



## Repeal the Davis-Bacon Act

by Robert N. Stewart

In the wake of Hurricane Katrina, President George W. Bush followed in the footsteps of three other Presidents, one being his father, and suspended the federal prevailing wage law, the Davis Bacon Act, for the Gulf Coast region. In the proclamation that suspended this act, the President stated that “suspension of the [Davis-Bacon Act]... will result in greater assistance to these devastated communities and will permit the employment of thousands of additional individuals.”<sup>1</sup> After pressure from Congress, however, the President restored the Davis-Bacon Act in the region. Despite this move, this Act is a bad piece of legislation and must be repealed.

The Davis-Bacon Act was passed in 1931 and has been amended a handful of times since. It requires a contractor working on a project receiving at least \$2,000 from the federal government to pay his or her employees no less than the locally prevailing wages and fringe benefits, which are determined by the U.S. Secretary of Labor.<sup>2</sup> These prevailing wages usually translate into the prevailing union wage. In fact, thanks to a 1935 amendment to the law, the prevailing wage is required to be set at union scale in areas where construction labor is at least 30 percent unionized.<sup>3</sup> Thus, in many instances, the Davis-Bacon Act can best be described as a “super-minimum wage.”<sup>4</sup>

The effects of this Act should be obvious: it is discriminatory and costly. The original intention of the Davis-Bacon Act was to prevent white workers from having to compete with lower-paid African-American workers. The Act was introduced in 1927 by Rep. Robert Bacon of New York, in response to complaints from constituents about a southern contractor bringing African-American workers to work on the construction of a Veteran’s Bureau Hospital. The Congressional debate that ensued contained quotes such as the following Alabama by Rep. Clayton Allgood: “that contractor has cheap colored labor that he transports, and he puts them in cabins, and it is labor of that sort that is in competition with white labor throughout the country.”<sup>5</sup> When Rep. William Upshaw complained about “the superabundance of negro labor,”<sup>6</sup> Rep. Bacon responded by saying “. . .the same would be true if you should bring in a lot of Mexican laborers or if you brought in any non-union laborers. . .”<sup>7</sup> As the Heritage Foundation’s Ronald Utt notes, “by forcing all contractors above market wages, contractors no longer had the incentive to use less costly Southern workers — and thus could afford to discriminate by race. . .”<sup>8</sup>

Current supporters of the Davis-Bacon Act may not have the same intentions as their predecessors, but the effects are still discriminatory. For instance, the Act discriminates against low-skilled and semi-skilled construction workers. As George Mason University Economist Walter E. Williams points out, “if the Davis-Bacon Act requires that any worker handling a hammer and a nail. . . be paid \$25 an hour, no contractor in his right mind is going to hire a worker with \$10 an hour skills and pay him \$25.”<sup>9</sup> Also,

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600 North Jackson Street

Mt. Pleasant, Iowa 52641-1328

Phone: 319-385-3462 Fax: 319-385-3799

E-Mail: [public.interest.institute@limitedgovernment.org](mailto:public.interest.institute@limitedgovernment.org) Website: [www.limitedgovernment.org](http://www.limitedgovernment.org)

by forcing non-union contractors to adopt union wages and union job classifications, the Davis-Bacon Act essentially shuts these contractors out of bidding for federal contracts.

The Davis-Bacon Act is also costly. According to the U.S. Chamber of Commerce, the legislation inflates the cost of federally-funded construction projects by up to 15%.<sup>10</sup> Furthermore, the Chamber claims that the Act costs taxpayers — the true financiers of federal construction projects — \$1 billion a year, as well as \$100 million in government administrative costs and burdens construction companies with unnecessary regulatory paperwork that cost \$190 million per year.<sup>11</sup> The biggest costs, however, are the jobs lost to the Davis-Bacon Act. Economist Farrell Bloch estimated that the Act destroys 25,000 construction-industry jobs every year.<sup>12</sup> The U.S. Chamber estimates that repeal of this Act could lead to the creation of 31,000 new construction jobs.<sup>13</sup>

The worst part of the Davis-Bacon Act is neither its discriminatory aspect nor the heavy costs it imposes on contractors and taxpayers. Instead, it is the fact that this law has been on the books for 75 years. This act is nothing more than a give-away to the unions and it has come at tremendous cost. As Ivan Osorio of the Competitive Enterprise Institute stated, “if suspending Davis-Bacon is good for economic development and job growth in a disaster area, repealing it entirely would be good for the country.”<sup>14</sup>

#### End Notes

1. President George W. Bush, “Proclamation by the President: to suspend subchapter IV of chapter 31 of title 40, United States Code, within a limited geographic area in response to the national emergency caused by Hurricane Katrina,” September 8, 2005, < <http://www.whitehouse.gov/news/releases/2005/09/print/20050908-5.html> > (December 8, 2005).
2. U.S. Department of Labor, “What are the Davis-Bacon and Related Acts?” < <http://www.dol.gov/esa/programs/dbra/whatdbra.htm> > (December 7, 2005).
3. Ivan Osorio, “Bringing home the Davis-Bacon,” Competitive Enterprise Institute Op-ed, September 13, 2005, < <http://www.cei.org/gencon/019,04827.cfm> > (December 8, 2005).
4. Walter E. Williams, “Repeal the Davis Bacon Act of 1931,” *Capitalism Magazine* December 7, 2003, < <http://www.capmag.com/article.asp?ID=3357> > (December 7, 2005).
5. Quoted in *Ibid.*
6. *Ibid*
7. *Ibid*
8. Ronald D. Utt, “President’s Bold Action on Davis-Bacon Will Aid the Relief Effort,” Heritage Foundation, WebMemo #836, September 9, 2005, < <http://www.heritage.org/Research/Labor/wm836.cfm> >, (December 7, 2005).
9. Williams.
10. U.S. Chamber of Commerce, “Davis-Bacon Act,” Index of Issues, < <http://www.uschamber.com/issues/index/labor/davisbacon.htm> > (December 8, 2005).
11. *Ibid.*
12. Clint Bolick, “The revolt against the Davis-Bacon Act,” *The American Enterprise Online*, January/February 1997, < [http://www.taemag.com/issues/articleID.16252/article\\_detail.asp](http://www.taemag.com/issues/articleID.16252/article_detail.asp) > (December 8, 2005).
13. U.S. Chamber of Commerce.
14. Osorio.

*Robert Stewart is a Research Analyst with Public Interest Institute.*

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