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Survey Says: ABC Members Strongly Support Repeal or Reforms to Costly Davis-Bacon Act and Prevailing Wage Laws

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According to findings of an [ABC membership survey](#) published on March 3, 2021, ABC members overwhelmingly support repeal or reform of the federal Davis-Bacon Act and related state and local prevailing wage laws that increase costs and reduce competition from qualified contractors on taxpayer-funded construction projects. The Davis-Bacon Act is a 1931 law that requires contractors and subcontractors that perform work on federally funded or assisted construction contracts in excess of \$2,000 to pay a government-determined prevailing wage and benefit rate on an hourly basis to on-site workers.

The survey found:

- 87.9% of participants do not support prevailing wage laws and the Davis-Bacon Act in its current form.
- 83.1% of participants support full repeal of prevailing wage laws.
- 82.1% of participants support reforms to prevailing wage laws.

"The survey results reaffirm that the 90-year-old Davis-Bacon Act, an archaic and costly policy that is far past its expiration date and similar state and local laws in 27 states, must undergo commonsense regulatory reforms or be fully repealed," said Ben Brubeck, ABC vice president of regulatory, labor and state affairs. "This system of federal, state and local governments setting 'prevailing wages' is outdated, needlessly raises construction project costs, stifles contractor productivity and discourages competition from small businesses interested in pursuing federal and federally assisted construction projects."

Prevailing Wage Regulations Increase Costs and Reduce Opportunity

Approximately 94% of the 350 survey participants believe that government prevailing wage laws make projects more expensive. Meanwhile, 67.6% said the laws result in less competition from subcontractors and 75% said it would make contractors less likely to bid on public works projects in their own communities, paid for by their own tax dollars.

"As the construction industry is suffering from a [9.4% unemployment rate](#) due to the recession caused by the COVID-19 pandemic, and America's [crumbling](#) infrastructure faces an [estimated \\$2.6 trillion investment gap by 2029](#), lawmakers considering a multitrillion dollar infrastructure spending bill need to do everything possible to maximize taxpayer investments in infrastructure while helping all construction workers and small businesses find quality jobs to rebuild their communities," said Brubeck.

"The [Congressional Budget Office estimates](#) that repealing the Davis-Bacon Act would save the federal government \$17.1 billion between 2021 and 2030, [but research suggests](#) repealing the Act would actually save taxpayers more than \$11.56 billion a year," said Brubeck.

[According to economic models](#), every \$1 billion in extra overall construction spending generates an average of at least 6,500 construction jobs and every \$1 billion in extra construction spending on infrastructure generates an average of at least 3,300 construction jobs.

In 2017, a [study by the Heritage Foundation](#) estimated 30,000 more real construction jobs would be created on an annual basis if the U.S. Department of Labor enacted commonsense regulatory reforms repeatedly suggested by the [Government Accountability Office](#) and the [DOL Office of Inspector General](#), as they would help calculate an accurate prevailing wage in a timely manner.

Survey participants also highlighted how prevailing wage laws harm small and minority-owned businesses, result in more expensive and/or less affordable housing and school construction and make it harder to finance green energy projects and support energy-saving home weatherization.

"Survey participants noted that prevailing wage laws will hit small businesses particularly hard and decrease the hiring of small businesses," said Brubeck. "This is because it would force them to hire or assign additional personnel to comply with prevailing wage red tape."

Survey Results Undermine Prevailing Wage Advocate Arguments

The majority of survey participants said prevailing wage laws either harm or have little positive impact on workforce development, attracting a skilled workforce, enhancing project safety, ensuring a quality project delivered on time and on budget and the hiring of local, minority, women, veteran and disadvantaged businesses:

- 60.7% said it makes no difference, while 36.5% said it will harm their company's investment in workforce development strategies.
- 77.8% said it will not have an impact on their ability to attract skilled workers, while 8% said it would result in attracting less-skilled workers.
- 94.9% said it will not make a difference in a company's safety performance on a project, while 2% said it would make a project less safe.
- 92% said it will not make a difference in a project's construction quality, while 5.1% said it would decrease quality.
- 61.9% said it will make no difference to project's on-time and on-budget delivery, while 35.5% said it would decrease on-time and on-budget delivery.
- Approximately 65% said it will make no difference in local hiring outcomes, while 27.7% said it would result in worse local hiring outcomes.
- 76.7% said it will make no difference in the hiring of minority, women, veteran and disadvantaged business enterprises, while 18.8% said it would decrease hiring of disadvantaged businesses.
- 77.5% said it makes no difference in the hiring of hiring of minority, women, veteran and ex-offender construction workers, while 19.7% said it would decrease hiring of these disadvantaged workforce populations.

"The survey results undermine arguments prevailing wage advocates cite as a reason to require anti-competitive and costly prevailing wages on taxpayer-funded construction projects," said Brubeck. "Open-ended responses to survey questions make it clear that prevailing wage laws provide little value and often undermine contractor efforts to upskill and retain a diverse workforce. The truth is, the alleged benefits of prevailing wage laws can be achieved through specific procurement language and strong prequalification standards independent of prevailing wage regulations."

"Our employees are our company's greatest asset, and we must continue to upskill them to stay safe and productive in order to deliver to customers a high-quality project on time and on budget," said one survey participant. "We invest in workforce development through our company training programs as well as participate in government-registered apprenticeship programs in certain trades. We make these investments regardless of whether we are performing prevailing wage work or private work. It makes no difference to our value proposition."

ABC Membership Not Unanimous on Prevailing Wage Repeal/Reform

Of note, the survey confirmed there are ABC member contractors who support prevailing wage laws for a variety of reasons, despite the fact that they believe it increases taxpayer costs and reduces competition from contractors. In open-ended responses, some contractors characterized prevailing wage laws as helpful to their business because: 1) They allow companies to pay employees an above-market premium that is passed on to taxpayers; 2) They discourage competition from firms that haven't mastered compliance strategies with the red tape associated with prevailing wage regulations; and 3) They prevent union lobbyists from mandating union-only project labor agreements that lock out the more than 87% of the construction industry that chooses not to belong to a union."

"Although more expensive, we can compete on a level playing field with unionized contractors on prevailing wage projects, which is not the case with government-mandated project labor agreements, where we cannot compete at all," said a participant. "One key benefit of prevailing wage laws is that when construction unions lobby for government-mandated PLAs, opponents can point to the fact that workers are already paid union rates; therefore, union-only PLA monopolies are not needed to protect workers and are bad policy. Unfortunately, lawmakers usually do not get the distinction and care more about the politics than policy."

Some participants supported a government-determined wage floor, but felt that the current rates are excessive, are not prevailing and are not accurate, while others wanted regulatory clarity.

"Rates in my rural marketplace are identical to rates charged in expensive cities in my state. These rates are not prevailing and do not meet local standards and violate the intent of the Davis-Bacon Act," said one participant.

"The rates are excessive and are not even close to prevailing rates in our market. The fringe benefits on some union prevailing wage rates are in excess of 60% of the wage rate to make up for chronic pension underfunding by the union," said another participant.

"We need more clarity on union work rules related to U.S. DOL wage decisions. Cloak-and-dagger policies and enforcement are why businesses distrust government and increase risk costs in bids," said a participant.

"The union lobby wants to make prevailing wage compliance as complicated as possible so they can use it as a weapon to target competitors and get them debarred if they accidentally are out of compliance," said a participant. "There needs to be a good-faith exception to differentiate between bad actors and good actors making honest mistakes."

State Prevailing Wage Laws

A total of 27 states have enacted prevailing laws applying to most or some of their taxpayer-funded construction projects procured by state and local governments, [depending on the threshold and applicability of their respective law](#). Of the 27 prevailing wage states, six states set rates identical to the Davis-Bacon Act, seven states explicitly set rates at the union collective bargaining agreement rate, nine states set rates through a survey process and the remaining states set rates through other methodologies.

Since 2015, Michigan (2018), Arkansas (2017), Kentucky (2017), Wisconsin (2017), West Virginia (2015) and Indiana (2015) have repealed their prevailing wage laws.

Following West Virginia's repeal, [a 2018 study conducted by the University of Kentucky Center for Business and Economic Research](#) found that total costs for public school construction in West Virginia declined by more than 7%. Additionally, the CBER found no evidence that repealing this mandate had any impacts on safety or quality of construction.

Similar research measuring the impact of prevailing wage repeal is underway in multiple states.

Additional ABC Resources on Prevailing Wage Policies

[ABC supports the full repeal of the Davis-Bacon Act](#), as well as any state and local prevailing wage laws that mandate wage and benefit rates. In the absence of full repeal of the Davis-Bacon Act and state prevailing wage laws, ABC also continues to support legislative and [regulatory reform 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.

Learn more about the Davis-Bacon Act at [abc.org/DavisBacon](#) and [abc.org/Education-Training](#).

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