



Background on H.R. 711 – Highway Trust Fund Reform Act

Summary

In 1931, following several years of intermittent hearings and, ultimately, encouragement from the Hoover Administration, Congress adopted the Davis-Bacon Act (now, 40 U.S.C. 3141-3148). The Act, as amended, requires that workers employed on federal public buildings and public work projects be paid at least the local prevailing wage as determined by the Secretary of Labor. Initially, the Act applied to construction in excess of \$5,000; but, in 1935, the act was amended to render its terms applicable to projects of \$2,000 and above.

With the passage of time, the act was added to a series of individual public works statutes — perhaps more than fifty. As each of these statutes came up for renewed funding, the Davis-Bacon provision became a subject of dispute; and, by the 1960s, such disputes became both numerous and contentious. Some have suggested that the act, having long outlived its Depression-era origins, should be repealed.

Why Davis-Bacon is Wasteful and Outdated

The Davis-Bacon Act is inflationary because it unnecessarily raises the cost of construction, is difficult to administer, and hampers competition — especially with respect to small businesses that may be unfamiliar with federal contracting procedures and lack the manpower to deal with the requirements such procedures impose. The act impedes efficient manpower utilization, limiting the use of 'helpers' or general utility workers. Without having to struggle with Davis-Bacon restrictions, contractors would be able to restructure the work to be performed, dividing tasks into less complex assignments, making possible the employment of newer workers seeking to gain on-the-job experience. The result would be increased efficiency in costs and production.

The Davis-Bacon Act was adopted before federal minimum wage standards existed. With the general minimum wage floor established by the Fair Labor Standards Act (1938), the Davis-Bacon Act's "super minimum wage" for federal construction work is both unnecessary and inequitable. By exempting federal highway construction projects from Davis-Bacon and paying market wages instead, the costs of federal construction can be significantly reduced.

A March 2011 Joint Economic Committee (JEC) report stated that:

- In addition to paying an average of 22 percent above market wage rates, the Davis-Bacon Act requirements bog down contractors with extra paperwork and compliances which can lead to unanticipated and costly delays.
- Today, excessive project costs are particularly straining on the Highway Trust Fund.
- For highway construction, the average Davis-Bacon wage paid in the counties sampled was 34 percent higher than the average Occupational Employment Statistics wage reported by BLS.
- Instead of taxing individuals more to support unnecessarily costly highway projects, repeal of the Davis-Bacon Act would reduce costs for federally-funded highway projects, increase construction employment, and help improve the solvency of the HTF.

The JEC also cites two studies. One by the Heritage Foundation estimated that requiring contractors to pay current prevailing wages, rather than leaving the pricing of labor to the open market, inflates average highway construction and repair costs across the country by anywhere between 5 and 38 percent. And a state-level study which examined the effect of Davis-Bacon on Arizona's highway construction costs revealed that the Act resulted in an overall cost increase of 13 percent.