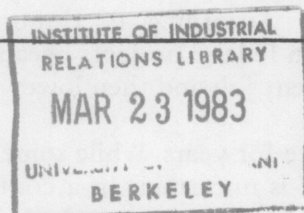


LABOR CENTER REPORTER



Number 82
February 1983

(2)

DAVIS-BACON UNDER ATTACK

by Lori Gladstein

As the new year begins, unions face a challenging political and economic situation. Compounding the strain produced by economic stagnation, a conservative political climate is providing fertile ground for resurrecting old arguments against the Davis-Bacon Act. Davis-Bacon establishes wage rates and fringe benefit payments prevailing in an area as the legal minimum wage rate payable on federally financed construction projects. By encouraging uniform wage rates that are consistent with local practices, the Act insures that federal funds will not be used to undercut prevailing local wages. Attacks on Davis-Bacon and other prevailing wage laws threaten the maintenance of decent living standards for workers and are another indication of a weakening of government support for union organization.

A Brief History. Since the passage of Davis-Bacon in 1931, opponents have tried to repeal it. Legislation was first introduced in 1927 calling for the payment of prevailing local wages on Federal construction projects. A ten-year Federal building project had started in 1926; by 1931, intense competition among contractors had encouraged the use of low wage labor. The turmoil of rampant wage cutting on Federal construction work increased support for legislation, and a version covering only public buildings was passed in 1931. It was amended in 1932 to cover all federally assisted construction, and was strengthened in 1935 by authorizing cancellation of contracts in the event of violation of the law. The legislation was enacted to discourage contractors from importing cheap labor from outside the community and disrupting the local wage structure. In 1928, the Commissioner of Labor Statistics, Ethelbert Stewart, asked, "Is the Government willing for the sake of the lowest bidder to break down all labor standards and have its work done by the cheapest labor that can be secured?"

The Office of Government Contract Wage standards in the Labor Department establishes the minimum wages to be paid on all federally financed construction projects costing more than \$2000. Wages are determined by geographical area and type of project. Prevailing wages are included in the advertised specification for each construction project so that contractors know the minimum wages before submitting their bids. Davis-Bacon benefits contractors by insuring that contracts are awarded on the merits of good management and design and quality craftsmanship, not the use of low wage labor.

The Construction Industry Needs Davis-Bacon. Davis-Bacon is necessary due to the structure of the construction industry and the instability of employment. The competitive structure of the industry, with over 500,000 contractors nationwide, and the nature of contracts, with detailed specifications required, provide potential for competition through wage reduction. Because government contracts must be awarded to the lowest bidder, pressures exist to cut costs. Because the buyer specifies in detail the structure and materials to be used, opportunities to trim costs are limited.

Employment in construction is highly seasonal, and the average construction worker gets only 3/5 the hours of full-time, year-round workers. Employment is also uncertain, since most workers are employed only for duration of a project. Limited job security, together with high skill requirements, the large number of small local firms, and a lack of control over non-labor costs make the industry susceptible to wage-cutting competition.

The Building and Construction Trades Department of the AFL-CIO maintains that whenever the union wage is determined to be the prevailing wage, elimination of the substandard wage advantage of nonunion contractors gives the union contractor a better chance to win the bid. Approximately 35% of all construction in the U.S. is federally financed and covered by Davis-Bacon. Therefore, the prevention of substandard wages increases the job opportunities of union construction workers.

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Old Criticisms Never Die. Critics of Davis-Bacon contend that it disrupts local wages by inflating them above what local, non-union contractors usually pay. They assert that the Labor Department sets the prescribed minimum at the union rate. These critics are led by the Associated Builders and Contractors, Inc. (ABC), an association of 12,500 contractors (95% non-union). According to Hubert Harris, Executive Vice President of ABC, affiliated members will not even bid on federal projects because "they have problems with their laborers when they raise wages for a government job and then lower them for other work."

Davis-Bacon's purported inflationary impact has been a center of debate for years. While some say that the evidence shows a positive effect on inflation, the size of the effect is uncertain. In a controversial report issued in 1979, the General Accounting Office (GAO) concluded that the Act results in unnecessary costs of several million dollars annually. For 1977, the GAO estimated \$200 million in unnecessary contractor, administration, and enforcement costs. This conclusion was based on 30 wage determinations chosen randomly from the 18,000 determinations made in 1976. In only 12 of the 30 cases studied, the GAO found prevailing wages set higher than the private sector.

Is the Prevailing Wage a Union Wage? Inefficiencies in wage determination remain a problem for the Labor Department. The data on which determinations are made is meager, because it must rely on voluntary submissions by contractors, who respond to surveys less than 10% of the time. Given the data problems, the greatest controversy is over the rules used to establish prevailing wages. If the Labor Department cannot determine the prevailing wage as the same single hourly wage rate paid to the majority of workers in a craft, it tries to find a rate paid to the largest group of workers, a number no less than 30%. If less than 30% of those in a craft receive the same rate, then the department adopts the average rate as the prevailing wage. Critics contend that the "30% rule" favors union wages because collective bargaining agreements set uniform rates and therefore the common rate is likely to be a union rate.

This argument was challenged by the Labor Department during the Carter Administration. They studied 84,984 wage determinations made during 1980. A majority rate was set in 36% of the cases, and of those, 19% were union wages and 81% non-union wages. The 30% rule was applied in 22% of the cases, and union wages were adopted in only 3.7% of the cases. In general, non-union rates were issued in 57% of all wage determinations and 77% of residential wage determinations.

New Challenges. President Reagan supported Davis Bacon during the 1980 campaign, but favors tightening up administration of the act. In August 1981, the administration proposed eliminating the 30% rule and using the average rate if a majority rate cannot be found. Another proposal establishes a helper classification, allowing one helper per five journeymen. Organized labor opposes this as it would allow contractors to lower the wage bill, and half of all contracts for Davis-Bacon construction have collective bargaining agreements that do not allow a helper classification. The third proposal was to eliminate weekly payroll reporting, an idea that Robert A. Georgine, President of Building and Construction Trades said "would lead to wholesale cheating."

In recent years, opponents of Davis-Bacon have tried to either repeal or severely weaken the bill. The Senate Armed Services Committee attached a provision to a fiscal 1982 military construction bill to waive applicability of Davis-Bacon to military construction. In spite of his campaign pledge, President Reagan did not actively oppose or support the waiver. Organized labor lobbied hard to defeat the waiver and Davis-Bacon survived the challenge by a clear majority.

The outlook at the state level is less optimistic. In 1979, repeal proposals were pending in 31 of the 40 states that have prevailing wage laws. Florida repealed its law in April, 1979; Utah's and Arizona's were saved only by gubernatorial vetoes, and Colorado removed state highway construction projects from coverage.

Prevailing wage laws insure that the federal government is not a party to cutthroat wage competition. Their justification lies in basic egalitarian principles of the right to fair living standards.

--Lori Gladstein