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November 4, 2019

## **BY EMAIL AND FIRST-CLASS MAIL**

Mr. John H. Ronan  
Office of the General Counsel  
Department of Labor Standards  
19 Staniford Street, 2<sup>nd</sup> Floor  
Boston, MA 02114  
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### **Re: Prevailing Rate for Drawbridge Operators**

Dear Mr. Ronan:

The undersigned represents IBEW Local 103 (Local 103). This submission regards your Office's consideration of the Prevailing Rate for Drawbridge Operators. Local 103 represents over 7,000 Electricians and related tradespeople in the Commonwealth.

It is our position that the Opinion Letter (PW-2014-06-12.05.14) issued December 2, 2014 should stand. Local 103, in fact, represents "Drawbridge Operators." M.G.L. c.149, requires, (emphasis added) pursuant to §§26 and 27 that the Commissioner shall determine the proper wage rate as "...a wage rate or wage rates have been established in certain trades and occupations by collective bargaining agreements or understandings in the private construction industry between organized labor and employers."

Mass. DOT ignores these obligations and looks to other states. The Drawbridge Operators operating drawbridges during "construction" have taken their positions, with the understanding, and actual practice, that when said bridges have "construction" taking place, that they receive the "Prevailing Rate" for their responsibilities during said construction.

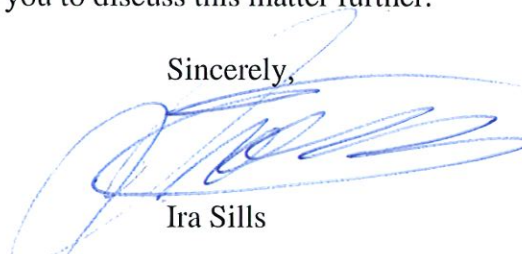
Drawbridge Operators, who represent a very limited number of employees, should not have their pay rate reduced. Such reductions, of course, would represent an extraordinarily small savings, as said Drawbridge Operators are very small in number.

As Mass. DOT concedes, since August 20, 2013 the DLS rate for "Drawbridge Operators (construction)" is "based on the wage rate applicable to an electrician." In our view Mass. DOT wants to reduce the pay rate of Drawbridge Operators, during "construction." The argument that other states pay less, is without merit. Massachusetts is experiencing an unprecedented economic expansion involving massive new construction. That construction, when public, is subject to applicable Prevailing Rate Laws. Even when it is private, the overwhelming majority of the work is done in accordance with Union Rules & Benefits set by the IBEW, and other Trades, with their employers. The skills and efficiency of Local 103 and other Building Trades Union members are a key component to economic expansion and growth. Mass. DOT is targeting a very small number of Drawbridge Operators and the pay they receive, when there is "construction" related to their Drawbridge. The amount of the alleged savings is infinitesimal, considering the limited number of Drawbridge Operators, who will be operating their drawbridges during construction. The only place to reference the "Prevailing Rate" is the applicable IBEW Local 103 contract.

We submit that Mass. DOT could better focus their efforts on behalf of Massachusetts Citizens to other areas than that of reducing the pay of a handful of Drawbridge Operators working, in violation of Massachusetts law when there is "construction" taking place on the respective Drawbridge they are working on.

Finally, Mass. DOT is seeking action that clearly violates M.G.L. c. 149, ss. 26 and 27, and we reserve the right to legally challenge the requested action prepared by Mass DOT. In our view we will prevail and seek attorneys' fees. Further Mass. DOT's own attorney fees will far exceed the purported savings if their suggested unlawful changes are implemented. We, of course, are always willing to meet with you to discuss this matter further.

Sincerely,



Ira Sills

cc: Lou Antonellis, Business Manager  
Karen Courtney  
Frank Callahan

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