language ensures that the highest quality of standards continue to be utilized during the public bid process.

As many are aware, the purpose of an RBO is to help ensure that the city hire only responsible contractors who will provide the highest quality of work efficiently, safely, on time, and on budget. The RBO establishes clear, objective criteria that contractors must meet to be eligible to bid on public works projects and ensures that public bodies hire contractors with a well-trained, safe, and substance-free workforce.

To that end, there are some contractors who may claim to be part of an apprenticeship program by simply utilizing membership in a construction related co-op, but they may not actually be participating in or graduating actual apprentices. The language in the City of Elkhart's RBO sets specific criteria requiring proof of actual participation in USDOL approved apprenticeship programs. Not only does this assure that only qualified contractors and subcontractors are used throughout the entire construction process, but it also assures that the contractor is paying dividends in the construction industry, both in the short and long term.

Registered apprenticeship programs are the best way to continually provide qualified craftsmanship and young people

in our communities an opportunity for a lifelong career. After passing the RBO, Elkhart City Councilman Aaron Mishler tweeted, "Tonight, in a bipartisan 8-1 vote, Elkhart adopted a Responsible Bidder Ordinance. Contractors bidding on municipal projects of [\$150,000] or more must have a nationally recognized apprenticeship program and graduate a [minimum of] 5 a year. Huge win for Elkhart." Public bodies who do not use RBO's take the risk of having unsuitable contractors, who use loopholes in weak or vague language to remain in a bid process that they are not actually qualified for. Through the City Council's efforts, and out of good stewardship, their RBO with the updated apprenticeship language will help guarantee that Elkhart's tax dollars are being spent wisely on public construction projects while ensuring quality construction.

For any public body who invests large amounts of money in construction projects, it should be a simple decision to support RBO's. Everyone benefits from such ordinances: the public body who retains qualified and responsible contractors for public works projects, taxpayers who know their taxpayer dollars are being spent on reputable contractors who complete infrastructure projects that support the local economy, and skilled craftsmen and craftswomen who are highly trained through registered apprenticeship programs and earn middle-class wages in their local communities.

The decision to pass the updated RBO was an easy one for the City of Elkhart. In 2021 alone, the city spent \$7.1 million on 13 publicly funded projects that updated and improved the city. The III FFC congratulates the City of Elkhart for their foresight and proactive governance.



## AFTER PUSHBACK, ANOTHER RBO PASSES

The Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC) stands strongly behind our mission of raising standards in the construction industry. That's why we continue to educate public bodies and local governments on policies, laws, and ordinances that uphold quality standards of craftsmanship in the public construction industry. One ordinance we strongly support is a Responsible Bidder Ordinance (RBO). A RBO sets fair and objective standards during the bid process that protect taxpayer dollars, promote quality standards and USDOL approved apprenticeship training, support local contractors and workers, and support strong economic development practices.

The III FFC is happy to announce that after some initial pushback from Mayor Anthony Copeland and one council member, a new RBO was successfully passed in East Chicago, Indiana. Contractors bidding on public works let by the city will now have to meet certain criteria in order to be eligible to win the bid and perform work on behalf of the community.

The passage of the ordinance took a few weeks as council members had questions on why RBOs are important and what should be included in the ordinance. III FFC Regional Manager, Myron Sutton, and III FFC Construction Analyst, Jeff Phillips, attended numerous Common Council meetings at East Chicago's City Hall to answer questions. Myron explained how RBOs guarantee that responsible contractors win public projects,

rather than fly-by-night contractors who cut corners in the areas of training and safety. Jeff mentioned that RBOs promote USDOL-approved apprenticeship programs which can go a long way in assuring the safety of workers and the financial and structural success of a project.

On February 23rd, East Chicago council members voted in favor of passing a Responsible Bidder Ordinance, by a 7-1 vote, which was later vetoed by the mayor. Two weeks later, on March 9th, council members overrode the mayor's veto and successfully passed the local RBO. Myron and Jeff addressed the Common Council after the vote and publicly thanked them for their support.

Even though there was opposition from Mayor Copeland – who ultimately opposed workforce development – we commend the forward-looking council members on their vote to uphold quality standards in public construction, while also supporting USDOL-approved apprenticeship programs that prove to support local contractors and workers. Only the most responsive and responsible contractors will be awarded projects in the City of East Chicago, which is good for the community, taxpayer dollars, and economic development.

We will continue to promote and educate public bodies, contractors, and workers the importance of strong construction standards. We look forward to helping more local governments pass RBOs in Indiana and across our jurisdiction!



**Myron Sutton**  
REGIONAL MANAGER



*III FFC Indiana Regional Manager Myron Sutton (left picture) and Construction Analyst Jeff Phillips (right picture) addressed East Chicago council members.*

# BROADBAND INFRASTRUCTURE: THE U.S. & ILLINOIS

Over the past three decades, the internet has evolved from a system of communication to an essential part of commercial activity and daily life. From farming to spaceflight and everything in between, the internet has become an expected part of economic development and social progress.

There is currently a large “digital divide” in Illinois. This divide includes the gap between those with and those without access to affordable broadband internet service. Even among households that have internet connections, many still lack reliable high-speed internet that prevents them from undertaking necessary tasks.

A 2022 study by the Illinois Economic Policy Institute and the Project for Middle Class Renewal at the University of Illinois shows how investments in broadband infrastructure will help address this divide. First, broadband investments will benefit Illinois’ farmers and can improve crop yields while connecting more rural households to high-quality jobs that can be performed remotely. Second, within urban areas, investments in broadband infrastructure will connect disadvantaged communities and address racial disparities. In the Chicago area, for example, nine-in-ten white residents have access to high-speed internet compared with fewer than eight-in-ten Black and Hispanic residents. Recent research has also revealed that nearly one-in-five Chicago students lack access to broadband, with the largest gaps in internet connectivity in the south and west sides of the city. Expanding access to broadband internet can reduce the number of students who are left behind.

Illinois is currently in the midst of investing hundreds of millions of dollars in broadband infrastructure. In June 2019, Governor JB Pritzker signed Rebuild Illinois into law, which included \$400 million for the Department of Commerce and Economic Opportunity (DCEO) to expand access to reliable high-speed internet services. Another \$20 million was devoted to repairing and expanding broadband networks at K-12 schools, colleges, and universities. Furthermore, last year, President Joe Biden signed the Infrastructure Investment and Jobs Act, investing a minimum of \$100 million in reliable high-speed internet in Illinois. The federal law requires a matching contribution of at least 25 percent for states to receiving funding from grant programs and, thanks to the Rebuild Illinois capital law passed in 2019, Illinois is well-positioned to receive hundreds of millions of additional dollars from these grants to invest in broadband.

These investments will improve outcomes for Illinois’ workers. During the construction and installation phase,

workers employed on broadband projects are paid locally prevailing wages. Additionally, workers with access to broadband internet earn about \$60,000 in income from wages and salaries per year on average. By contrast, those without broadband access only have annual incomes of about \$41,400. Expanded broadband access will boost earnings and deliver middle-class careers in Illinois.

The researchers conclude that Illinois’ historic investments in broadband infrastructure by 2025 will grow the economy. The investments will connect nearly 565,000 residents to high-speed internet, create nearly 25,000 short-term and long-term jobs, grow the economy by billions of dollars, and generate sufficient tax revenues to pay for itself within a decade. That’s a win-win-win for the construction industry, for Illinois residents, and for taxpayers.

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1. “The Economic, Fiscal, and Social Effects of Public Investments in Broadband Internet Access in Illinois.” Andrew Wilson, Frank Manzo IV, and Robert Bruno, 2022. Illinois Economic Policy Institute and Project for Middle Class Renewal. Accessed June 5, 2022. <https://illinoisupdate.com/2022/06/01/broadband-study/>



# UPDATING THE DAVIS-BACON ACT AND RELATED ACTS REGULATIONS



In March 2022, the U.S. Department of Labor (DOL) Wage and Hour Division published proposed regulations to restore the Davis-Bacon Act's promise to protect the hard-earned wages of construction workers and ensure that contractors compete for government contracts on the basis of merit, rather than on who can exploit the cheapest workforce. The last time changes were made to the regulations, Ronald Reagan was President.

From 1931 to present, the Davis-Bacon Act and Related Acts (DBRA) has been central to the modern American procurement system. The bipartisan law established a wage floor – known as the “prevailing wage” – that prevents contractors on federally funded projects from driving down local area labor standards. Prevailing wages are required on all taxpayer funded federal construction projects and some state, county, and municipal construction projects through dozens of “related” laws passed in 26 states.

The main purpose of a prevailing wage, such as the DBRA, is to protect local construction standards in the competitive low-bid process. Prevailing wages establish minimum wages for different types of skilled construction workers on federally funded and federally assisted projects based on wages, benefits, and training contributions that are paid

for similar work in the local area where a project is to be completed. Without prevailing wages, long-term investments in training, health, and retirement benefits can be slashed in order to win a bid on a short-term project.



**Michael McNally**  
COUNSEL

The Davis-Bacon prevailing wage system is one of the pillars that helped build the great American middle-class. Unfortunately, over the past forty years, the regulatory system for administering the Davis-Bacon Act has been chipped away,

resulting in lower wages for skilled construction workers and unpoliced wage theft. Thousands of construction workers across the United States are victims of wage theft each year, which ultimately harms the workers, taxpayers, and local economies. According to the DOL, the Department recovered almost \$30 million in back wages for nearly 8,000 workers who were cheated out of their wages in 2017.

We at the III FFC routinely work with local, state, and federal enforcement agencies to ensure laws protecting workers and responsible contractors are enforced. We – along with the International Union of Operating Engineers – were instrumental in providing voluntary information to the new Biden Administration about the reasons DBRA needs to be updated. The Department has now acted and issued a proposal to strengthen DBRA to protect workers by modernizing sections of the regulations including surveys, conformances, wages and fringe benefits, coverage, and enforcement.

The new changes will strengthen many worker protections. With over 400 pages of explanations of proposals, we highlight three major proposals here. The first is the Department's proposal to repeal its current practice of overreliance on artificial weighted averages, established in 1982, and restore the legally and methodologically sound three-step framework that was in force prior to 1982. The fundamental purpose of Davis-Bacon is to prevent contractors from basing their bids on wages lower than those prevailing in a local area. Without a doubt, overreliance on weighted averages allows a single low-wage contractor to diminish wage rates on federal contracts below the actual modal rate that is prevalent in a local community.

Recommitting to the Three-Step Rule for determining wage rates will ensure that: (1) if a rate is paid to a majority of workers in a classification, that rate will be deemed the prevailing wage; (2) if no single rate is paid to a majority of workers, the rate that is paid to the greatest number of workers - the modal rate - is deemed the prevailing rate; and (3) if no single rate is paid to at least 30 percent of workers, only then will DOL revert back to a weighted average.

The Department's proposal would also strengthen its cross-withholding authority. Cross-withholding refers to when funds can be withheld from a contractor on projects other than the one on which the wage violation occurred. DOL's authority will now expand encompass single-purpose entities, joint ventures, partnerships, or other "teaming arrangements" emerging in the industry. The rule would require that any entity or subcontractor of any tier must agree to cross-withholding if they enter into a DBRA covered contract. Second, the Department proposes to ensure that it can enforce cross-withholding from a contractor even if the withheld funds are from a project that was awarded by a different federal agency. Third, the Department proposes to clarify that a federal agency may suspend funds when a contractor refuses to submit certified payroll records. Finally, the Department is proposing to assert that it has absolute priority to claim funds, above all other competing claims, for violations of Davis-Bacon prevailing wage requirements. This includes sureties, a contracting agency, a bankruptcy trustee, contractor's assignees or successors, and prompt payment act claimants. In short, DOL will have first bite for funds it must withhold.

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***The proposed rules will create a level playing field for contractors by improving compliance with Davis-Bacon labor standards, better ensure workers are being paid living wages that reflect local labor markets, and strengthen enforcement tools for workers covered by DBRA.***

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Finally, the Department is proposing to charge interest on back wages calculated to the date of the underpayment. Such a provision will help ensure workers are protected and receiving the full wages owed. Wage theft is a pervasive issue, and this provision will help deter non-responsible contractors from such theft.

The Department asked stakeholders to provide comment on over 400 pages of proposed rules and reasonings behind those rules. The III FFC took the opportunity to submit comments of nearly every proposal. The proposed rules will create a level playing field for contractors by improving compliance with Davis-Bacon labor standards, better ensure workers are being paid living wages that reflect local labor markets, and strengthen enforcement tools for workers covered by DBRA.

## VIRTUAL PREVAILING WAGE SEMINAR 2022

Our annual prevailing wage seminar was hosted on Zoom in March this year. The seminar was a great success, with over 220 people participating.

OSHA Safety & Occupational Health Specialist, Brian Bothast, kicked off the seminar with his presentation on safety in the workplace. Then, Illinois Comptroller Susana Mendoza joined us to discuss her office's prevailing wage oversight efforts. Working with the Illinois Department of Labor (IDOL), the Comptroller's Office has held almost \$2 million in taxpayer dollars to contractors who have not abided by the law by not paid prevailing wages to workers.

Two employees at the Office of the Illinois Attorney General, Christopher Boggs, with the Public Access Bureau, and Alvar Ayala, with the Workplace Rights Bureau, also presented. Christopher provided an overview of Freedom of Information Acts (FOIAs) and Alvar discussed the Workplace Rights Bureau's work at protecting and advancing the employment rights of all Illinois residents, particularly the state's most vulnerable residents and immigrant populations.

III FFC's Kara Principe and Thompson Coburn LLP's Michael Duffee concluded the seminar with their presentations on the Illinois Prevailing Wage Law. Kara's presentation was intended for public bodies and employees to understand the Prevailing Wage Law, while Michael's presentation was more geared towards what contractors need to know regarding the law.

We could not put on this great event without our sponsors Project First Rate, Northern Illinois Building Contractors Association, Finishing Contractors Association of Illinois, and Northwestern Illinois Building Trades Unions.

We look forward to hosting an in-person conference on April 4, 2023!



*Illinois Comptroller Susana Mendoza (left) talked with III FFC Policy Director Josh Weger (right) on her office's prevailing wage enforcement efforts throughout the state.*



**Thomas Haley**  
CONSTRUCTION ANALYST



Construction of Obama Presidential Library



## OBAMA PRESIDENTIAL LIBRARY PROJECT

After years of outside delays, a federal planning and review process, and preparation work to the site and surrounding areas, the long-anticipated Obama Presidential Center construction is finally in full swing. Plans for the Obama Presidential Center were initially announced back in May of 2017, with construction being led by a joint venture called the Lakeside Alliance. The Lakeside Alliance consists of nationally recognized Turner Construction in partnership with local African American owned firms UJAMMAA Construction, Powers & Sons Construction, Brown & Momen, and Safeway Construction. In 2021, the Lakeside Alliance showed their commitment to using responsible contractors and skilled craftsmen and craftswomen from U.S. Department of Labor (DOL) recognized apprenticeship programs by signing a Project Labor Agreement for the duration of the project.

Preparation for the project began with the completion of a Chicago Park District turf and track field that was relocated to the south of the Obama Presidential Center site in May of 2021. In June, site utility work around Jackson Park began, as well as the closure of numerous lanes of Cornell Drive. In August, the eastern most portion of Midway Plaisance Park was permanently closed to allow for both sections of the park to be joined into one large parcel. The official groundbreaking ceremony was held on September 28, 2021, with Illinois Governor JB Pritzker and Chicago Mayor Lori Lightfoot joining former President and First Lady Barack and Michelle Obama at the site to formally kick off the project.

The official groundbreaking ceremony was held on September 28, 2021, with Illinois Governor JB Pritzker and Chicago Mayor Lori Lightfoot joining former President and First Lady Barack and Michelle Obama at the site to formally kick off the project.

Since September, a lot of work has already been completed. IUOE Local 150 signatory contractors Stalworth Underground, Thatcher Foundations, Doetsch Contractors, Pipe Strong LLC, Griffin Dewatering, and Keller North America were on site preparing, drilling, and installing the wells that will provide geothermal heat to establish an energy efficient building and the caissons that will eventually support the structures of the project. Another IUOE Local 150 signatory contractor, John Keno Construction, continued with heavy excavation of the project by clearing dirt, sand, and clay from the area. In addition, the parking garage on the southern side of the project has approximately 30% of the perimeter walls constructed, being led by a joint venture named the Concrete Collective which consists of IUOE Local 150 contractors W.E. O'Neil Construction, II in One Contractors Inc., and Trice Construction Company.

In addition to excavation and the construction of walls on the project, there are also two tower cranes on site. One crane is assisting with the parking garage on the southern end, while the other crane is attached to the tower and raised to perform work on the northern end. Construction workers are currently working about 20 feet below street level to ready the two building "cores", which are the areas where that building's stairs, elevators, and mechanical and electric shafts will run up the height of the building.

We look forward to continuing to monitor the Obama Presidential Center and seeing the vision of the planned architectural project come to life. IUOE Local 150 signatory contractors and members are hard at work until the project is completed!



## WAGE THEFT IN IOWA'S CONSTRUCTION INDUSTRY

**H**ere in Iowa, we strive to be what we call “Iowa nice,” where we treat each other with respect and strive to do that right thing. Most contractors in Iowa practice “Iowa nice,” but if you have spent anytime in the construction industry you know about the pervasive problem of wage theft and its various forms. We in Iowa are not immune from this scourge.

In 2020, a devastating windstorm known as a derecho blew through Iowa leaving millions of dollars in damage in its wake. This caused a flood of contractors from across the country to descended on Iowa promising quick repairs to battered and bewildered communities. One such contractor, BluSky Restoration Contractors, based out of Colorado, brought in a crew of six based out of Texas promising them \$200 cash per day plus living accommodations. Unfortunately, this contractor did not practice “Iowa nice” and stop paying the workers leaving them penniless living in substandard conditions. The contractor denied responsibility by asserting the workers in question were subcontractors.

With the help of the Cedar Rapids faith and labor communities these workers were eventually made whole, but not without a fight. This fight isn’t anything new, a 2012 report by the Iowa Policy Project estimated that \$600 million worth of wages were stolen annually in Iowa.

This situation got our Iowa Team thinking about the pervasive problem of wage theft in the Iowa construction industry. The problem isn’t just limited to workers not being paid, but also workers being underpaid and/or misclassified as independent contractors when a clear employee/ employer relationship exists. Each of these

examples falls under the definition of wage theft.

That is why this past winter we worked with Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC) Communications Specialist Jill Gigstad in developing materials to raise awareness. The fliers developed give the worker a short description of what wage theft is and a QR code that directs them to a webpage where a worker can reach out for help. Given that unscrupulous contractors seem to victimize the undocumented workers, the Iowa Team also decided to make the flier available in Spanish. Whenever possible, III FFC staff engage with workers providing them information on wage theft – and if applicable – the prevailing wages on projects that are subject to the Federal Davis-Bacon Act.

Recognizing that wage theft is a problem that impacts us all is an important step in understanding why it must be eradicated. Contractors who do not properly pay their employees create an unfair competitive advantage for non-responsible contractors, not to mention the larger economic impact of money being taken out of local economies. Here at the III FFC, we will continue to work toward a fairer contracting environment by leveling the playing field for both contractors and workers.



**Andrew Waeyaert**  
REGIONAL MANAGER

1. “The Hidden Scourge of ‘Wage Theft’: When Higher Profits Come out of Workers’ Pockets.” Gretchen Morgenson and Lisa Cavazuti. NBC News. Accessed May 17, 2022. <https://www.nbcnews.com/business/business-news/hidden-scurge-wage-theft-when-higher-profits-come-out-workers-n1272238>

2. “Wage Theft in Iowa.” Colin Gordon, Matthew Glasson, Jennifer Sherer, and Robin Clark-Bennett. The Iowa Policy Project. Accessed May 17, 2022. <https://www.iowapolicyproject.org/2012docs/120827-wagetheft.pdf>

# CONTRACTOR SPOTLIGHT

# FHP

F.H. PASCHEN

## FULL SPEED AHEAD: WEST LAKE CORRIDOR PROJECT

**F**.H. Paschen is a general contractor, construction manager, and design-builder with over 115 years of experience in the construction industry. The company grew from a small firm in 1902, to one of the largest companies in the Chicago region over the past century, expanding into new markets and acquiring one of the oldest general contracting firms, S.N. Nielsen, in 1992. F.H. Paschen's extensive experience in high-quality construction in both the private and public sector make them an industry leader of major infrastructure projects that provide substantial economic growth to in Illinois and Indiana.

One of their most recent projects – set to complete at the end of 2024 – is the West Lake Corridor Project. The Northern Indiana Commuter Transportation District (NICTD) is constructing the West Lake Corridor Project as a southern branch extension of the existing South Shore Line (SSL) to reach high-growth areas in Lake County, Indiana. The eight-mile rail extension of the SSL will provide a vital transportation link from Norwest Indiana to Chicago. In 2020, F.H. Paschen and Ragnar Benson were awarded the project together as a joint venture. The \$550 million project will expand NICTD's service coverage, improve mobility and accessibility, and stimulate local job creation and economic development opportunities for Lake County. Four additional train stations will be built along the extension: two in Hammond and two in Munster.

This project is essential for Northwest Indiana's growth. As the population and economy continues to expand around the Northwest Indiana suburbs of Chicago, workers are going to need more reliable and affordable transportation to get to and from work. Chicago will always be a major economic hub for the region, but some residents in Indiana lack easy transportation access to the city. Roads can only handle so much congestion, thus, strengthening the rail connection between Chicago and Northwest Indiana will bring economic opportunity and development to the area.

The economic and environmental benefits of the West Lake Corridor Project are immense. Not only will the project support thousands of construction jobs throughout the construction of the project, but the completed corridor will stimulate business investments near the new station areas which will create more local jobs. The multi-modal corridor will also help environmental impacts, with fewer people driving into the city and reducing anticipated traffic congestion based on population forecasts. In addition, public transportation is often an affordable alternative to driving. With soaring gasoline prices, building a new rail connection has never been timelier.

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***"There is a significant investment that go into bidding and winning these large projects. As people continue to move to the suburbs, we know these types of infrastructure investments are important to working families, local businesses, and the economy."***

***- Mike Kusbel, Vice President of  
F.H. Paschen's Civil Division***

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F.H. Paschen has embraced and utilized new technologies, materials, and processes in constructing the West Lake Corridor, which is a Design-Build construction project. Design-Build construction is the fastest growing method to deliver construction projects. Through this method of project delivery, architectural and engineering design and construction services are delivered under one contract. This results in a cohesive venture with the designer and contractor working collaboratively to provide project recommendations,

*“There’s barely an area of construction that F.H. Paschen hasn’t touched. Paschen has constructed, rebuilt, renovated, and repaired bridges, libraries, commercial and private properties, healthcare facilities, major highways, municipal buildings, religious institutions, transit systems, along with countless other projects.”*

*– F.H. Paschen*



problem-solve issues, and produce an innovative design. F.H. Paschen enjoys working on Design-Build projects – which they have done for the Indiana Department of Transportation (INDOT) in the past – because they tend to be more efficient and cost-effective with no extensive procurement times.

From 2020 to 2022, F.H. Paschen was busy with the design phase of the project, ensuring the project design was sound and correct before construction began. By March 2022, construction of the West Lake Corridor Project officially began. The project has already included massive cranes and self-propelled transports in the early stages of construction. Work being done in May consisted of utility, sewer, and water work as well as substructure work for bridges and elevated structures. The project is on schedule, with the substantial construction of the West Lake Corridor expected to be complete in late 2024 to early 2025. Service on the corridor is anticipated for Spring of 2025.

F.H. Paschen is an ever-growing company that prioritizes safety and diversity in the office and on construction sites. As a signatory contractor with IUOE, Local 150, F.H. Paschen hires highly skilled and OSHA-trained workers who have taken numerous safety courses to ensure that the best safety practices are performed on-the-job. In 2018, the company worked with over 200 diverse subcontractors, varying from women-owned, diverse-owned, and veteran-owned businesses.

Throughout their history, F.H. Paschen has worked on major infrastructure projects that support economic growth for businesses and working families throughout Indiana and Illinois. After over a century in the construction industry, their innovative outlook proves they will continue to be a leader for numerous centuries to come. We at the III FFC know we can count on F.H. Paschen to get the job done, no matter how small or large of a task.



# STAFF SPOTLIGHT

## Kara Principe

*III FFC Counsel*

**K**ara Principe is a born leader and achiever. She's meticulous and precise. And she's a remarkable lawyer.

Like most extraordinarily successful professionals, Kara's preparation for carrying such weighty responsibilities began early. She recognized the value of setting goals and hard work from a young age. Growing up with an older sister she learned how to listen and be a good role model, while she learned how to be patient and a leader from growing up with a younger sister.

Kara graduated with a bachelor's degree from the University of Iowa before attending Northern Illinois University College of Law, where she graduated cum laude in May 2010. During law school, Kara worked as a legal intern at the DuPage County and Kane County State's Attorney's Office, assisting in court hearings, petitions, and memoranda.

Kara is one of III FFC's lead attorneys on staff, joining the Foundation in September 2010. Throughout her career, Kara has worked on numerous legislative, operational, and outreach efforts related to the public construction industry. Much of Kara's work consists of working on major labor, constitutional, and wage and hour cases in Indiana, Illinois, and Iowa.



She also works with government agencies on matters of construction compliance and drafts opinion letters when laws are not being enforced. When specific laws are not being enforced – such as the Davis-Bacon Act and the Illinois Prevailing Wage Law – Kara provides legal support to signatory contractors and construction workers who are negatively impacted.

One of her more recent accomplishments was working on an Illinois Supreme Court *amicus curiae* (“friend of the court”) brief in favor of the Safe Roads Amendment to the Illinois Constitution in 2021. In 2016, voters overwhelmingly approved (79%) the Safe Roads Amendment. The intention of the Constitutional Amendment was

to lockbox transportation tax dollars to be spent only on transportation-related projects after years of revenue being diverted to other purposes, resulting in crumbling roads and bridges across Illinois. Unfortunately, some local governments wanted to continue to divert transportation revenue to other purposes. The Illinois Supreme Court ruled that the lockbox fund must be used for transportation purposes in all communities. Kara's work was essential to protecting transportation tax dollars.

One of the more fun aspects of Kara's position at III FFC is educating public bodies, labor organizations, and contractors on public construction compliance tools and laws. She often presents at seminars and conferences across the country on compliance with construction-related laws and requirements to help ensure public projects are appropriately bid and awarded.

When Kara is not sharing her legal expertise, she enjoys traveling, attending concerts, and eating at new restaurants. She has traveled to dozens of countries and is always planning her next big trip. Next stop: Ibiza or Sydney!



# SAFE ROADS AMENDMENT UPHELD BY SUPREME COURT OF ILLINOIS

In On April 21, 2022, the Illinois Supreme Court upheld the validity of the Safe Roads Amendment (SRA) to the Illinois Constitution. The SRA broadly requires all taxes or fees on transportation to be spent only on transportation infrastructure projects.

In 2016, nearly 80 percent of Illinois voters approved of the amendment, called both the “Transportation and Fees Lockbox Amendment” and the “Safe Roads Amendment.” For decades, transportation tax revenue was siphoned from the General Fund and used on other programs funded by the State. The SRA sought to solve this diversion, ensuring infrastructure investments dollars would fund Illinois’ crumbling roads and bridges that had been neglected for far too long.

Shortly after the SRA passed with voter approval, cities, counties, and other local government units were failing to comply with the amendment. Some localities believed that due to their home rule status, the SRA did not apply to their communities. Admittedly, home rule communities in Illinois have significant autonomy in local matters as opposed to non-home rule communities and can impose fees or taxes for whatever reason they deem necessary.

However, labor unions and transit organizations did not believe home rule localities should be able to divert transportation-related taxes to non-transportation-related purposes because as passed, the plain language of the SRA protected these revenues specifically for infrastructure investment. In 2018, the Illinois Road and Transportation Builders Association (“Roadbuilders”) filed a lawsuit against Cook County, Illinois, to stop the diversion of the newly collected transportation taxes. In 2020, the Roadbuilders appealed a ruling by the Illinois Appellate Court and Circuit



Court, which ultimately led to the Illinois Supreme Court agreeing to hear the case.

Cook County argued the amendment was “ambiguous.” However, in 2022, the Illinois Supreme Court said, “There is nothing in the language of [the SRA] to indicate the drafters intended to exclude home-rule units, home-rule taxes, or home-rule expenditures from the scope of the Amendment.” Due to this ruling, all localities across Illinois must abide by the SRA and spend their transportation-related revenues on transportation-related projects.

The Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC) and the International Union of Operating Engineers (IUOE) Local 150 filed an *amicus curiae* (“friend of the court”) brief in support of the Roadbuilders prior to the Supreme Court’s decision. The III FFC argued that even if the language was ambiguous, thus requiring a review of the legislative history, the SRA would nevertheless show that it was legislators’ intent to include home rule authorities.

Illinois taxpayers can now know that their vote to protect taxpayer dollars to fix crumbling road and bridges counted. Construction workers, contractors, and labor unions can rejoice knowing that thousands of construction jobs will be protected, and construction projects will continue to be built that support local businesses and the economy.



# The Monitor

RAISING THE BAR BY MONITORING  
THE CONSTRUCTION INDUSTRY



**It's really quite simple.** Successful projects happen when Labor and Management share the same priorities. And when the highest priority is having a team of safe, well-trained workers on the jobsite, those projects are completed on time and on budget.

**We're the Indiana, Illinois, Iowa Foundation for Fair Contracting (IIFFC).**

We were established to increase market share for responsible contractors, work opportunities for skilled craftsmen and craftswomen, and value for taxpayers by executing a comprehensive program of procurement oversight, jobsite monitoring, market analysis, and public policy education.



**Indiana, Illinois, Iowa Foundation  
for Fair Contracting**

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**[www.iiifc.org](http://www.iiifc.org)**

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