The Costs of Wage Theft and Payroll Fraud in Wisconsin's Construction Industry

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WHY THIS STUDY? AND WHY NOW?

1. Illinois: -$3.9 billion
2. Minnesota: -$1.3 billion
3. Wisconsin: -$1.5 billion

Does this sound like a good deal?
Shoring up budget deficits *without* raising taxes or cutting spending
WHAT DO WE MEAN BY WAGE THEFT?

- **Misclassification**: When workers are classified as 1099 “independent contractors” instead of W-2 employees

- **Illegal employment**: When workers are paid “under-the-table” or “off-the-books” in cash

- **Other forms**: Not paying minimum wage, tip-sharing or tip-pooling, uncompensated breaks, etc. are not included in study
WAGE THEFT AND CONSTRUCTION

✓ Low-bid model: By flouting the law, fraudulent contractors pay less in labor costs and put law-abiding competitors at a disadvantage.

✓ Lax enforcement: Governments lack resources to enforce laws on the books and levy only small “slap on the wrist” penalties.

✓ Task Force report: $2,567 average penalty (Worker’s Compensation Division)
  • Compare to petty theft (“street crime”) where stealing $5,000 in property is a Class I Felony punishable by jail time and/or a fine of up to $10,000.
NEW JANUARY 14, 2021 STUDY

Methodology

Compare *household data* from the U.S. Census Bureau data with *payroll records* submitted to state unemployment insurance programs

- Current Population Survey (CPS) vs. Quarterly Census of Employment and Wages (QCEW)
- American Community Survey (ACS) vs. Bureau of Economic Analysis (BEA) data
TOPLINE FINDINGS

WAGE THEFT & PAYROLL FRAUD IN CONSTRUCTION

A CONSTRUCTION WORKFORCE CASE STUDY IN ILLINOIS, MINNESOTA, & WISCONSIN

$362 million
Cost to taxpayers from wage theft, misclassification, and payroll fraud in construction.

1 in 5 construction workers
are affected by these illegal abuses & lose access to basic labor protections, like overtime pay & unemployment insurance.
CONSTRUCTION WAGE THEFT IN WISCONSIN

- Total industry employment (reported): 138,718
- Total industry employment on payrolls: 124,199
- Misclassified and illegally employed workers: 14,519
- Share of construction workforce: 10%
## IMPACT ON WORKER EARNINGS

<table>
<thead>
<tr>
<th>Difference in Construction Worker Earnings in Wisconsin</th>
<th>Legally Employed Construction Worker</th>
<th>Illegally Employed Construction Worker</th>
<th>Difference Due to Payroll Fraud</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Compensation</td>
<td>$75,591</td>
<td>$52,114</td>
<td>-31%</td>
</tr>
<tr>
<td>Wages and Salaries</td>
<td>$51,490</td>
<td>$43,199</td>
<td>-16%</td>
</tr>
<tr>
<td>Total Benefits</td>
<td>$24,101</td>
<td>$8,915</td>
<td>-63%</td>
</tr>
<tr>
<td>Paid Leave</td>
<td>$4,522</td>
<td>$0</td>
<td>-100%</td>
</tr>
<tr>
<td>Supplemental Pay</td>
<td>$2,390</td>
<td>$0</td>
<td>-100%</td>
</tr>
<tr>
<td>Insurance (Voluntary)</td>
<td>$6,766</td>
<td>$5,676</td>
<td>-16%</td>
</tr>
<tr>
<td>Retirement and Savings (Voluntary)</td>
<td>$3,860</td>
<td>$3,238</td>
<td>-16%</td>
</tr>
<tr>
<td>Social Security and Medicare</td>
<td>$4,376</td>
<td>$0</td>
<td>-100%</td>
</tr>
<tr>
<td>Federal Unemployment Insurance</td>
<td>$67</td>
<td>$0</td>
<td>-100%</td>
</tr>
<tr>
<td>State Unemployment Insurance</td>
<td>$393</td>
<td>$0</td>
<td>-100%</td>
</tr>
<tr>
<td>Workers’ Compensation</td>
<td>$1,762</td>
<td>$0</td>
<td>-100%</td>
</tr>
</tbody>
</table>
## IMPACT ON TAXPAYERS

<table>
<thead>
<tr>
<th>Impact of Construction Payroll Fraud on State Tax Revenues in Wisconsin</th>
<th>Workers Misclassified As Independent Contractors</th>
<th>Workers Paid Off the Books in Cash</th>
<th>Total Workers Suffering from Payroll Fraud</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated Workers Suffering from Payroll Fraud</td>
<td>13,143</td>
<td>1,376</td>
<td>14,519</td>
</tr>
<tr>
<td>Lost Income Subject to Income Tax (Average)</td>
<td>$8,290*</td>
<td>$51,490</td>
<td>$12,384</td>
</tr>
<tr>
<td>Net Total Taxable Wages</td>
<td>$108,959,939</td>
<td>$70,849,635</td>
<td>$179,809,573</td>
</tr>
<tr>
<td>Lost Income Tax Per Worker (4.62% effective rate)</td>
<td>$383</td>
<td>$2,379</td>
<td>$572</td>
</tr>
<tr>
<td>Lost Unemployment Insurance Per Worker</td>
<td>$393</td>
<td>$393</td>
<td>$393</td>
</tr>
<tr>
<td>Lost Workers' Compensation Per Worker</td>
<td>$1,762</td>
<td>$1,762</td>
<td>$1,762</td>
</tr>
<tr>
<td>Lost Income Tax Contributions</td>
<td>$5,033,949</td>
<td>$3,273,253</td>
<td>$8,307,202</td>
</tr>
<tr>
<td>Lost Unemployment Insurance Contributions</td>
<td>$5,161,354</td>
<td>$540,365</td>
<td>$5,701,720</td>
</tr>
<tr>
<td>Lost Workers' Compensation Contributions</td>
<td>$23,152,361</td>
<td>$2,423,925</td>
<td>$25,576,286</td>
</tr>
</tbody>
</table>
TWO ITEMS WORTH MENTIONING
## WISCONSIN IS NOT ALONE

<table>
<thead>
<tr>
<th>Authors of Study (Year)</th>
<th>Geography</th>
<th>Misclassification Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ormiston, Belman &amp; Erlich (2020)</td>
<td>United States</td>
<td>12%-21% estimated illegal employment rate nationally</td>
</tr>
<tr>
<td>Xu and Erlich (2019)</td>
<td>Washington</td>
<td>19% estimated misclassification by employers in construction</td>
</tr>
<tr>
<td>Yen Liu, Flaming, &amp; Burns (2014)</td>
<td>California</td>
<td>16% of construction workers not reported or misclassified</td>
</tr>
<tr>
<td>Kelsay and Sturgeon (2011)</td>
<td>Kentucky</td>
<td>8% of construction employees misclassified</td>
</tr>
<tr>
<td>Kelsay and Sturgeon (2010)</td>
<td>Indiana</td>
<td>15% of construction employees misclassified</td>
</tr>
</tbody>
</table>
ILLINOIS AND MINNESOTA

WAGE THEFT & PAYROLL FRAUD IN CONSTRUCTION

A CONSTRUCTION WORKFORCE CASE STUDY IN ILLINOIS

- 20% of construction workers experience some form of wage theft.
- Wage theft and payroll fraud costs Illinois taxpayers $186 million EVERY YEAR.
- Wage theft is a crime that can be stopped.
- These workers receive 29% less in wages and benefits on average.

A CONSTRUCTION WORKFORCE CASE STUDY IN MINNESOTA

- 23% of construction workers experience some form of wage theft.
- Wage theft and payroll fraud costs Minnesota taxpayers $136 million EVERY YEAR.
- Wage theft is a crime that can be stopped.
- These workers receive 36% less in wages and benefits on average.

ILEPI
WISCONSIN HAS FEWER IMMIGRANTS

Immigrants are most susceptible to worker misclassification

BY FRANCO ORDONEZ AND MANDY LOCKE - MCCLATCHY WASHINGTON BUREAU
SEPTEMBER 06, 2014 04:33 PM, UPDATED SEPTEMBER 05, 2014 03:51 PM

Week after week, Alfredo Barreda carried a paycheck from his construction job to the bank, where he waited in line for a teller and then stuffed two wads of cash into the front pockets of his pants, he said.

The money in the left pocket went home, to his partner, Denise Alejandre, and their three children. The roll of bills in the right, he said, went back to his boss.

It wasn't the life he'd imagined as a young man, when he hoped that wiring and plumbing work would lead him to the success his own parents had envisioned years ago when they brought young Alfredo and his siblings across the Mexico-U.S. border.
UNDERMINING THE APPRENTICESHIP SYSTEM

We are having a hard time filling some or all positions: 41%
We are having no difficulty filling any positions: 16%
We have no openings for positions: 44%

Sources: Associated General Contractors’ (AGC) 2021 survey and University of Utah economist Peter Philips, Ph.D. 2015 report on Wisconsin’s prevailing wage law.
WHAT CAN BE DONE? THREE APPROACHES

1. **Increase enforcement**: Conduct more UI audits

2. **Expand punitive actions**: Fines, penalties, & debar contractors

3. **Local procurement policies**: Berkeley (CA) & Columbus (OH)

Minnesota’s February 2019 Law
Penalties up to 20 years imprisonment and up to $100,000 in fines
WAGE THEFT & PAYROLL FRAUD IN CONSTRUCTION

A CONSTRUCTION WORKFORCE CASE STUDY IN WISCONSIN

10% of construction workers experience some form of wage theft.

These workers receive 31% less in wages and benefits on average.

Wage theft and payroll fraud costs Wisconsin taxpayers $40 million EVERY YEAR.

Wage theft is a crime that can be stopped.

FINAL THOUGHT
THANK YOU!

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