

REBOUND



A BUILDING TRADES ORGANIZATION
ALWAYS STRONG, ALWAYS GROWING



SPRING 2006 NEWS UPDATE

BUT WHAT HAVE WE DONE FOR YOU LATELY?

A Message from the Director

REBOUND continues to successfully move forward with its ambitious plans for expanding our organization and the services that we provide. We are continuing to focus on four major areas: Monitoring & Enforcement; Legal Enforcement and Setting Legal Precedents; Public Outreach and Educational Programs; and Development of Worker Rights Legislation.

It's taken strong dedication from all of you to reach our current level of success. **REBOUND** has taken on major corporations and brought them into compliance, not only through L&I, but through the ongoing use of private actions. We've sued companies and been sued by them. It's been an exciting time.

REBOUND is working on the cutting-edge of the law, setting legal precedents, taking on companies like Labor Ready, pushing for favorable L&I determinations, and requesting declaratory judgments on scopes of work... all to ensure that workers are paid prevailing wages, that apprentice standards are enforced, that licensing requirements are met and that contractors have a level playing field for bidding on public works projects.

In this issue, you'll be reading about some of our accomplishments in all of these arenas, and we'll bring you up to date on our plans for the future. It's an exciting time for us and we look forward to sharing our successes.

New Staff has been hired and we have ongoing plans for the continued expansion of our organization. But our greatest asset is still the rank and file who fund us, believe in us, and recognize the critical importance of the work that we do.

Thanks to our Board Members for their dedication and guidance, and thanks also to our excellent Investigative Staff who work diligently to provide you with the best service available. It is a privilege to work with so dedicated a group.

Miriam Israel Moses

Miriam

Executive Director

AND IN OTHER WORKS....

LABOR READY: There are plenty of times when **REBOUND's** work is not as prominent as the high visibility cases that we talk about in our Newsletters. But having **REBOUND** out on the job can make a big difference to the workers.

When Bill Kemble of the Roofers, Local 54 found Labor Ready workers employed by one of his contractors on a public works project, and noted that they had not gone through the hall first, he came to us. It turned out that the workers were getting paid wages that were below the prevailing wage for Laborers and far below the wages established for Roofers.

REBOUND became involved immediately and contacted Labor Ready directly. At first, they brought everyone up to the correct wage for Laborers... but the workers were performing the work of Roofers. Labor Ready didn't want any trouble with **REBOUND** or L&I. so they voluntarily back paid the workers at the Roofer rate, but neglected to pay them overtime rates. We contacted them again and this time, they fully reimbursed all of the workers at the correct rates and sent a "restitution payroll" with copies of pay stubs to demonstrate that the workers had been paid. Ultimately, the workers received several thousand dollars in corrected pay.

REBOUND's WEB SITE: **REBOUND's** public website, which provides all visitors with a wide variety of information about their rights, has been visited 22,487 times as of this writing. This is a phenomenal response and we are pleased to continue to offer this free service to workers everywhere. If you haven't see our public site, by all means visit us at: <http://www.rebound.org>

Our Members' Only website continues to be in the vanguard of computer tools that assist our business agents and organizers in performing their work by providing them with quick access, automated tools to find contractors and generate the letters necessary to get the information they need. We're proud of our work on this program, and we'll continue to expand these services.

REBOUND'S LEGAL AND ISSUE CHALLENGES

REBOUND challenges contractors, public agencies, and the government, whenever the system is abused or misused. It is our ongoing mission to monitor compliance and insist through our challenges, that the integrity and spirit of the law be maintained. Some examples of our current work and cases include:

ELECTRONIC TECHS AT MCCAW OPERA HOUSE:

We brought this case because against D.W. Close and Burke Electric because we allege that that they were paying Tech rate for work that should have been paid at the Wiremen rate while working on the new McCaw Opera House.

We prevailed in the Administrative Hearing Process with the Administrative Law Judge and the L&I Director. The case was appealed to the Superior Court where arguments have been made by both parties, and we are awaiting a decision from Judge Linda Lau.

MERLINO CONSTRUCTION - SEA-TAC AIRPORT:

REBOUND filed a case with L&I because workers were being paid at the Laborer rate to install pressurized pipe, which is work that should be paid at the Fitter rates.

L&I's investigation, which is still in process, had little hope of being completed by the May 2, 2006 project closeout date, and less hope of recovering any owed monies since the retained funds will be released, 30 days later.

REBOUND has gone directly to the Supreme Court to request a Writ of Mandamus and Declaratory Judgment in this case. We believe that L&I is not moving forward appropriately with this investigation and the Writ is intended to force them to do their job.

The Request for Declaratory Judgment is to have the court interpret the scope of work such that the challenges to whether workers paid at the Laborer rate for installing pipe that will be under pressure, for both water and for fire systems, is resolved once and for all.

The case was argued in May of 2006 and we will keep you posted on the decision and on whether there will be any further action as a result.



MARITIME SERVICES CORPORATION - MSC:

Originally reported by the Puget Sound Metal Trades Council, this case involved a company using Laborers to perform electrical work at the Everett Shipyard. Originally, the case was sent to L&I; however, they had not completed their investigation prior to the project closing out. This meant that the retainage was gone and there was no money left in the project to pay the workers.

REBOUND contacted the workers directly and, based on its review of the payroll records, advised them of how much we thought they were owed. This was a great incentive for the workers to come forward.

REBOUND sued MSC on behalf of each of the workers and MSC, in turn, sued REBOUND. But right triumphed in this case and MSC dismissed its suit and paid the workers. Not only did they receive 100 cents on the dollar, but each of them received the 12% interest on the money that was owed to them, as provided for in the law. **The total collected was \$27,483.40 + \$3,779.09 in interest, for a grand total of \$28,267.49. Adding to this, a \$12,729.33 reimbursement of attorney's fees, and the total paid by MSC for this violation was \$41,996.82.** Additionally, \$40,000.00 was paid to one of the claimants to settle a discrimination complaint. **The grand total paid by MSC was \$81,996.82.**

PUBLIC SCHOOL EMPLOYEES LAWSUIT DEMANDS INCLUSION ON PREVAILING WAGE SURVEYS.

The Public School Employees Union filed a lawsuit against the state (L&I), attempting to force them to include public employee wages in prevailing wage surveys. While this would help their members, it could have had a devastating impact on building and construction trades union workers.

REBOUND was successful in reviewing the wage survey that caused the PSEW problem and had the wages returned to their union level. As a result, the suit was dropped and the workers' wages were increased from minimum wage to \$12.56 per hour.

CHALLENGE TO OVERTIME WAGE CALCULATIONS:

REBOUND continues to pursue changing L&I's policy of allowing wage averaging for the purposes of determining the overtime rate for public work. We are reviewing the best possible courses of action to have this policy changed so that workers will be guaranteed the full 1½x or 2x the established prevailing wage rate for overtime work on public works projects. The current policy erodes worker rights and will not remain unchallenged.

CASCADE MOUNTAIN ELECTRIC:

The Bid Shopping law allows a subcontractor that has been named in a bid to file suit against the prime contractor if that contractor has engaged in bid shopping. This legal remedy has never been tested, until now. REBOUND has filed suit on behalf of Cascade Mountain Electric, alleging that Standard Construction, the General Contractor, engaged in bid shopping. This precedent setting case will be the most exciting of our legal efforts so far, and we'll keep you posted on the developments as they happen.

TUNNELS AND SHAFTS – SOUND TRANSIT:

The IBEW, Local 46 contract establishes a 10% differential to be paid for work that is performed in Tunnels. The established prevailing wage rates reflect this differential. The question is whether the differential also applies for work performed in the shaft. We believe that it does.

REBOUND is pursuing a reconsideration of an L&I decision that limits the differential to work in the tunnels because L&I's own definition of a tunnel includes the shaft. Work is currently being performed on the Beacon Hill Tunnel for Sound Transit and there is considerable work to be performed in the shaft. Additionally, this decision will become even more critical when the tunnels and shafts are built in King County for the major Brightwater Sewage Treatment Facility.

WENATCHEE ARTS – WORKER PAYMENT:

The Wentachee Arts Center was a big case for REBOUND. We worked with the Carpenters and Laborers to join with the Attorney General's office in having this project declared a public work. We won in the Appellate Court. The problem is that none of the workers ever got paid their share of the approximately \$200,000 that was owed to them. The bonds for the money were withdrawn.

REBOUND has taken the case of a worker on this project to pursue the money that is owed to the workers. It is a complex legal issue with respect to how the bonding worked, but we believe that we will, ultimately, collect the money and get the workers paid what they should have been paid when the project was declared a public work.

**REBOUND LEGISLATIVE EFFORTS**

We are pleased to report that REBOUND has been a consistently strong player in the legislative arena and in the 2007 legislative session, we plan to bring forth six pieces of legislation for review.

- **Responsible Bidder** legislation is this year's most important bill for us. Originally brought in the 2005 session, this bill will require public agencies to perform a series of checks before awarding a contract to the lowest bidder. RCW 43.19.1911 clarifies how to determine whether a contractor meets the criteria necessary to be considered responsible. This bill would require public agencies to exercise due diligence in checking on contractors before awarding contracts to them.
- **Qui Tam** is REBOUND's newest and most exciting legislative effort. Modeled after the Federal False Claims Act, it would allow taxpayers who find contractors committing fraud against the government, to act as the attorney general and bring claims against those contractors even if no employees step forward. Passage of this legislation would be a boon to REBOUND and other organizations that currently need workers to step forward before legal action can be taken.
- **Bid Shopping Fines and Penalties** will add to the current remedy available in the law. Currently, a sub can sue a general for bid shopping, but the general does not have to pay any fines, fees, or penalties. There is also no guarantee that the sub will recover attorney's fees. This legislation will correct those oversights and create a greater incentive for adherence to the law. industrial insurance accounts for themselves;
- **Underground Economy** legislation was originally presented in 2005. It will require all contractors, including sole-proprietors, to maintain active industrial insurance accounts. In this way, independent contractors, who may well be working as employees, will be covered. This requirement should serve to curb many contractors and workers who are currently operating below the radar screen.
- **Director Bound to Strike** is an effort to bind the director to court decisions for the purpose of striking contractors who violate PW laws. Currently, a strike only occurs after an administrative proceeding. Strikes are rare. We'd like to make sure that bad actors take strikes from private actions as well.

NEW DEVELOPMENTS

NEW STAFF HIRED:

REBOUND has hired new office staff and, joining our Lead Investigator, Tim Silsbee; two new Field Representatives have also been hired.

Gail Thompson, our new office staff member comes to REBOUND from the City of Seattle where she was a Classification and Compensation Specialist. Her work in this area makes her uniquely qualified to understand the work that we do and to share in our passion for doing it.

Dick Harmon has been rehired to serve as our Field Representative in Eastern Washington. Dick comes out of the Elevator Constructor's union and he worked with REBOUND during the 1990s. He has also worked with L&I for a period, assisting them with their enforcement issues. Dick is ready to hit the ground running and we are very much looking forward to having him on board.

David Ciprut will be joining our staff at the end of June when he travels here from his home in New York. David comes to us as a former complainant. After working with REBOUND, he became a dedicated worker rights advocate. David holds a Masters Degree in History, thesis pending, and a teaching certificate. David has worked as a Cement Mason and we're looking forward to having him join our staff to cover the S. King County, Pierce and Thurston County areas.

OUTREACH PROGRAMS:

REBOUND has become a regular speaker for the Municipal Resources group MRSC, which trains contracting officers from contract awarding agencies.

Our educational program, "**Public Work, Private Enforcement**," has been given in Seattle, Everett, and Spokane, to much acclaim. We are pleased to be able to offer our perspective to public agencies, and we will continue to providing this training on an annual basis.

What Every Worker Should Know:

REBOUND's English and Spanish booklets still serve as our best method for getting workers to come forward. Armed with the information contained in these publications, workers realize that they have nothing to fear and everything to gain by demanding the correct prevailing wages for their work.

Survey Education and Review continues to be a critical source of knowledge for our unions. Continuing to challenge surveys so that union wages prevail and continuing to educate our unions on how to respond to wage surveys holds the key to keeping our wages prevailing. With union wages prevailing, our contractors can continue to bid competitively on public works jobs. This keeps our rank and file working.

AND THE FUTURE....

As we look to the future, there is one thing that stands out as our most critical need:
The continued support of our rank and file membership and our member unions!

- Having members on the job who continue to contact us with possible violations;
- Having your continued understanding of the importance of the work that we do in ensuring the future of organized labor;
- Having your ongoing support of our efforts through your nickel-an-hour contributions;

It always comes down to people, and you are the people who make REBOUND possible.

And because of the solidarity that is achieved when we all come together in a common cause, we can continue to ensure that organized labor remains a constantly strong and growing force in this state.

**DON'T FORGET ABOUT OUR ANNUAL ACADEMIC SCHOLARSHIP
 REQUEST AN APPLICATION – REWARD OUR STUDENTS – HELP TEACH OUR CAUSE**

