JEWISH LABOR COMMITTEE

PREVAILING WAGE LAWS

Many attempts have been made during the past five years to weaken two federal prevailing wage laws: the Davis-Bacon and Service Contract Acts. Statistics have been manipulated and history ignored to bolster the premise that the laws are expensive and obsolete. But these attempts have for the most part been turned back — both in Congress and in the courts — and, furthermore, underscore the indispensability of these landmark fair wage laws.

The Roots of Davis-Bacon

Davis-Bacon evolved not from Depression-era New Deal liberalism, as critics have charged, but in a period of economic boom — sponsored by two Republicans and signed into law by the Republican President of a conservative, business-minded administration. Indeed, the antecedents of Davis-Bacon were regulations enacted by seven states as early as 40 years prior. The states, acting to combat unscrupulous contractors with little regard for local labor standards, passed "little Davis-Bacon Acts" much like Kansas' in 1891 requiring "the current rate of per diem wages in the locality where the work is performed [to] be paid to laborers . . . and other persons so employed" by the state. At present, the vast majority of states have adopted such laws.

The bill was first introduced in Washington in 1927 by Rep. Robert L. Bacon. His concern was with maintaining local wage standards and stabilizing the construction industry. At the time, an unregulated bidding process prevented any stability. Contractors were underbidding each other by offering substandard wages in order to win federal construction contracts. Bacon contended that the government had an obligation to comply with local wage and labor standards when it contracted out.

In the four years prior to its enactment in 1931, the bill that was to become the Davis-Bacon Act enjoyed broad support: Republicans and Democrats, a wide-ranging Hoover Administration committee, labor and the contractors themselves. Secretaries of Labor, beginning with James J. Davis (who, as a Senator, later introduced a companion bill), emphasized that both labor and business leaders opposed the current contracting process. The Senate Committee on Manufactures concluded that endorsement of the legislation did not compel the government to institute new wage scales but rather to comply with those already in place, and that such compliance benefited "the employees, the contractors, and the government alike. It gives a square deal to all."

What the Law Says

The Davis-Bacon Act was not intended to impose inflated wages or to unjustly impact on local economies; in fact, it was the latter concern, among others, which motivated all interested parties to support Davis-Bacon more than a half-century ago and which requires continued support for Davis-Bacon today.

Simply put, Davis-Bacon prevents the federal government from undercutting wage standards in place in localities where federally sponsored construction is done. On any construction project involving federal funds of $2,000 or more, the minimum hourly wages paid to laborers in "corresponding classes" on contracts of "a character similar" to local work, must be the "wages . . . prevailing" in the community, as computed by the Secretary of Labor.

Because the purpose of the Davis-Bacon Act is to enforce minimum standards, it neither favors nor acts against unions. Thus, if the prevailing wage rate for plumbers is non-union, it will be in force for the federal project; conversely, the prevailing wage rate may be a union-negotiated one. Another ex-

The Service Contract Act: Maintaining Prevailing Wages for Service Employees

In its aims and provisions, the Service Contract Act closely mirrors Davis-Bacon. The SCA, too, assures that the federal government, in contracting out, will not undercut local wage standards. Before the enactment of SCA, service employees had virtually no job security: they faced dismissal or a drastic reduction in wages each time a new contractor took over.

With the signing of the Service Contract Act in 1965, service employees — working, generally, in such low-wage occupations as custodians, clerks, trash collectors, mechanics and cooks — achieved a basic protection. The law requires that on government service contracts of $2,500 and above, workers must be paid the wages determined by the Secretary of Labor to be prevailing locally. With the strengthening of the law in 1972, wages and fringe benefits paid by an incumbent contractor are to be included in the prevailing wage determination under a successor contract.

The Davis-Bacon Act preserves fair competition in the construction industry. It gives a square deal to construction workers, contractors and the government alike.

ample of the balance demonstrated by Davis-Bacon is that once the project is awarded, the prevailing wage may not be re-calculated even if the rate has since increased.

Davis-Bacon is Fair to Workers, Contractors and Taxpayers

What benefits, then, does Davis-Bacon offer? Who is protected by prevailing wage laws?

First, construction workers, who are particularly vulnerable to labor abuses in an industry which is inherently unstable. Workers, lacking job security, move from contractor to contractor and generally face unemployment in more erratic periods than those in other industries.

Such conditions foster exploitation by unethical contractors who seize the opportunity to slash the wages of susceptible, even desperate laborers. And in the competitive bidding for government contracts — in which the lowest bid automatically wins — the unethical contractor has even greater incentive to undercut other bids by offering substandard wages. With these concerns in mind, Congress legislated Davis-Bacon. The wage exploitation occurring despite Davis-Bacon would only multiply with the law's repeal.

In addition to protecting workers, the Davis-Bacon Act preserves fair competition in the construction industry. Contractors who comply with existing labor standards can compete on an even ground for federal projects without having their bids undercut by the wage-slashers of the pre-Davis-Bacon type.

Finally, critics contend that Davis-Bacon is a drain on the treasury and as such, costs the taxpayer. However, the "you get what you pay for" maxim eventually takes hold: substandard wages paid to substandard laborers yield substandard construction. The taxpayer foots the bill when productivity is down, when job quality drops and when unsafe construction results.

These are the implications of the shortsightedness of opponents of Davis-Bacon:

- When hourly wages are cut, substandard laborers are hired. Less-skilled workers are incapable of duplicating the efficiency of skilled journeymen. The project takes longer to complete so the overall labor and project costs rise.
- When substandard work is performed, the cost of maintenance becomes a factor. A job done right the first time saves money.
- When construction is shoddy, a public danger exists. The consequences in human and financial terms represent dubious economics.

The Davis-Bacon Act benefits construction workers, the communities where the work is done, fair contractors and the taxpayer. Yet, these benefits are threatened by those who would do away with or weaken the Act. The flaw running through their contention is brought out by the question raised when Davis-Bacon was first proposed, and remains pertinent in the face of efforts to abolish it today: "Is the government willing for the sake of the lowest bidder to break down all labor standards?"

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