

## Prevailing Wage

### Issue

West Virginia prevailing wages are set by the West Virginia Division of Labor (DOL), and the division's determinations are unscientific and based on limited data. This process artificially inflates the cost of public works projects in West Virginia.

### Background

The Davis-Bacon Federal Act passed in 1931 required federal construction contractors to pay workers on federal construction projects at least the average rate paid to construction workers in the area. The average rate was determined by surveying at least 50 percent of the workers in an area in the same type of job and thus was known as the 50/50 rule. The purpose of the law was to prevent contractors from paying substandard wages for federal projects and thus had the intention of insuring just wages to construction workers.

In 1935, the West Virginia Legislature adopted the Little Davis-Bacon Act to ensure a "fair minimum rate of wage" for laborers working on construction of state public improvements. The West Virginia Code established a survey of at least 40 percent of the construction workers in a locality in any particular classification as the basis for establishing the rates.

In 1961, the West Virginia Legislature revised the Little Davis-Bacon Act and directed the DOL to set rates by considering organized laborers' rates and independent laborers' rates. The clear intention of the law was to ensure that with this specific addition of organized laborers' rates, an even clearer majority of construction workers would be utilized in setting the prevailing wage wages for West Virginia public works.

The DOL over time, but certainly since at least 1992, has on its own authority changed the law by fundamental additions that make it impossible for independent laborers' rates to be considered, and thereby, fixed the rates as those solely of the best contracts negotiated by organized labor. The result is that the prevailing wage rates in West Virginia are often more than 50 percent higher for a locality and a category than wages paid to similar construction workers both union and non-union in that same locality. This policy has continued for at least 16 years.

The wage rate surveys relied upon by the West Virginia DOL must fairly reflect actual wage rates in each locality. They should be accomplished by staff members trained in survey techniques or statistical analysis. The West Virginia Department of Commerce (DOC), which oversees several divisions and agencies including DOL and Workforce West Virginia, has appropriate staff under Workforce West Virginia. That division has scientifically trained staff who already do survey and analysis of construction workers in the state of West Virginia. Their survey and resulting document are paid for by the United States Government under strict statistical rules that insure validity of the material. The DOL, using their legitimate discretion, could easily outsource its survey and analysis mandate to an agency such as Workforce West Virginia. This would result in accurate data, reduced cost, and a fair wage that represents the majority of the construction workers in a locality in standard classifications used by the U.S. Government.

Utilizing data developed by the Workforce West Virginia, it is clear that current prevailing wage rates, as set by the DOL currently, cost the public a minimum of 25 percent on public works paid for with public funds.

The state of West Virginia has at least \$1 billion a year of public works under the current prevailing wage law. Were the prevailing wage set as the average wage for construction workers, the state would employ more than 1,000 new workers at a \$50,000 annual salary, erect two additional new schools, and pave an additional 25 miles of road each year, **all for the same price that the citizens are now paying.**

### **The Chamber's Position**

The West Virginia Chamber of Commerce supports a thorough re-examination of how calculations are made regarding the prevailing wage survey. A better system needs to be put into practice that uses statistically valid methodologies in the collection and calculation of wage rates for public works projects. The result of these efforts will ensure efficiency of public investments, reduce the cost of government, and provide for added economic development and growth in the State of West Virginia at no additional cost to the taxpayer.