

## Davis-Bacon Act and Prevailing Wage

### Background:

- The 1931 [federal Davis-Bacon Act and related acts](#) govern wage requirements for contractors and subcontractors performing federally funded or assisted contracts in excess of \$2,000.
- As of October 2020, certain taxpayer-funded construction projects in 27 states and Washington, D.C., are subject to state prevailing wage laws that are similar to the federal Davis-Bacon Act. In addition, numerous municipalities have also enacted their own prevailing wage policies.
- Mandating contractors pay employees so-called “prevailing” wage and benefit rates determined through an unscientific and fundamentally flawed survey process administered by the U.S. Department of Labor hinders economic growth, increases the federal deficit, imposes enormous compliance burdens on contractors and decreases construction industry job creation.
- The Davis-Bacon Act and similar state prevailing wage laws stifle contractor productivity by raising project costs and imposing rigid craft work rules that ignore skill differences.
- ABC supports full repeal of the Davis-Bacon Act, as well as any state and local prevailing wage laws that mandate wage and benefit rates.
- Prevailing wage mandates chill open competition and preclude a free-enterprise approach to awarding construction contracts based solely on merit, regardless of labor affiliation.
- In the absence of full repeal of the Davis-Bacon Act and state prevailing wage laws, ABC also continues to support legislative and regulatory efforts designed to mitigate its negative effects and failure to reflect the current market rate. [ABC opposes expansion of Davis-Bacon](#) and state and local prevailing wage laws into areas of public and private projects in which it has not been previously mandated.

### Prevailing wage laws increase federal, state and local taxpayer-funded construction costs.

- Taxpayers are the owners of publicly funded construction projects and deserve the best possible product at the best possible price.
  - *Waste:* The [Congressional Budget Office has estimated](#) that the Davis-Bacon Act will raise federal construction costs by \$13 billion between 2015 and 2023.
  - *Above-market government-set rates:* According to a [2011 Joint Economic Committee report](#), government-determined Davis-Bacon wages inflated labor costs an average of 22% above market rates.
  - *Increased costs:* Researchers at [Suffolk University also found in a 2008 study](#) that Davis-Bacon requirements add 9.9% to construction costs and cost U.S. taxpayers an additional \$8.6 billion annually.
  - *Anti-growth:* Prevailing wage mandates are expensive to administer and result in less construction output per tax dollar. Therefore, tax payers pay more and get less, resulting in fewer roads, schools and bridges without a measurable return in quality, safety or value.
- There is no evidence supporting erroneous claims that prevailing wage laws improve a project’s cost, schedule, quality or result in better worker safety and training.

- State and local studies show government-determined prevailing wages drive up local construction costs:
  - Following the full repeal of West Virginia’s prevailing wage law in 2016, [a 2018 study conducted by the University of Kentucky Center for Business and Economic Research](#) found that total costs for public school construction in the Mountain State declined by more than 7%. Additionally, the CBER found no evidence that repealing this mandate had any impacts on safety or quality of construction.
  - In New York, [a 2017 report released by the Empire Center for Public Policy](#) found that prevailing wage requirements inflate the cost of publicly funded construction projects in the state 13 to 25%. Taxpayers can expect to pay billions in extra costs, given the tens of billions the state plans to spend on public projects over a five- to 10-year period.
  - In 2016, the [New York Independent Budget Office released a report](#) on the impact prevailing wage requirements would have on affordable housing projects built with the 421a property tax break. IBO estimated prevailing wage requirements would cost the city an additional \$4.2 billion, increasing affordable housing construction costs by 23% or \$80,000 per unit.
  - In Illinois, [a 2014 study commissioned by the nonpartisan Anderson Economic Group](#) found that, from 2002 through 2011, the state of Illinois and local governments could have saved an estimated \$1.6 billion on school construction costs by eliminating prevailing wage requirements.
  - In Minnesota, the prevailing wage calculation process is also flawed and outdated, leading to inaccurate wage rates on construction projects. A 2018 [study released by the Minnesota Center for Fiscal Excellence](#) found a disproportionate 75% of prevailing wages reflected union rates in the period analyzed in the study, even though just 32% of private construction workers in Minnesota belong to a union.
  - In 2002, a [report by the Legislative Bureau of the Ohio Legislature determined](#) that rescinding prevailing wage requirements for school construction saved \$487.9 million in aggregate school construction during the post-examination period, an overall savings of 10.7%, with little negative impact on school construction quality or wages of construction workers building applicable schools.

**Prevailing wage laws discourage small contractors from bidding on government projects.**

- Prevailing wage laws require complex and inefficient wage and work restrictions that serve as a barrier to market entry for small contractors, decreasing competition for taxpayer funded projects.
- Prevailing wage requirements deprive equal access to work opportunities for small and minority-owned contractors because complexities and inefficiencies in the act’s implementation make it difficult for them to competitively bid on publicly funded projects.

**Eliminating prevailing wage laws would level the playing field among all construction firms for public projects, creating the conditions for all Americans to compete to build America.**

- Many prevailing wage mandates require contractors pay union wages, benefits and force contractors to use archaic and inefficient union work rules set by local union collective bargaining agreements, which are incongruent with nonunion contractors’ ability to utilize construction workers across multiple craft disciplines i.e. laborer, carpenter, operator, on a jobsite.
- By favoring unionized contractors, these requirements discriminate against the [87.6% of private-sector construction workers](#) who choose not to join a union (state numbers available [here](#)).

- The DOL sets the Davis-Bacon rate by using the Modal 50% + rule: If a single rate is paid to a majority of the employees in a given classification and locality, it is adopted as prevailing. If no single rate is paid to a majority, then the weighted average of all rates paid is adopted as prevailing wage. Because all workers subject to a collective bargaining agreement must be paid the same rate, unionized rates are more frequently adopted as prevailing rates set by the DOL.
- A GAO report found 63% of all Davis-Bacon rates are union rates even though 14% of the construction workforce belong to a union.
- The government-set rates are a mere reflection of those motivated to return a paper survey sent to contractors of the U.S. DOL's Wage and Hour Division's choosing.

**According to a [study by The Heritage Foundation](#), more construction jobs would be created if DOL accurately calculated Davis-Bacon rates to find the true prevailing wage.**

- *100% Flawed:* The Government Accountability Office and DOL's own inspector general reports found widespread errors in Davis-Bacon wage rates and identified errors in agency's wage survey process. A [2011 GAO study](#), referencing 2004 research from the [DOL's Inspector General](#), noted that 100% of sampled wage determinations were flawed.
- *Outdated:* Rates are rarely current market rates because the survey system takes too long to determine a rate. DOL's Wage and Hour sets roughly 240,000 wage + benefit rates through a survey process. However, DOL's wage determinations are less than market rates in areas without updated surveys, which may harm workers.
- *Unaccountable:* DOL is unable to provide clear job classifications to nonunion contractors. Murky descriptions expose firms to wage and hour violations unions exploit to penalize and/or drive nonunion competitors out of business.
- *Dysfunction multiplied across government:* Many state prevailing wage laws simply adopt Davis-Bacon Act rates set by the DOL, while others set rates using a similar but inaccurate survey process, which costs millions of state tax dollars to administer.