

WebMemo



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Congress Should Reform Flawed Wage Determinations Before Expanding Davis–Bacon in the Lieberman–Warner Bill

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Three sections of the Lieberman–Warner Climate Security Act of 2008 (S. 3036) would extend the reach of the Davis–Bacon Act into private-sector construction. Under Davis–Bacon, Congress requires federal construction contractors to pay “prevailing” wages to prevent the government’s buying power from forcing down wages of construction workers. These sections of the Lieberman–Warner bill, however, do not concern federal construction projects. Additionally, Davis–Bacon wages bear little relation to the wage rates that prevail in the marketplace. Specifically, Davis–Bacon wage determinations are not calculated on the basis of scientifically valid random samples, and investigators have uncovered errors in 100 percent of the wage reports they reviewed. Further, the Department of Labor takes several years to process and publish wage determinations, making them out of date by the time they are released. Rather than expand its coverage, Congress should amend the Davis–Bacon Act to require prompt wage determinations using proper statistical techniques.

A Significant Expansion of Davis–Bacon. The Davis–Bacon Act requires contractors on federal construction projects to pay the “prevailing” wage, the typical wage that workers in that area would earn on private construction projects. Three sections of the Lieberman–Warner Climate Security Act would extend the coverage of the Davis–Bacon Act:

- § 832: *Bonus Allowances for Renewable Energy.* The Act provides bonus carbon dioxide emissions allowances for the construction or repair of

renewable energy sources. All workers on those construction projects would be required to receive Davis–Bacon wages.

- § 909: *Low and Zero Carbon Electricity Technology Fund.* The Act distributes funds from a Low and Zero Carbon Electricity Technology fund to construct, repair, or convert power generation facilities that produce little carbon dioxide. All workers on those construction projects would be required to receive Davis–Bacon wages.
- § 1005: *Kick Start for Carbon Capture and Sequestration.* The Act creates a Carbon Capture and Sequestration Technology Fund that provides money for the construction, repair, and conversion of carbon capture and sequestration facilities. Davis–Bacon restrictions would apply to all workers involved in those projects.

None of these programs involve federal construction. The Davis–Bacon provisions of the Lieberman–Warner bill would extend Davis–Bacon coverage from federal construction projects to private projects that Congress has chosen to subsidize.

Government Buying Power Not a Concern for Non-Government Construction. Congress

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passed the Davis–Bacon Act during the Great Depression, when the federal government was the largest construction contractor in many areas of the country. It had what economists term “monopsony power”—the power, as the biggest buyer of construction services, to force construction workers to work for lower wages. Congress required federal construction projects to pay prevailing wages to prevent the government’s purchasing power from driving down wages.

Monopsony power, however, is not a concern in private construction projects that receive some federal funding, such as those contained in Lieberman–Warner. No individual private buyer has the purchasing power of the federal government, so Congress has no economic justification to extend Davis–Bacon coverage to private construction.

Unscientific Surveys. Davis–Bacon wage rates are also extremely inaccurate and bear little relation to actual market wages. Repeated investigations by the Department of Labor’s inspector general have found severe flaws in prevailing wage calculations. Before Congress extends Davis–Bacon coverage it should fix the problems that the inspector general has already identified with its implementation.

The Department of Labor’s Wage and Hour (WH) Division conducts surveys of prevailing construction wages. Unlike Bureau of Labor Statistics (BLS) surveys that estimate the unemployment rate or average wages, the Davis–Bacon survey is not a statistically random sample. The survey is self-reported, which means that only those construction firms that take the time to complete it and send it back influence the survey.¹ This introduces considerable bias into the estimates. Many smaller construction contractors without the staff resources to devote to government paperwork and contractors who do not do business with the federal government do not return the survey.

Surveys must be random in order to provide accurate estimates. Internet polls often show candi-

dates winning 80 percent of the vote—even when those candidates ultimately lose the election—because the respondents to those polls are self-selected. Any survey conducted without random sampling reports severely biased results.

Widespread Data Errors. In addition to sampling bias, government investigations have found widespread errors in the wage reports submitted to the Department of Labor. The General Accounting Office (GAO, now the Government Accountability Office) found repeated errors in the mid- and late 1990s that led the Wage and Hour Division to overhaul its methodology. In a follow-up report, investigators from the Office of the Inspector General found “one or more errors existed in 100 percent of the wage reports they reviewed. Error rates were high even after WH’s prolonged efforts to edit and clarify and complete the data.”² Wage rate misreporting, employee miscounts, and incorrect job classifications were common.³ The government does not use accurate data to calculate prevailing wages.

Long Survey Processing Delays. Delays also plague prevailing wage determinations. The Department of Labor takes an average of 2.3 years to issue a prevailing wage determination after the survey period ends. WH spends four-fifths of this time on data correction and analysis, not data collection.⁴ After the surveys are issued, it takes years—or even decades—for WH to re-survey a county. Inflation and changing market conditions mean that even perfectly accurate wage determinations do not reflect market wages. Construction contractors must pay “prevailing” wages that are several years out of date.

Highly Inaccurate Results. Self-reported surveys that are two years out of date with 100 percent error rates do not reflect prevailing wages. Table 1 compares Davis–Bacon wages with scientific surveys of median market wages conducted by the Bureau of Labor Statistics for several U.S. cities and construction occupations.

1. U.S. Department of Labor, Office of Inspector General, “Concerns Persist with the Integrity of Davis-Bacon Act Prevailing Wage Determinations,” March 30, 2004, pp. 12–13, at www.oig.dol.gov/public/reports/oa/2004/04-04-003-04-420.pdf.
2. *Ibid*, p. 1.
3. *Ibid*, pp. 11–12.
4. *Ibid*, pp. 13–15.

Market Wages and Davis–Bacon Wages for Selected Locations

	Grand Rapids, MI	Nassau–Suffolk, NY	Birmingham, AL	Camden, NJ	Portland, ME
Electricians					
Davis–Bacon	\$14.94	\$44.00	\$9.87	\$41.23	\$25.80
Market	\$22.58	\$27.72	\$19.33	\$27.99	\$21.63
% Difference	–34%	59%	–49%	47%	19%
Plumbers, Pipefitters, and Steamfitters					
Davis–Bacon	\$19.82	\$44.90	\$10.27	\$40.06	\$16.78
Market	\$22.75	\$30.23	\$17.65	\$26.67	\$18.48
% Difference	–13%	49%	–42%	50%	–9%
Brickmasons and Blockmasons					
Davis–Bacon	\$15.04	\$49.67	\$17.56	\$33.87	\$14.78
Market	\$20.15	\$25.50	\$19.23	\$27.94	\$19.26
% Difference	–25%	95%	–9%	21%	–23%

Source: Sarah Glassman, Michael Head, David G. Tuerck, and Paul Bachman, "The Federal Davis-Bacon Act: The Prevailing Mismeasure of Wages," Suffolk University, Beacon Hill Institute, February 2008, Tables 12 and 13.

Table 1 • WM 1945 

In almost every case, the prevailing wages do not resemble the actual market wages. Davis–Bacon wages vary from 34 percent below market wages for electricians in Grand Rapids to 95 percent above market wages for brickmasons in the Nassau–Suffolk area of Long Island. The Davis–Bacon Act, as currently enforced, causes the government to drive down construction wages in some cities and requires taxpayers to overpay for construction projects in others.

Use Scientifically Valid Surveys. Congress should not expand the Davis–Bacon Act while such severe flaws plague the program. Instead, Congress should require the Department of Labor to base prevailing wage determinations on timely, accurate, and scientifically valid surveys.

BLS conducts many such surveys to calculate unemployment, the inflation rate, and other important economic statistics. Two BLS surveys—the National Compensation Survey (NCS) and the Occupational Employment Statistics (OES) survey—calculate detailed wage information by occupation throughout the United States and could be used to calculate Davis–Bacon prevailing wages. The government already uses OES data to calculate prevailing wages for service occupations under the Service Contract Act. Expanding the scope of the construction portion of the NCS would enable the

Department of Labor to calculate prevailing wages scientifically and accurately.

Recommendations for Congress. Congress should not extend the Davis–Bacon restrictions to private construction projects that would receive federal subsidies under the Lieberman–Warner bill. Private construction has nothing to do with the purpose of prevailing wage laws, which is to prevent the federal government's purchasing power from driving down wages. In addition, serious flaws in prevailing wage determinations mean that Davis–Bacon does not serve this purpose. In some cities, Davis–Bacon wages drive down market wages, while in others they cause taxpayers to overpay for construction projects.

Instead of expanding the reach of flawed Davis–Bacon wage determinations in the Lieberman–Warner bill, Congress should fix them by requiring the Department of Labor to calculate prevailing wages using proper statistical techniques. The Bureau of Labor Statistics conducts timely, accurate, and scientifically valid surveys. Using these surveys would significantly improve the accuracy of Davis–Bacon prevailing wages so that they would reflect actual market wages.

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