



ARCA/MCA

Southern California

ALERT



Airconditioning, Refrigeration and Mechanical Contractors Association of Southern California, Inc.

First Quarter 2005

www.arcamca.org

Issue 1

Board of Directors

President

Ken Westphal

Vice President

Phil Evans

Past President

Joe Urban

Treasurer

Michelle Villa

Secretary

Idona Burrow

Executive Vice President

Richard J. Sawhill

Board Members

Peter Bordas

Sal Buongiorno

Robert Lake

Scott Limbacher

Spence O'Brien

David Smith

Jay Sparlin

Editorial Staff

Executive Vice President

and Editor

Richard J. Sawhill

Office Manager and

Associate Editor

Rose L. Bayus

Special Projects and

Associate Editor

Debra J. Sawhill

Retiree Co-Pay Arbitration Decision Received

The increase in the monthly co-pay cost for retirees eligible for medical coverage from the Airconditioning and Refrigeration Health and Welfare Benefit Trust Fund was effective January 1, 2004. Subsequent to the August 2003 unanimous adoption by the Board of Trustees of this program, the labor trustees attempted to modify the formula. This effort became deadlocked and resulted in an arbitration hearing to break that deadlock.

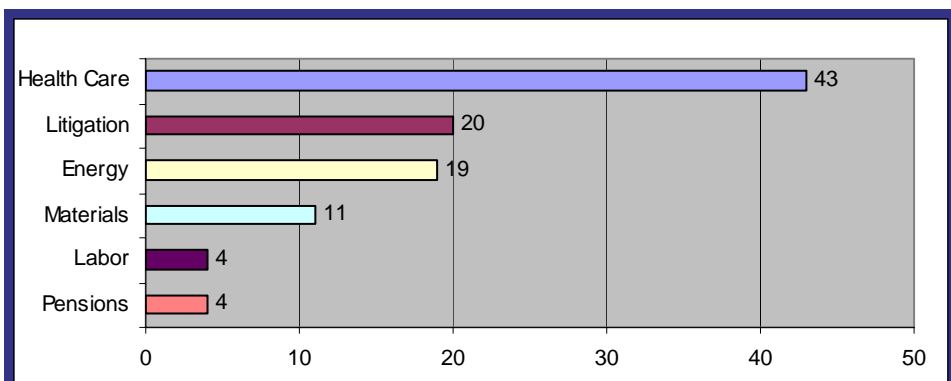
The decision of the Arbitrator with respect to the retiree co-pay formula has been received. The Arbitrator voted with the Management Trustees stating in part:

“The record supports a finding that the creation, formulation, and adoption of this important proposal was the product of careful and collaborative efforts between the parties, with the capable assistance of counsel for both parties as well as the Fund’s experience professional consultant, Mr. Kaufmann.” In addition, the Arbitrator stated “the process utilized in connection with developing and approving the co-pay increase was fair, collaborative, and appropriate,” and concluded that “it would not be prudent to reduce by one-half the existing new source of income generated by the co-pay formula previously adopted by the Board of Trustees.”

What cost is your company’s biggest concern in 2005?

CEO’S Health Care Costs a Top Concern...USA Today

(Percentages do not equal 100% due to rounding. Business Roundtable questionnaire of 131 CEO’S of companies with a combined workforce of more than 10 million employees and \$4 trillion in annual revenue)



President's Message

Our Association has been very focused on increasing our growth in member contractors over the last several years. We have increased our contractor membership by 173% since the year 2000.



Critical to our growth in the service business, we developed an education program on the value of the National Mechanical Equipment and Maintenance Agreement. During that same five year period ending in December, we increased our national signatory contractor group by 148%.

As in any business, your Board of Directors recognizes the need to develop action plans to increase individual member participation. In early 2004, we reviewed the local joint labor/management committees that we have involvement, those that we desire more participation as well as national MCAA/MSCA committee charters.

We also created a matrix succession and progression committee plan to better educate our contractor participants. The goal is to educate and train our various committee members be more effective on the individual committees to meet our associations and industry objectives. Additionally, we wanted to provide more contractor members the opportunity to serve on the various committees both locally and nationally.

During 2004, we increased individual member committee participation by 45%. **Dick Sawhill**, our Executive Vice President, did a fantastic job recruiting and executing this plan. In fact, we are so proud of our success in this critical area, that in December, we submitted this plan to the MCAA as a Best Practice Program Plan for award consideration. I am proud to announce the following national committee appointments:

Tony Ghafari (EMCOR Service/Mesa Energy Systems, Inc.) . . . the MCAA Technology Committee
Carlton Seyforth (ACCO Engineered Systems) . . . the MCAA Safety and Health Committee
Kip Bagley (Cal-Air/Johnson Controls) . . . the MCAA Education Committee

These three new appointments join Joe Urban, Bob Lake, and myself serving on MCAA or MCAA national committees. We look forward to representing **ARCA/MCA Southern California**, our industry, and most importantly, the needs of our contractor members and their employees in Southern California.

Ken Westphal

Electrical Certification (submitted by Politico)

The electrical certification program only applies to electricians working for electrical contractors under the guise of the C-10 electrical contractor's license. The California Labor Code clearly defines who must meet the certification requirements. California Labor Code section 3099 (c) provides that:

- Only electricians making electrical connections over 100 volt-amperes must be certified.
- Electricians are defined as persons who engage in the connection of electrical devices for electrical contractors licensed pursuant to Section 7058 of the Business and Professions Code, specifically, contractors classified as electrical contractors in the Contractors' State License Board Rules and Regulations.

Further, the electrical certification program does not affect contractors doing work under any other specialty license if the electrical work being done under that other license classification is incidental and supplemental to the larger portion of the project. This authority is found in Business and Professions Code Section 7059. That section reads:

"Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he or she is licensed, is incidental and supplemental to the performance of the work in the craft for which the specialty contractor is licensed."

If you have any additional questions regarding this matter please contact the Association office.



Company Rules

Does your company have a set of Rules? Are they posted in a conspicuous place? Are they provided to each employee? Most companies do have rules, but they don't always cover some important topics. Do your rules allow for an inspection of an employee's brief case, toolbox or other personal affects? Do they prohibit political campaign buttons and literature? Do they specifically require safe work practices? If you need to develop a set of company rules, or want to update your current rules, contact the Association office.

Governor Schwarzenegger Announces Appointment

Richard J. Sawhill III, 52, of Fontana, has been appointed Commissioner to the California Building Standards Commission. He is currently the Executive Vice President of the Air Conditioning, Refrigeration, and Mechanical Contractors Association of Southern California (**ARCA/MCA**). Previously, he served as the director of human resources and labor relations for the Hussmann Corporation. This position requires Senate confirmation and there is no salary. Mr. Sawhill is a Republican.



(Governor's press release January 18, 2005)



Standard Mileage Rate Increases In 2005

Beginning January 1, 2005, the standard mileage rates for the use of a car (including vans, pickups or panel trucks) will be: **40.5** cents a mile for all business miles driven; up from **37.5** cents a mile in 2004.

(submitted by Miller ,Kaplan ,Arase & Co., LLP)

Association Website... a useful tool for our members... arcamca.org

As you review the site, you will notice the many benefits that it provides our member companies and their employees. The site gives you the ability to :

- Read and print the current "Bargaining Agreements" & "Wage Schedules"
- Keep informed on the current traffic and weather conditions (a must for dispatchers)
- Locate and contact **ARCA/MCA** member companies
- Print the **ARCA/MCA** membership application
- Contact the various training centers
- Read the current copy of the **ARCA/MCA** newsletter
- Read the current and "plan ahead" events calendar
- Link to **ARCA/MCA** affiliated websites
- Contact **ARCA/MCA** for questions and information
- Contact **ARCA/MCA** board members

Do we have your company logo on the website? If not, send it to the Association office.



ARCA/MCA

SOUTHERN CALIFORNIA

ALERT

3602 Inland Empire Boulevard
Suite B - 206

Phone: 909-477-4515
Fax: 909-477-4516



www.arcamca.org

Executive Vice President
Richard J. Sawhill



Save the Date!

Wednesday, October 26, 2005
ARCA/MCA Southern California
Annual Membership Meeting



January 2005

6	10:00 am	P.I.P.E Board of Directors
10	5:00 pm	Inland Refrigeration Training JAC & Training Trustees
11	11:00 am	California Oversight Committee (San Diego)
11	4:00 pm	Joint Apprenticeship Committee (JAC)
12	10:00 am	SCPT Administrative and Delinquency Committees
18		MSCA Marketing Committee (Ft. Lauderdale, FL)
18	11:00 am	A&J Board of Trustees
19		MSCA Officers Meeting (Ft. Lauderdale, FL)
25	9:00 am	Inland Refrigeration Benefit Funds Board of Trustees
27	9:00 am	ACRT Delinquency and Benefits Committees

February 2005

3	8:00 am	SCPT Appeals Committee
3	10:00 am	SCPT Board of Trustees
7	5:00 pm	Inland Refrigeration Training JAC & Training Trustees
9	8:30 am	Service Department Financial Management Program
10	10:00 am	ARCA/MCA Board of Directors
15	4:00 pm	Joint Apprenticeship Committee (JAC)
16	10:00 am	SCPT Finance Committee
24	8:00 am	ACRT Investment Committee
24	10:00 am	ACRT Board of Trustees
24	2:00 pm	ACRT Administrative Corporation Annual Meeting
27-28		MCAA 2005 Annual Conference (Scottsdale, AZ)

March 2005

1-3		MCAA 2005 Annual Conference (Scottsdale, AZ)
7	5:00 pm	Inland Refrigeration Training JAC & Training Trustees
8	11:00 am	Service Managers Roundtable
8	4:00 pm	Joint Apprenticeship Committee (JAC)
15	11:00 am	A&J Board of Trustees
25	11:30 am	U.A. Local 230 Labor/Management Meeting
30-31		Western Mechanical Conference (Monterey, CA)

Mission Statement

ARCA/MCA Southern California

The Mission of the Airconditioning, Refrigeration and Mechanical Contractors Association of Southern California, Inc. (ARCA/MCA) is to exceed the expectations of the Association's member companies. The Association will provide a link of communication that will address, advance, and inform the Association membership of the latest updates on legislation, technology, and issues pertinent to the Airconditioning, Refrigeration and Mechanical Contracting Industry. The success of the Association in achieving this Mission is to be based on integrity and loyalty to its members. We will strive to be diligent and flexible by supplying services the membership needs to be competitive in an ever-changing business environment.

New California Law Mandates Sexual Harassment Training

On September 30, 2004, California Governor Arnold Schwarzenegger signed into law a bill requiring that private employers conduct sexual harassment training. California now joins Maine and Connecticut as states that statutorily require sexual harassment training for private employers.



The new law imposes a training deadline of January 1, 2006 for all California employers with 50 or more employees. By that date, those employers must provide at least two hours of training and education to all supervisory employees who are employed as of July 1, 2005. Supervisors hired after July 1, 2005, must be trained within 6 months of their assumption of duties. This deadline does not apply to supervisory employees who have received appropriate training on sexual harassment prevention since 2003. After January 1, 2006, affected employers must train their supervisory employees at least once every two years.

The new law specifies the type of training needed to comply. The training must be “effective” and provided in either a classroom setting or some other “interactive” medium. Training must also include information and “practical” guidance regarding the federal and state laws that prohibit sexual harassment, as well as the remedies available to sexual harassment victims. In particular, supervisors must be taught practical methods to prevent harassment, discrimination, and retaliation. Finally, trainers must have knowledge and expertise in the harassment prevention field. In short, the law requires interactive, practical and effective training taught by experienced and qualified trainers.

From the point of preventing harassment, the new law is both an improvement and a potential trap for the unwary. The beneficial aspect of the law is that it provides some guidance as to how employers can fulfill a duty they already have under California law — to take reasonable steps to prevent harassment. Training is one such reasonable step, and the new law provides criteria to help ensure that training is meaningful and not a simple rote recital of company policy or the law. Yet the law can be misleading, and harmful to employers, if employers come to believe that meeting its requirements will necessarily discharge an employer’s legal obligations with respect to training. In this respect several points bear noting:

- The two hours of sexual harassment training for supervisors is a minimum threshold. Whether two hours of training will be enough to establish a defense to sexual harassment or sexual discrimination claims remains to be seen. In fact, the law specifically states that more elaborate training may be necessary for an employer to take reasonable steps necessary to prevent and correct harassment and discrimination.
- Training to prevent sexual harassment without training to prevent other forms of unlawful workplace harassment is a high-risk proposition. Effective harassment prevention training must be broad-based, touching upon not only issues of sexual harassment, but harassment based on all protected characteristics, including race, national origin, age, sexual orientation, gender identity, religion and disability.
- When implementing a harassment prevention training program, California employers should make certain that its program does meet the **Interactive, Practical and Effective** standards of the new law. Typically, this requires, at minimum, that the training provide realistic exercises wherein participants practice and learn new skills and techniques to combat and eliminate harassment in the workplace. In addition, employers should make certain that its trainers have not only content expertise, but high-level facilitation skills to ensure that the training is in fact **Interactive, Practical and Effective**.
- Training supervisors only, without regard to educating the remainder of the workforce, is also an unnecessary risk. Harassment prevention training should be provided to all employees, not just supervisory or managerial staff. Broad-based training of this sort is particularly important in California, which imposes personal liability for workplace harassment on rank-and-file employees as well as on supervisors.



For many employers the new law will not create any burden that the employers do not already bear through their current training program. For California employers that do not yet have a harassment prevention training program, the new law should be a final wake-up call, for it clarified in more specific terms an obligation these employers already had under existing law.

Seyfarth Shaw LLP



IMMIGRATION ALERT

New Law Allows Electronic Storage, Signatures for I-9s

On October 30th, President Bush signed into law a bill allowing employers for the first time to complete and store I-9 employment verification forms electronically. Electronic completion of the I-9 will save employees and employers time and money and free up space and resources currently devoted to storage. Prior to this legislation, the I-9 form was one of the only documents that employers could not store electronically.

The new law gives employers the option to move to an electronic format. It does not mandate that companies make the switch. Previously, the law permitted only three forms of record retention for I-9 forms: paper, microfilm, or microfiche. The bill simply adds "electronic format" as a fourth method of document retention. The bill also permits – but does not require – the use of electronic signatures on the I-9 form. Electronic signatures have grown in popularity since the passage of the Electronic Records and Signatures in Commerce Act in 2000.

The newly-enacted law does not change the document verification requirements under the Immigration Reform and Control Act (IRCA). Employers must still review **original** documentation to verify the identity and employment eligibility of new hires. Nor does the law affect the period during which I-9s must be retained. Under IRCA, employers must keep I-9s for three years from an employee's date of hire or one year from the date of termination, whichever is later.

The new law becomes effective 180 days after enactment, or sooner if the Department of Homeland Security (DHS) issues final regulations implementing the law. Those regulations are likely to answer several open issues, such as what types of electronic storage and signatures will be acceptable. Employers may want to hold off implementing a paperless I-9 process until the DHS regulations are issued.

(Article submitted by Seyfarth Shaw LLP)

New California Law Mandates "Reasonable" Security Measures For All Personal Data Concerning California Citizens.

California has again added to the plethora of laws protecting the privacy and security of its residents by enacting the first data security law in the United States. Under the new law, companies that own or license personal information about a California resident and do not encrypt that data must: 1) implement and maintain reasonable security procedures and practices to protect the information from unauthorized access, destruction, use, modification or disclosure; and 2) to the extent the company provides personal information to third parties, to require by contract that the third party implement and maintain similar security measures.

....provided by Seyfarth Shaw LLP



Three of **ARCA/MCA** members companies have achieved approval and recognition as a MSA Star Qualified Contractor. **ARCA/MCA** is currently working with nine additional member companies preparing their submission for this prestigious recognition. Any company interested in participating in this program should contact the Association office.

Congratulations !

Air-Ex Air Conditioning

Cal-Air, Inc.

Thermalair, Inc.