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### ABC Kills PLA Mandate!

On March 15, 2011, the Labor Committee decided not to vote on SB 987 – An Act that would have required Community Workforce Agreements, aka PLAs, on all state, taxpayer-based, university projects. This means that SB 987 is, as they say at in Hartford, “dead” and will not be considered by other committees or legislators this session.

CT ABC thanks its members for steadfast help to this legislative victory. We appreciate all those who testified, those 100 plus written testimonies submitted to the committee, and all those who rallied with us at SB 987’s public hearing on March 1st. Our voice was heard due to tremendous member support, and our voice made a huge difference to assure that state university projects, including UCONN, could be let out to bid by all contractors and subcontractors, regardless of union association.

The Labor Committee, however, decided to vote on HB 5460 – An Act Concerning Captive Audience Meetings. The Committee was in favor of moving the bill along this session for further consideration. CT ABC submitted testimony opposing HB 5460 because the bill prohibits employers from discussing matters deemed “political” with their employees in required staff meetings. The term political is so broadly defined that it could prohibit communications about social and community events.

### ABC National Testifies PLAS in Violation of Federal Law

In testimony delivered March 16 on Capitol Hill, ABC General Counsel Maurice Baskin, a partner with Venable, L.L.P., stated that recent administration efforts to make project labor agreements (PLAs) part of the federal procurement process are “threatening to violate the longstanding Congressional mandate of full and open competition in federal procurement—at taxpayers’ expense.” Baskin’s remarks were given during a hearing on the impact of the administration’s pro-PLA policy on construction job creation and the efficient use of taxpayer

*(Continued on page 7 - see PLAs)*

### No Putnam PLA!

The Town of Putnam changed its mind regarding the use of a PLA for their \$18M wastewater treatment plant upgrade. Originally, the town had considered using a union-only PLA. However, the Town Selectmen voted to not have a PLA at their March 21st meeting because the Selectmen realized that local non-union contractors, subcontractors, vendors and suppliers would be closed out from working on the plant upgrade under a PLA. This latest decision was in sharp contrast to the town's initial effort to use the \$18M plant upgrade as a boost to the local economy; the PLA would have had just the opposite effect.

Putnam Mayor Robert Viens noted that the PLA was "off the table" for the wastewater treatment upgrade as the Selectmen and Mayor need to learn more about what a PLA really means for local workers and the economy. CT ABC thanks all those who came out to support us at the meeting in Putnam. Once again, a united effort proved successful.

### Secret Ballot Legislation

On March 11, ABC National praised the introduction of the Secret Ballot Protection Act (H.R. 972) in the U.S. House of Representatives by Congressman Phil Roe (R-Tenn.). The legislation would protect a worker’s right to a secret ballot election when deciding whether to join a union and would ensure that workers have a say in their representation even if employers voluntarily allow the formation of a union.

“All workers deserve the fundamental democratic right to a secret ballot election when deciding whether or not to join a union,” said 2011 ABC National Chairman Michael J. Uremovich, president of Great Lakes Energy Consultants, LLC, Manhattan, Ill. “This bill will prevent any backdoor attempt by the National Labor Relations Board to take that right away.

*(Continued on page 7 - See Secret)*

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## STEP Reminder

### Your Roadmap to Improved Safety

Established in 1989 by the ABC National Environment, Health & Safety (EH&S) Committee, the **Safety Training and Evaluation Process (STEP)** program was developed and written by contractors, for contractors. There is no charge for this service (unless you are applying for STEP Platinum), and your responses are strictly confidential.

#### Program Benefits

- An organized approach for analyzing and developing safety and loss prevention programs
- A valid, objective method for measuring safety program improvements
- A safety performance recognition useful in business development

#### Deadline:


STEP applications are **due back to the CT Chapter by April 7, 2011.**

Please send them directly to: **CT ABC, 2138 Silas Deane Highway, Suite 101, Rocky Hill, CT 06067**

Awards will be presented at the **June 9, 2011 CEC Safety & Education Dinner Meeting.** If you have any questions, please contact Faith Gavin Kuhn at **860-529-5886 x106.**



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## Hiring Trends for 2011 – Growing or Going?

*By Lauren Becker, BlumShapiro*

As an Accounting and Finance staffing firm, every day we are asked about hiring and employment trends. While we have found most companies either laid off or did very little hiring in 2009 and 2010, we anticipate 2011 will look completely different.

One reason for this is many organizations are in a better position to hire - some are creating new positions due to business demand. Other companies will be able to re-hire for positions that were downsized over the last 24 months and return to pre-2008 employment levels. For some, this will be due to growth, others may be impacted by new compliance and government regulations taking effect over the next few years.

Another factor that will impact many companies in 2011 is that over the last two years employees who traditionally may have engaged in a job search or left their current position for a new opportunity did not do so. The majority of individuals were nervous about layoffs and were hesitant to become the "newest employee" at a new job. This year, however, those who were cautious to look for a new opportunity in 2009 and 2010 are feeling much more optimistic. According to a recent CareerBuilder.com poll, 76% of currently employed workers will look to make a job change this year.

Although some companies are hiring - many will continue to keep their staff lean in 2011. Having a lean staff may seem to be the best strategy; however, what happens when a critical employee leaves and there is nobody within the organization able to take on that individual's workload? This movement within the marketplace will leave some companies scrambling to replace key people within their organization that they were not prepared to lose, and this will be especially true for the companies who are operating with a bare-bones staff.

There are some things that can be done to prepare for the new hiring environment in 2011:

- Make sure key employees feel appreciated and valued. From the candidates we have recently seen, the most common reason that they begin to look for another position is that they do not feel they have growth opportunities with their current companies.
- If a traditional promotion is not possible, you could slightly increase responsibility, give them a leadership role for a specific function and allow them the ability to make decisions about that task, or give an employee a title above their current one.
- Talk with key employees about where they would

*(Continued on page 7 - See Hiring)*

## Attention to Detail in Use of Email: Tips for Preserving the Attorney-Client Privilege

*By Jared Cohane, Esq., Hinckley, Allen & Snyder LLP.*

The use of electronic media in the management of a construction projects is now the standard practice. Immediate communication, either by email, text or instant message, is part and parcel of the construction process. It is not uncommon for project managers, superintendents, architects and owners to be in constant e-mail contact. The immediacy of communication can result in the unintended sharing of confidential information, and heightens the potential for waiver of the attorney-client privilege.

When a lawyer represents you, the communications made for the purpose of obtaining legal advice is protected from disclosure to others. Protected, that is, until that communication is shared with a third party. Projects can often move forward at a frenetic pace. It is during those frantic times that contractors are most often at risk for sharing confidential information without regard to the ramifications. For instance, contractors dealing with a dispute during the course of a project will often correspond with their attorneys via email, looking for quick advice. Unfortunately, these communications are all too often forwarded by the contractor to third parties such as the architect or a subcontractor. To the extent that the communication you forwarded contained confidential legal advice from your attorney, the privilege may be lost.

To proactively safeguard against this potential pitfall, contractors are well-advised to develop an e-mail use protocol especially with regard to communications with legal counsel. Some basic assumptions should be engrained in all project personnel who communicate with legal counsel. For example, all communication with counsel, regardless of how benign, should be segregated in a separate e-mail folder. This includes both sent and received items. There should be a "no-forward" rule in effect. It is ideal to have a point person in contact with legal counsel to act as a gate keeper to ensure that project personnel should have limited access to attorneys if possible. Certainly there are times when direct correspondence with an attorney by project personnel will be necessary. The gate keeper needs to recognize when that is the case, and send written reminders to project personnel to be attentive to protecting written communications with lawyers from disclosure. This also applies to communicating legal advice given orally that is then passed on via e-mail as well as to written work product from the attorney or produced at the attorney's

*(Continued on page 7 - See Email)*

## Repeal of 1099 Vendor Reporting

The U.S. House of Representatives voted 314-112 in favor of the Small Business Paperwork Mandate Elimination Act (H.R. 4) that would fully repeal the expanded tax reporting requirements included in the Patient Protection and Affordable Care Act (PPACA). The new reporting requirements in PPACA mandate that all businesses submit a Form 1099 to the Internal Revenue Service for all transactions for goods or services exceeding \$600 a year. Before the vote, ABC strongly supported H.R. 4, noting a 2010 study by the Small Business Administration's Office of Advocacy showing that small businesses spend more than \$10,600 per employee annually to comply with federal regulations, in addition to the high unemployment rate in the construction industry. The amendment repealing the expanded reporting on Form 1099 was offered in the U.S. Senate to the Federal Aviation Administration Air Transportation Modernization and Safety Improvement Act (S. 223), and was agreed to Feb. 2nd by a voice vote. The two bills have to be reconciled, meaning having similar language, before final passage.

## Small Businesses Crane and Derrick Rule Guidance

OSHA recently issued the Small Entity Compliance Guide for Cranes and Derricks in Construction to help businesses comply with the new rule, which took effect on November 8, 2010. The new standards will be phased in over the next few years, and primarily address technological advances in equipment since the old rule was issued in 1971. The small business guide is divided into chapters that correspond to sections of the standard. This guide accompanies other OSHA compliance materials on crane-related topics available on the agency's Web site including a PowerPoint overview, Web chat transcript, Webinar, list of frequently asked questions, and fact sheets. Visit OSHA's website [www.osha.gov](http://www.osha.gov) for additional details.

## New CT Legislative Count

With the nine elections in late February to elect new state senators and representatives, the tally of Democrats and Republicans has changed. In the House, there 52 Republican representatives and 99 Democrats. Meanwhile, the Senate is composed of 14 Republicans, and 22 Democrats. For a listing of the entire 2011 CT House and Senate members, with email links, visit [www.ct.gov](http://www.ct.gov) and click Legislative.

## Daily Oil Consumption Per Nation

With the troubles in the Mid East and the Earthquake in Japan, the world's oil supply and demand is being closely monitored daily. According to the Energy Information Administration, the U.S. leads the world in daily oil consumption at 18.8M barrels/day. Next is China at 8.3, Japan at 4.4, India at 3.1, Russia at 2.7, Brazil at 2.5, Germany at 2.44, Saudi Arabia at 2.43, South Korea at 2.9, and Canada at 2.5.

## Reducing Federal Regulatory Burden

The Small Business Administration (SBA) recently announced it will be conducting a series of roundtable discussions in cities across the country in order to meet directly with entrepreneurs and small business owners. Through the initiative, "Startup America: Reducing Barriers," SBA officials hope to learn which processes and regulations need to change and improve to build a more supportive environment for entrepreneurship and innovation. Using the input from the roundtables and broader public participation, SBA will put together a list of the best ideas to streamline and simplify unnecessary barriers to America's small businesses. The first roundtable discussion will take place March 3 in Durham, N.C., with future meetings planned for Atlanta; Austin, Texas; Boston; Boulder, Colo.; Minneapolis, Minn.; Pittsburgh; and Silicon Valley, Calif. ABC members can also email comments on ways to reduce regulation and barriers to entrepreneurship to [reducingbarriers@sba.gov](mailto:reducingbarriers@sba.gov). Comments received via email will be incorporated into the final Reducing Barriers report.

## Idaho Bans PLAs

In another victory for merit shop construction, Idaho became the seventh state to prohibit the use of government-mandated project labor agreements (PLAs) on state and local projects. Idaho Gov. Butch Otter (R) signed into law The Open Access to Work Act with the intent to "maintain and strengthen state law to protect open access to work for all Idahoans." Gov. Otter also signed into law The Fairness in Contracting Act that imposes penalties on job targeting activities, including fines of up to \$100,000 per offense for repeat violators. In addition to Idaho and the six other states that have banned the use of PLAs on state-funded projects, nine local communities have prohibited the use of PLAs on locally funded projects. For more information on PLAs and to see a map of the states that prohibit PLAs, visit [www.TheTruthAboutPLAs.com](http://www.TheTruthAboutPLAs.com).

## OSHA Requests Respirator Comments

In an effort to reduce paperwork requirements, OSHA is accepting comments on the agency's paperwork requirements associated with worker respiratory protection programs. Specifically, OSHA is asking the public to comment on whether the written respirator programs, medical evaluations, fit tests, certificate of cylinders analysis from the supplier, and storage of emergency-use respirators is burdensome from a paperwork standpoint. Comments will be accepted until May 13, 2011.

## ABC Opposes NLRB Posting Proposal

ABC National recently sent a comment letter to the National Labor Relations Board (NLRB) criticizing a proposal that would require employers to post a notice in under the National Labor Relations Act (NLRA). In its comments, ABC contended that the NLRB does not have the authority to issue or enforce this proposal due to the lack of language in the NLRA granting them that authority. In addition, ABC noted that the proposal oversteps the NLRB authority by effectively eliminating the statute of limitation for penalties when filing unfair labor practice charges against an employer that fails to post the proposed notice – despite the NLRA having set a very clear statute of limitations of six months on unfair labor practice charges. ABC also pointed out that the proposed notice fails to inform workers of their right to decertify their union; their right to pay only the portion of union dues attributable to collective bargaining, contract administration, and grievance adjustment; and that employers cannot require membership in a labor organization as a condition of employment in states with Right to Work laws that prohibit such agreements between unions and employers. Despite these key omissions, the proposal states that employers' failure to post the notice would lead to sanctions, including:

- unfair labor practice charges;
- extended time limits for the filing of additional unfair labor practice charges; and
- consideration as evidence of unlawful motive in other unfair labor practice cases.

Despite an overall objection to the notice and its belief that the NLRB does not have the authority to implement the rule, if the agency continues forward with its plan, ABC recommended that the notice language be revised to provide a more complete and accurate listing of employee rights under the NLRA. "A federally-mandated notice should not advocate for a specific outcome or interest groups, and it is ABC's belief that the Board's notice requirement as proposed does just that," the comments stated.

ABC also recommended the NLRB reconsider its cost analysis of the proposal due to vague guidelines regarding electronic distribution and recommended more information be gathered.

## National Unemployment Stats Still Shaky Construction Adds Jobs in February, Unemployment at 21.8%

*"The nonresidential construction segment of the industry remains stubbornly resistant to improvement due to a combination of high vacancy rates and cautious lending."*

*–ABC Chief Economist Anirban Basu*

For the first time in six months, the nation's construction industry added jobs in February. According to the March 4 employment report by the U.S. Labor Department, 33,000 jobs were created. However, on a year-over-year basis, construction employment is down by 24,000 jobs, or 0.4%. The construction unemployment rate stands at 21.8% – more than twice the national average. However, unemployment is down from 22.5% in January and down from 27.1% the same time last year.

Hardest hit was the nonresidential building construction sector which lost 2,000 jobs in February, but is up by 3,500 jobs year-over-year as employment in that sector stands at 654,100 jobs.

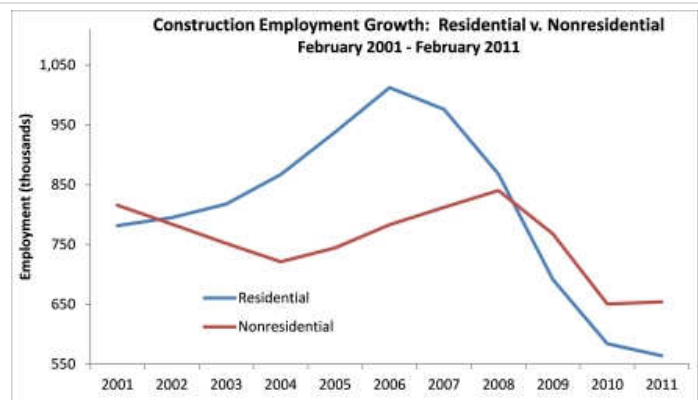
Heavy and civil engineering construction gained 4,500 jobs in February and 26,600 jobs, or 3.3%, over the last twelve months. The specialty trade contractor sector added 16,700 jobs for the month and 11,500 jobs, or 0.6%, year-over-year. This represents the first year-over-year increase for the sector since June 2008. Residential building construction employment increased by 2,200 jobs in February, but is still down by 20,000 jobs, or 3.4%, from the same time last year.

Overall, the nation gained 192,000 jobs in February with 222,000 jobs added in the private sector and 30,000 jobs lost in the public sector. Year-over-year, the nation has added 1,269,000 jobs, or 1%. The national unemployment rate now stands at 8.9%.

### Analysis

"It turns out it really was the weather," said Associated Builders and Contractors Chief Economist Anirban Basu. "The U.S. construction sectors added 33,000 jobs in February, and this number was likely enhanced by the buildup in demand for labor in January. "Unfortunately, nonresidential building construction continued to shed jobs, losing 2,000 for the month. This segment of the construction

*(Continued on page 7 - See Unemployment)*



Source: Bureau of Labor Statistics

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*(Unemployment - Continued from page 5)*

industry remains stubbornly resistant to improvement due to a combination of high vacancy rates and cautious lending,” said Basu.

“While the situation is likely to improve going forward, particularly as the balance of the nation’s economy gathers momentum, there is little reason to believe conditions will improve markedly in 2011,” Basu said. “Still, overall construction employment totals should pick up gradually over the course of the year. But it’s clear that cold weather and snow had served to interrupt the momentum that had been building over the past six months,” said Basu.



*Left to right: Chuck Tobin of C.E. Floyd Company, Inc., Bud O’Donnell of Siegel, O’Connor, O’Donnell & Beck, P.C. and Anirban Basu of ABC National at the Economic Forecast dinner recently held at the Hartford Club.*

*(PLAs - Continued from page 1)*

dollars held by the House Committee on Oversight and Government Reform’s Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending.

“Neither the president nor the Federal Acquisition Regulatory Council has the authority to override the statutory mandate of full and open competition in all federal procurements,” Baskin said. “No fact-based justification for the change in policy has ever been shown, leading to the widespread belief that the administration’s policy is simply a political payback to organized labor.”

According to Baskin, this is the kind of political favoritism that The Competition in Contracting Act was enacted to prevent. “Since 2009, ABC members have filed a series of bid protests with the Government Accountability Office to stop unjustified PLA mandates from being imposed by federal agencies. In each case, the federal agency has withdrawn the PLA mandate rather than risk a finding of a procurement law violation,” Baskin said. “The government’s own market research has shown repeatedly that PLAs will not serve the interests of taxpayers, will discourage competitive bidding and will increase costs. Yet, we continue to see PLA requirements popping up on agency procurements around the country. **“Eighty-seven percent of all construction workers currently choose not to belong to a labor union.** Rather than promoting full and open competition

*(Hiring - Continued from page 3)*

like to be in their careers, and let them know that you are committed to help them reach those goals and that you see those opportunities for them within your company.

- Recognition also means more to most people than they will admit, and publicly thanking an employee or recognizing their accomplishments will help to make them feel valued for the work they do.
- Of course, raises and bonuses, when possible, are always a good idea in conjunction with some of these other strategies.

If you do find your company in the unfortunate situation of losing key employees this year, one thing to keep in mind is that you do not want to overload the rest of your staff during this time. When someone leaves it has the potential to affect the morale of the entire department. That combined with the rest of the department having to do a lot of extra work can have a very negative impact. Bringing in interim help or temporary consultants will avoid burning out your staff, and allow you the flexibility to take your time with finding the right long-term employee.

Although there is still much uncertainty in the market, there are companies hiring and employees will look for new opportunities this year.

*Lauren Becker is Area Manager at Creative Financial Staffing (CFS), the nation’s largest privately owned accounting and finance staffing firm. Our Connecticut offices is partnered with BlumShapiro, Connecticut’s largest regional accounting and consulting firm. We help our clients with temporary, interim consultants, and executive search services within all levels of accounting and finance. For more info contact: 860-570-6457 or lbecker@blumshapiro.com.*

*(Email - Continued from page 3)*

direction.

Preserving the privilege is extremely important to your company’s well being. Electronic communication makes the task all the more difficult. Attention to this detail by project personnel and management alike is paramount to preservation of this very sensitive information.

*Jared Cohane is a Partner in the Construction & Public Contracts group of Hinckley, Allen & Snyder LLP.*

*(Secret - Continued from page 1)*

Sen. Jim DeMint (R-S.C.) introduced a similar bill with the same title (S. 217) on Jan. 27, 2011. The measures are a response to the Employee Free Choice Act, which was introduced in the 111th Congress. The legislation would have removed the secret ballot election and replaced it with a “card check” process. Under the card check system, union organizers would only have to gather signed authorization cards from a majority of the workers to claim union representation.

and maximizing the available labor pool for government construction projects, which is overwhelmingly merit shop, government-mandated PLAs result in the award of federal construction contracts primarily to the much smaller group of unionized contractors and their union employees,” said Baskin.



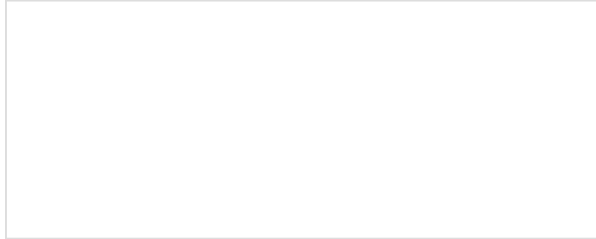
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## Upcoming Events

### April

7

Grand Prix (Wallingford)

12

Safety Series: Noise Induced Hearing Loss  
(Rocky Hill)

15

Board of Directors Meeting

### May

5

Smart Start Breakfast:  
Prevailing Wage Update (Rocky Hill)

11

Smart Start Breakfast:  
Independent Contractor Update (Stratford)

18

Board of Directors Meeting

26

New Member Orientation & Directory Unveiling



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