



## Prevailing Wage Requirements

*"These are the people who are building the infrastructure of this country. Paying them a living wage not only allows them to provide for their families, it assures that we have skilled professionals constructing our roads and bridges."*

*—International President  
Lonnie Stephenson*



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# IBEW POLICY BRIEF

## GOVERNMENT AFFAIRS DEPARTMENT LEGISLATIVE ACTIVITY

### Prevailing Wage Requirements

The International Brotherhood of Electrical Workers (IBEW) supports federal, state and local prevailing wage laws, which benefit workers, employers, communities and taxpayers by fostering an environment where skilled craftsmen and women complete projects safely and efficiently.

At the federal level, the Davis-Bacon Act applies to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. Under this law, contractors and subcontractors must pay their laborers and mechanics no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The U.S. Department of Labor is responsible for determining local prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or D.C. contracts.

The primary purpose of the Davis-Bacon Act, which was passed in 1931, is to fight back against the worst practices in the construction industry. Since its enactment, the act has lifted millions of working people into the middle class and guaranteed that the best-trained, highest-skilled workers build America's infrastructure.

### Fair Bidding, Stable Project Costs, and Increased Tax Revenue, Productivity and Safety

Anti-prevailing wage rhetoric says that these requirements harm the economy and squeeze small businesses out of big opportunities. In fact, the opposite is true.

First, by establishing local wage rates as the prevailing wage rates on public works projects, prevailing wage laws and policies encourage contractors to hire locally. Prevailing wage requirements ensure that local contractors are able to compete for local projects by protecting against under-bidding by low-road contractors who might otherwise bring in workers from other areas or offer the same jobs for less pay.

Research also shows that prevailing wage laws **do not** increase the overall cost of public construction projects. Because construction labor costs constitute a comparatively low share of total project costs, contractors who pay the prevailing wage are able to offset the costs because prevailing wage laws promote better training, greater skill levels, and higher productivity.

With prevailing wage requirements in place, contractors large and small are able to attract the most highly skilled, highly trained workers, which ensures quality craftsmanship and that the job is done right the first time, preventing costly and time consuming delays further down the road. A highly-skilled, extensively trained, safety-conscious workforce results in projects completed safely, on time and within or under budget. As a result, taxpayers get a fair return on investment for public projects funded by federal tax dollars.

Furthermore, research also shows that prevailing wage requirements **do not** harm taxpayers – rather, the opposite is true: prevailing wage laws increase tax revenue to states and localities by ensuring local hiring and payment of local taxes. Numerous studies have reviewed the probable effects of repealing state prevailing wage laws and shown that a decline in workers’ earnings can negatively impact both income tax and sales tax revenue.

Prevailing wage requirements also help to stabilize wage rates in the inherently volatile construction labor market, which benefits the industry in recruiting and training workers and maintaining the long-term supply of skilled labor.

### Recent Developments

#### Davis-Bacon protections included in many programs under Bipartisan Infrastructure Law

The Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL), included a re-authorization and appropriation of existing grant programs, the majority of which have historically been included in surface transportation reauthorization, in addition to new federal grant programs.

#### New Proposed Davis-Bacon Rulemaking

On March 11, 2022, the DOL announced the publication of the proposed rule, “Updating the Davis-Bacon and Related Acts Regulations.” The labor department proposed amending regulations issued under the Davis-Bacon and Related Acts that set forth rules for the pre-determination of Davis-Bacon wage rates and the administration and enforcement of Davis-Bacon labor standards that apply to federal and federally assisted construction projects.

The new regulations will deliver changes promised by President Biden to use the Davis-Bacon Act and prevailing wage jobs to rebuild our nation’s infrastructure and to revitalize the economy through infrastructure investments and labor reform.

The primary purpose of the proposed rule is to return to the three-step method of determining the “prevailing wage” that was used from 1935 to 1983: (1) any wage rate paid to a majority of workers; (2) if there is no wage rate paid to a majority of workers, then the wage rate paid to the greatest number of workers, provided it is paid to at least 30 percent of workers (i.e., the so-called “30-percent rule”); and (3) if the 30-percent rule is not met, DOL would use the weighted average rate. This reform will ensure prevailing wages reflect actual wages paid to workers in the local community. The proposed rule will mean higher wages for workers through faster prevailing wage updates, internal safeguards to ensure that prevailing wages keep up with actual wages and more efficient enforcement of the act’s standards. In addition, the proposed rule will enhance worker protections and enforcement, including debarment and anti-retaliation provisions.

The proposed rule is poised to have a substantial impact. Seventy-one Davis-Bacon and Related Acts laws are affected by the Act’s prevailing wage calculation, which covers roughly \$217 billion in annual federal construction contracts. Meanwhile, the Bipartisan Infrastructure Law is expected to lead to the largest surge in federal construction spending in recent memory.

The Notice of Proposed Rule is available at: <https://www.dol.gov/agencies/whd/government-contracts/construction/NPRM-davis-bacon>



**Pending Priorities**

Highly partisan negotiations occurred as the Bipartisan Infrastructure bill moved through Congress that complicated efforts to secure prevailing wage policies on all programs. Senate Republicans refused to support the law’s inclusion of Davis-Bacon prevailing wage protections for existing programs unless prevailing wage and other basic labor standards were left out of the new programs. As a result, **Davis-Bacon protections will apply to some – but not all – BIL-funded projects.** Generally speaking, Davis-Bacon will only apply to pre-existing programs that the BIL reauthorized.

The Government Affairs Department is working closely with the Biden Administration, federal agencies, and members of Congress to ensure that prevailing wage requirements and other meaningful labor standards are incorporated into Bipartisan Infrastructure Law programs to the greatest extent possible through regulatory measures.

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