

PROTECTING AMERICA'S WORKERS AND WAGES

The Davis-Bacon Act. It has a long-controversial history, yet no other law has done more to protect local area wages and labor standards. According to the U.S. Department of Labor, the law stipulates, “contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character.” The wage rates are determined by the U.S. Department of Labor.

State prevailing wage laws, sometimes referred to as Little Davis-Bacon Acts, were created to better reflect specific earning levels to be paid and to insure that the prevailing wage is paid on local and state government projects that do not involve Federal participation. Wage amounts within each state may vary by county, assigned regions, or be based on Davis-Bacon rates. The Davis-Bacon Act covers federally funded work, whether or not a state has its own prevailing wage law.

Prevailing wage laws require public bodies with construction projects to provide wage information to bidding contractors, so they can compute their bids based on similar cost factors. Wage rates are calculated by determining a base rate and then adding fringe benefits, such as health insurance and pension costs.

Intended to encourage the development of a highly skilled, well-paid workforce, the Davis-Bacon Act and state prevailing wage laws allow union and non-union contractors to compete for federal construction jobs on equal footing by not allowing heated competition to undercut the wages of laborers. These laws help the workers of the community by encouraging training, raising productivity, and paying reasonable wages. In turn, these wages help pay for the health care needs and future retirement of the workers, so they do not become dependent on public aid.

Opponents of the Davis-Bacon Act and state prevailing wage laws believe cutting local wage rates reduces the final cost of federal construction projects. But such wage cuts frequently end up hurting the project and the community. When worker compensation drops, other factors lower as well – namely, worker skills, experience, motivation and even safety. These factors contribute to the real cost-effectiveness of these laws.

An Asset to the Community

The study, “Kentucky's Prevailing Wage Law: Its History, Purpose and Effect,” by Peter Philips,¹ helps to reveal the true value of prevailing wage laws. It examined Kentucky's prevailing wage law, analyzed construction cost data, historical information, training, health and safety statistics. The study concluded that prevailing wage projects are not more expensive, and in fact, achieve positive outcomes in the form of lower injuries, a larger pool of skilled workers, and increased health and welfare benefits.

Without the stabilizing influence of these laws, contractors do not compete on the basis of who has the best-trained, best-equipped or best managed work crew. Instead, the standard becomes submitting the lowest bid by finding workers willing to work for less. But hiring such workers does not equate to greater savings. If you find a less skilled worker to do a job for half the money but it takes them more than twice as long to complete the

task, you have, in fact, lost money. Plus, a less expensive workforce frequently does not have the necessary training or experience, causing the quality of the work to suffer. Inferior workmanship means more expense down the road. If work is done wrong, another more skilled worker has to be brought in to fix a problem. The result? Even more money is lost, in the name of trying to cut costs.

Critics of the Davis-Bacon Act and state prevailing wage laws often claim the legislation creates an unfair advantage for union workers. But if union workers have any advantage, it is only that they are on average, better trained, safety-oriented and more productive. Such quality workmanship results in savings and timely results.

Prevailing wage laws are not based on union advancement, as those critics might attest. The intent of the Davis-Bacon Act was to prevent the undermining of wages in the community where federal dollars were being spent. Over the years, misrepresentation of the facts has led some people to believe the prevailing wage is a union wage, which is not true: 85 percent of general wage decisions reflect non-union compensation. The Department of Labor acts as a neutral third-party to establish the prevailing wages and benefits.

Does the repeal of state prevailing wage laws save money on construction projects? Maybe in theory, but real-life situations tell a different story. The study, “A Comparison of Public School Construction Costs In Three Midwestern States that Have Changed Their Prevailing Wage Laws in the 1990’s,” by Peter Philips,² analyzed new public school construction in Ohio, Kentucky and Michigan from 1991 to 2000, to determine whether or not changes in the prevailing wage policies, as they applied to public school construction, raised or lowered the cost of construction. In a number of instances, construction costs actually rose following the repeal of the prevailing wage laws. The conclusion states, “The high wage rates required by prevailing wage regulations insure that all contractors bidding on the job will use skilled labor when building the school. Thus, prevailing wage regulations offer school boards some assurance that the project will be skillfully built and workers on the job will be carefully managed. Consequently, prevailing wage regulations provide some assurance against cost overruns and downstream maintenance costs.”

Additional studies indicate the repeal of prevailing wage laws brings about decreased levels of worker wages, benefits and training, as well as increased numbers of worker injuries, project change orders and cost overruns. Worker turnover increases significantly, and the construction industry finds it harder to retain workers for long-term careers.

The Davis-Bacon Act and state prevailing wage laws offer much-needed financial protection to workers. It gives men and women of all religions and ethnicities the chance to receive fair wages for their work. Minority and women workers are especially vulnerable to exploitation, since some unscrupulous employers may pay them less. Repeal of these laws takes away their protection from exploitation. The study, “Kentucky's Prevailing Wage Law: Its History, Purpose and Effect,” mentioned above, confirms in its conclusion that greater minority employment is a solid benefit of prevailing wage laws.

The welfare of workers has been a major focus of the Davis-Bacon Act. In 1931 when the legislation was enacted, the primary sponsors of the Act, Congressman Robert Bacon and Senator James Davis, hoped to stabilize the construction industry, since low-bid requirements for public projects compelled many contractors to hire workers for substandard wages. Robert Bacon’s concern for these workers is evidenced by this statement regarding labor conditions of his time, in which he commented on how an Alabama construction firm transported thousands of unskilled workers to a New York public project: “They were herded onto this job, they were housed in shacks, they were paid a very low wage, and ... it seems to me that the federal government should not engage in construction work in any state and undermine the labor conditions and the labor wages paid in that state.”

Some opponents claim the Bacon-Davis Act contains elements of conflict of interest. They believe the contracting agency is solely responsible for the administration and enforcement of the Act, but in fact, the

agency is required to turn in semiannual enforcement reports to the Department of Labor. Ultimately, primary responsibility goes to the agency that granted funds, loans or grants for the project.

Like any law, sometimes elements of the Bacon-Davis Act need to be re-evaluated and revised. Concerns about the current system for wage determination are being addressed. These issues are discussed in the March 30, 2004 report, "Concerns Persist with the Integrity of Davis-Bacon Act Prevailing Wage Determinations," from the Office of Inspector General, U.S. Department of Labor, Office of Audit.

The report indicates that solutions to the current wage determination concerns are already being proposed and considered: "We continue to believe the solution to problems with (wage decision) is to change the fundamental methodology (used by the Wage and Hour Division) to complete its surveys. Consequently, we recommend the Assistant Secretary for the Employment Standards Administration promote changes to the Davis-Bacon Act that allow reliable and objective sources of data and a defensible methodology, such as that offered by BLS (Bureau of Labor Statistics) surveys, to be used in prevailing wage determinations. ... ESA (Employment Standards Administration) concluded that they fully believe that the system changes being pursued for the D-B (Davis Bacon Act) wage survey program have the potential to improve wage determinations."

Would America be better off without prevailing wage laws? The study, "The Adverse Economic Impact from Repeal of the Prevailing Wage Law in Missouri," by M. Kelsay, R. Wray and K. Pinkham,³ catalogues the problems the repeal of prevailing wage laws could create. The study explains, "The elimination of the prevailing wage in Missouri would cost the State of Missouri substantially more in lost income and lost tax revenues than it would save in reduced, if any, construction costs in the state. ... The total economic loss due to repeal of the prevailing wage law in Missouri would be a loss of income and revenue between \$317.8 million and \$384.2 million annually, dwarfing any hypothetical gain offered by opponents of prevailing wage laws with respect to total construction costs."

In addition to reducing current and long-term costs to Missouri taxpayers, prevailing wage statutes support apprenticeship training, which is critical to countering the possibility of a future skilled labor shortage. Decreased benefits and incentives for skills training would result in more serious injuries, increases in workman compensation costs, and increased publicly financed health services.

The study notes, "the prevailing wage law in Missouri, as well as in other states, creates a system of employment that is in the interest not only of the construction worker and his or her family, but of all citizens and state and local governments in Missouri. This study has shown that the *benefits of repeal* (lower construction costs) are simply not there. This study has shown the *costs of repeal* are real and substantial and will have a short-term and long-term negative impact on the State of Missouri."

In conclusion, the Davis-Bacon Act and state prevailing wage laws benefit our economy by helping communities maintain an experienced workforce. When workers have healthier incomes, they are more likely to spend it buying goods locally and improving their homes. Local spending also means more money goes to local taxes, allowing communities to have more funds for infrastructure improvements and community services. Clearly these laws help America's workers and their communities by offering peace of mind and financial security to the very people who strive to build our country on a daily basis.

¹ **Kentucky's Prevailing Wage Law: Its History, Purpose and Effect.** Peter Philips, University of Utah Economics Department, November 1999. <http://www.prevailingwage.org/pdf/kentuckyprevwage.pdf>

² **A Comparison of Public School Construction Costs In Three Midwestern States that Have Changed Their Prevailing Wage Laws in the 1990's.** Peter Philips, University of Utah Economics Department, February 2001. http://www.smacna.org/pw_report_2001.pdf

³ **The Adverse Economic Impact from Repeal of the Prevailing Wage Law in Missouri,** by M. Kelsay, R. Wray and K. Pinkham, University of Missouri-Kansas City, 2004. http://www.lecet.org/Legislative/prevailing_wage/Final_PWL-2004_012004.pdf