



OUR 55TH YEAR

CONTRA COSTA CHAPTER

June 2018

2018 Inside Wireman Negotiations

RESOLUTION

Monday, April 30th, the Chapter and IBEW Local 302 reached tentative Agreement on a new contract covering Inside Wireman. The membership of Local 302 voted to approve the Agreement on Wednesday, May 9th.

Wage/Fringe Benefit Increases:

- ♦ 2-Year Term
- ♦ \$2.00 on September 3, 2018
- ♦ \$2.00 on February 25, 2019
- ♦ \$3.00 on March 2, 2020

The specific changes to the Agreement will be available in the next few weeks and we hope to get the new Agreement to you by the end of July. The most important thing you need to know now is there is not a wage/fringe benefit adjustment under the new Agreement until Labor Day weekend. ***Please let your payroll department know this.*** We have adjusted our wage/fringe adjustments to line up with the schedule the State of California uses to post their prevailing rates. Note also that the largest of the three increases comes due just three months prior to the expiration of the Agreement on May 31, 2020. It represents an effort on our part to “pay it forward” for the next set of negotiations which will take place in the spring of 2020.

On behalf of all our members, the Chapter office would like to recognize the contractor members of your negotiating team that gave so generously of their time. A big thank you to Casey Dias, Michael Dias, Rick Henry, Sean McPeak, Jim Szuch, and Barry McGraw.

Thank you!!!

POLITICO ALERT

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California Supreme Court Adopts Broad New Misclassification Test

The California Supreme Court has adopted a new legal standard that will make it much more difficult for businesses to classify workers as independent contractors. Specifically, the court adopted a new standard for determining whether a company “employs” or is the “employer” for purposes of the California Wage Orders.

Under the new “ABC” test, a worker is considered an employee under the Wage Orders unless the hiring entity establishes all three of these prongs:

- A. the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact;
- B. the worker performs work that is outside the usual course of the hiring entity’s business; and
- C. the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.

This decision not only expands the definition of “employee” under the California Wage Orders, it also imposes an affirmative burden on companies to prove that independent contractors are being properly classified.

From an industry standpoint, this decision is a seismic shift for California wage and hour law. The nonunion sector will have a much more difficult time classifying employees as independent contractors. The court now imposes a burden on businesses to defend their classification of workers as independent contractors. Misclassification of such workers will result in significant legal exposure with respect to wage and hour compliance.



Sweeney, Mason, Wilson & Bosomworth

A Professional Law Corporation

New Law Regarding Private Works Contracts

*By: Joseph M. Sweeney, Esq., Roger Mason, Esq., Christopher J. Olson, Esq. Scott A. Mangum, Esq.,
Rachael E. Brown, Esq., and William M. Kaufman, Esq.*

The importance of carefully reviewing, or having counsel review, your California private construction subcontracts in 2018 cannot be overstated.

Contractors who have direct contracts with owners ("Direct Contractors") now have expanded liability under California law. An action may now be brought against Direct Contractors for nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions on **private works**. Previously, the law applied only to public works.

As of **January 1, 2018**, a **Direct Contractor** is now liable for its subcontractors' failure to pay wages (any and all tiers) for private works construction contracts executed on or after January 1, 2018 (Civil Code Section 8018). A Direct Contractor (also referred to as a General Contractor or Prime Contractor) is responsible to pay its subcontractor's wages and benefits if that subcontractor fails to pay such wages and benefits. (California Labor Code 218.7; otherwise known as AB 1701). The new law applies to all Direct Contractors who make or take a contract in California for the "erection, construction, alteration, repair of a building, structure." They must assume and be liable for debts owed to a wage claimant, or a third-party acting on behalf of the wage claimant, by the contractor's subcontractor. It applies only to unpaid wages, fringe benefits or other benefits of payment or contribution, including interest. It does not apply to penalties or liquidated damages.

The bill authorizes the Labor Commissioner to bring a civil action under Labor Code section 98 or 1197.1 to enforce a contractor's liability under Labor Code 218.7. A third party who is owed fringe or other benefits and a joint labor-management cooperation committee (e.g., the FFC) is also authorized to bring a civil action to enforce a contractor's liability under the law. If the action is brought by a joint labor-management cooperation committee, the prevailing plaintiff is entitled to its reasonable attorney's fees and costs, including expert witness fees. However, prior to bringing the suit, the committee must provide thirty (30) days' notice to the contractor.

Because Direct Contractors' are subject to increased exposure to liability under this new law, they will attempt to mitigate some of those risks and protect themselves through additional subcontract language. **Subcontractors** must be fully aware and prepare to respond to these changes. The new law requires a subcontractor, upon a Direct Contractor's request, to provide specified information regarding the subcontractor's and third parties' work on the project. Direct Contractors are now allowed to request that its Subcontractors provide payroll records with sufficient information to ensure that the Subcontractor is current on its payments for wage, fringe and other benefits. The law now specifically requires the Subcontractor to provide payroll records and information about its lower tier subcontractors, among other items, to the Direct Contractor to assure compliance. As a consequence, a Direct Contractor may **withhold** disputed sums upon the subcontractor's failure to provide the requested information. "Disputed" is defined as "all sums owed". Ultimately, these requirements may protect Direct Contractors from claims and prompt payment penalties for non-payment pursuant to Business and Professions Code Section 7108.5 and Civil Code Section 8818 if the Subcontractor does not provide the required payroll records and information about lower tier subcontractors or employees.

Whether your company is a licensed general contractor or subcontractor, if you are performing construction work on **private projects**, you **MUST** be aware of this new law and its potential consequences. If you have any specific questions or would like more details, please do not hesitate to call our office and one of our experienced construction or employment law attorneys will be happy to assist you.

Why HRA?

- **HRA funds can be used to pay for the following services:**
 - **Deductibles**
 - **Co-payments**
 - **Co-insurance**
 - **Prescription Medications**
 - **Vision Expenses**
 - **Dental Expenses**
 - **Other Out-Of-Pocket Health-Related Expenses**
- **Health Reimbursement Accounts (HRA) are employer-funded with pre-tax dollars**
- **Unused HRA funds can be rolled over to be used in future years and can be used as a savings account to pay for the services outlined above**



**For More Information
on Cal NECA, please go
to www.calneca.com**

ELECTRI International has published two new reports: *Quality in Construction – Improving Productivity and Rework by Establishing a Built-in-Quality (BIQ) Program and Best Practices for Electrical Contractors.*

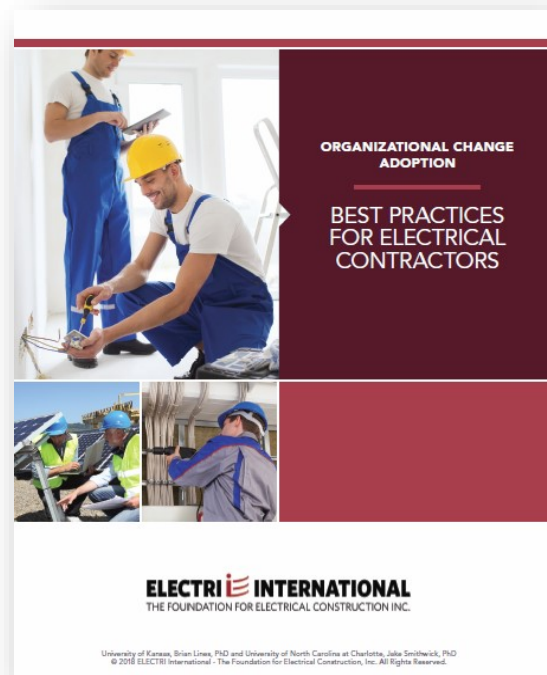
The BIQ research, conducted by Professor Lonny Simonian, California Polytechnic State University, offers a new method in construction that uses a real-time, interactive process to increase quality and reduce rework. A BIQ program focuses on the initial stages of a quality process by first identifying customer expectations, converting these expectations into requirements, developing design operations, and then performing the work.

This ELECTRI report will help electrical contractors establish a BIQ process to mitigate loss of labor productivity associated with quality issues. Contractors will also be able to develop ways to outline common BIQ standard procedures and best practices that are independently applicable to any project without the need for full company (or contractor) adoption. The publication includes a template that can be downloaded and customized to meet the needs of each EC. It also includes sample records and checklist forms that users can download and configure.

The second publication, *Best Practices for Electrical Contractors* is the result of a 2017 Early Career Award given to Dr. Brian Lines, University of Oklahoma. This study included a national survey that identified the top seven most effective change management practices recommended by NECA contractors. The interviews collected lessons learned and tangible examples of organizational change adoption. ELECTRI anticipates the results will help guide many NECA contractors to position themselves as “Early Adopters” who are better able to achieve successful and more profitable outcomes after implementing organizational change initiatives.

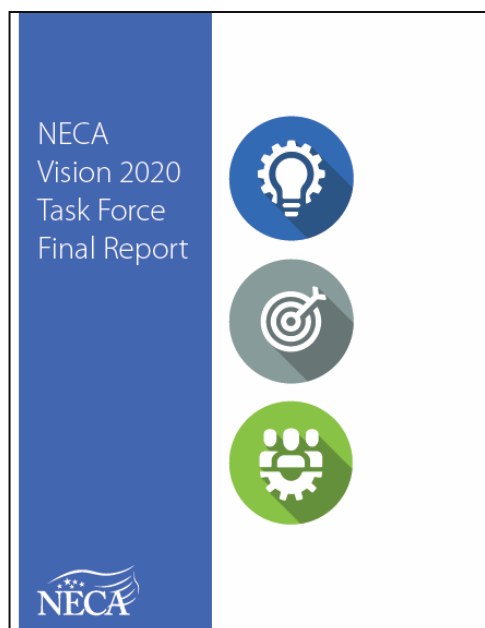


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NECA Vision 2020 Task Force Report



To prepare NECA for the future:
With consideration for the
internal and external forces of
change. Disruptive technology,
leadership transition,
generational dynamics, shifting
member expectations.


Download your copy of the
NECA Vision 2020 Task Force Final Report [here](#).



SYNERGY eLinks	
INSIDE WIREMEN WAGE RATES EFFECTIVE FEBRUARY 26, 2018	INSIDE WIREMEN COST PER HOUR SHEETS EFFECTIVE FEBRUARY 26, 2018
INSIDE WIREMEN SHIFT RATES EFFECTIVE FEBRUARY 26, 2018	DISCLOSURE ABOUT AN EMPLOYER'S PARTICIPATION IN A MULTIEMPLOYER PLAN
NEBF 2017 ANNUAL FUNDING NOTICE	



June 2018

Sun	Mon	Tue	Wed	Thur	Fri	Sat
					1	2
3	4	5	6	7 JATT 3:00 p.m. Martinez Training Center	8	9
10	11	12	13	14	15	16
17 	18	19	20 <u>Norcal LMCC</u>	21 1 st day of SUMMER	22	23
24	25	26 <u>Industry Trust</u> 11:45 a.m. Primas	27	28	29	30



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