

# Policy Brief

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## The Effect of the Davis-Bacon Act in Wisconsin

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### Executive Summary

Davis-Bacon is a law first passed during the Great Depression that is still having an important impact on taxpayers today. The law mandates that certain projects receiving federal funding pay a prevailing wage that is determined by a complex set of governmental surveys for which the accuracy is questionable. But what has been the impact of this law on Wisconsin? In this policy brief, we answer this question through two paths: an examination of Davis-Bacon required wages relative to private sector wages in Wisconsin counties, and a survey of the state's construction industry. In the wage data portion, we examine 5 professions for which there is comparable data across available data sources: roofers, carpenters, sheet metal workers, plumbers, and electricians. In general, we find that Davis-Bacon is a law that has long outlived any usefulness it might have. It increases costs to taxpayers and serves more as a barrier to competition than a protection for workers.

### Key Findings

- Davis-Bacon leads to increased costs for taxpayers in 4 of the 5 professions we study.** For roofers, employment costs increase by 50% under Davis-Bacon relative to what is paid in the private sector. Sheet metal workers, plumbers and carpenters also see taxpayer costs inflated by the law.
- Costs are increased for counties across the state.** 20% higher costs to taxpayers were found across the professions in southeast Wisconsin. Increased costs between 1 and 20% were found in the southwest and northwest portions of the state.
- Davis-Bacon impedes competition.** 68% of construction companies in our survey said that a repeal of the legislation would make them more likely to bid on projects.

4. **Davis-Bacon raises employment costs.** 87% of construction companies in our survey said that compliance with Davis-Bacon makes a project more expensive.

### Policy Takeaways

1. **Davis-Bacon should be repealed.** Whether in a positive or negative direction for wages, Davis-Bacon leads to distortions of the market. The federal government could save taxpayers substantial amounts of money and increase competition in the construction industry through repeal.
2. **If repeal is impossible, a number of policy changes could improve Davis-Bacon.** These include tying the federal cost threshold for Davis-Bacon to inflation, tying wage estimates under the law to more accurate Bureau of Labor Statistics data, and allowing states to opt in or out of Davis-Bacon wage compliance.

### Existing Research

The Davis-Bacon Act (DBA) was originally passed in 1931 in the midst of the Great Depression. At a time when opportunities were scarce, unionized construction workers wanted to limit competition from non-unionized shops that could often pay lower wages. The DBA required that all federal projects funded to a level of more than \$2,000 offer a “prevailing wage” that is often tied to local union wages. Because many projects are funded by a combination of federal and state money, Davis-Bacon can have important implications for state budgets as well.

While DBA has been debated for decades, little research has looked specifically at the impact of this policy on Wisconsin. This policy brief explores the impact of the DBA in two contexts. First, we compare the wage rate for workers in four occupations according to BLS data and then with required wages under the DBA. Secondly, we conducted a survey of contractors throughout the state of Wisconsin to gauge the impact on their businesses. We find that, in general, the DBA is a law that has run its course, and serves less to protect workers than to raise costs on taxpayers.

DBA has been subject to a number of analyses over the years, most of which reach similar conclusions about its utility. Franz (1994)<sup>1</sup> traced the racist history of the legislation. At the time of its passage during the Depression, many southern states had a large pool of unskilled African American workers who were willing to work for a lower rate than most white workers. Western states had many Asian and Hispanic immigrants willing to do the same. The Congressional debate on the bill is filled with both covert and overt racial sentiments that make clear not all the motivations behind the legislation were purely in the interest of protecting workers.

Glassman et. al. (2008)<sup>2</sup> highlighted that the manner in which prevailing wages are calculated under DBA is extremely antiquated. They note that the survey of firms used to determine wages is often outdated due to the tremendous amount of time and resources that must be devoted to surveying such a vast number of occupations across the country. They also noted that small and medium size firms were less likely to participate in the survey. Responding to the survey is voluntary and asks respondents for a wide variety of information about projects. Small firms may simply lack the bandwidth to devote resources to responding, distorting results. The result of these distortions is a prevailing wage rate 22 percent higher than rate of pay in the market nationwide.

### Methodology

To determine the accuracy of prevailing wages set under the Davis-Bacon Act, we compared data published by the U.S. Bureau of Labor Statistics (BLS),<sup>3</sup> which publishes wage data collected from employers from all industries, to Beta.Sam.Gov data,<sup>4</sup> which publishes Davis-Bacon Act prevailing wages.

BLS reports wage data by metropolitan and nonmetropolitan area, industry, and job classification. Similarly, Beta.Sam.Gov reports data by county, construction type and job classification. Using the two sources we chose five common construction professions (Carpenter, Electrician, Roofer, Plumber and Sheet Metal Worker) and compared each jobs average wage (BLS) to the Davis-Bacon Prevailing wage (Beta.Sam.Gov). In order to provide the most conservative estimate of the impact of DBA on wages, residential classifications were utilized from Beta.Sam. Residential rates tend to be substantially lower than building or heavy equipment rates, minimizing our ability to identify differences between DBA and actual wages in a given region.<sup>1</sup>

In order to better understand the impact on individual contractors, a survey was conducted of members of the Association of Builders and Contractors. We received 125 responses representing firms of diverse size and region.

### BLS Data Analysis

Next, we calculate the cost to taxpayers. The cost to taxpayers is simply the level of pay required by DBA divided by the average pay found in the BLS. Taxpayer costs above 0% indicate that DBA is increasing costs, while costs of less than 0% indicate that costs are lower under DBA. Across all five professions, we observe a 10% increase in taxpayer costs on average. However, the extent of this DBA cost varies extensively by profession.

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<sup>1</sup> For some regions, no Prevailing Wage rate was available. These observations are treated as “missing” in our analyses.

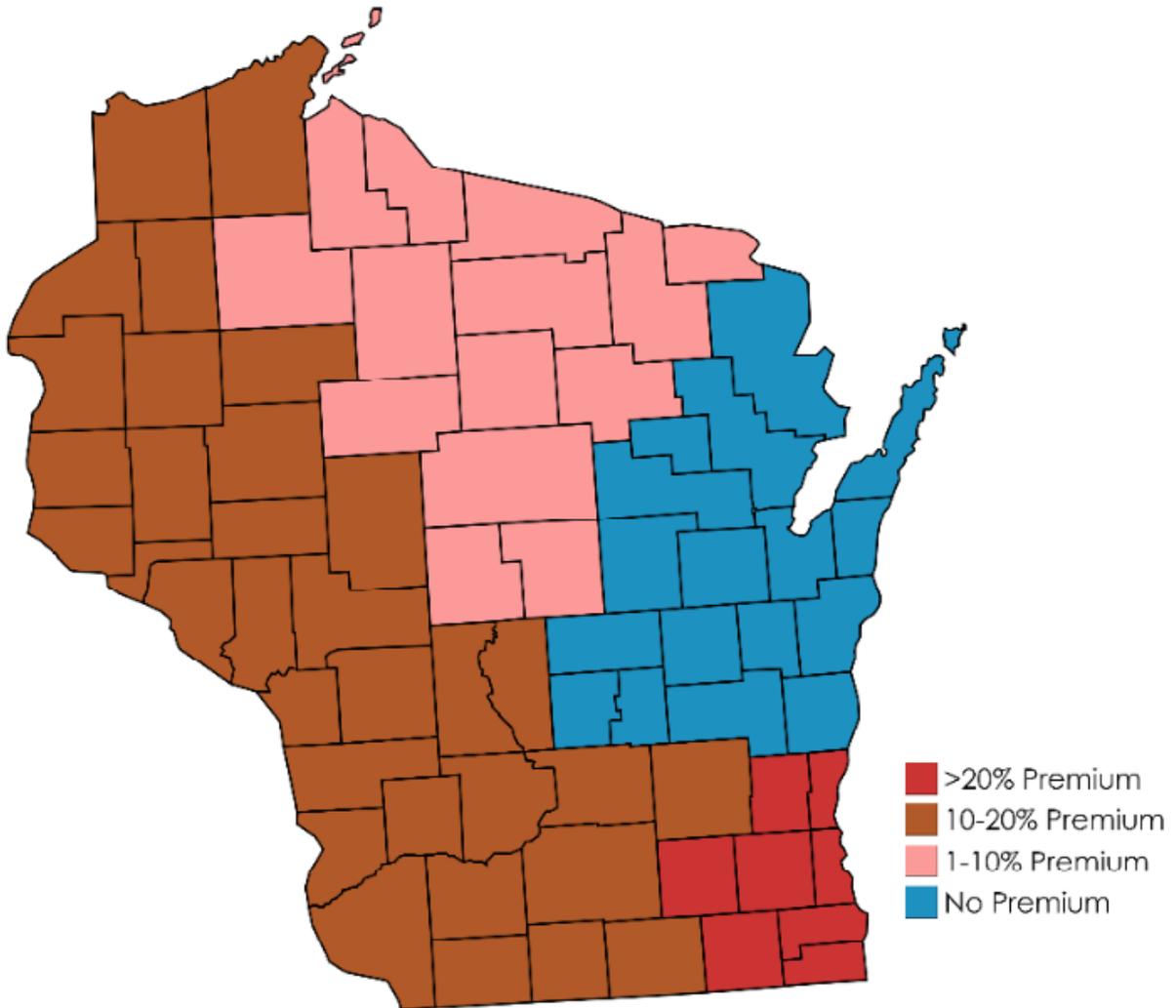
**Table 1. Profession and Taxpayer Costs by Profession**

Profession	Cost to Taxpayers
Carpenter	19.86%
Electrician	-11.43%
Roofer	50.44%
Plumber	18.15%
Sheet Metal Worker	8.00%

By far the largest cost to taxpayers is for roofers. Here, DBA requires wages that are more than 50% higher than what is being paid in the private sector for similar work. Excess costs of nearly 20% exist for both carpenters and plumbers, while the taxpayer cost for sheet metal works comes in at 8%. The only exception to higher costs found in our analysis is for electricians, where BLS data suggests that taxpayers save about 11% less under DBA relative to the prevailing wage. Taken as a whole, the results suggest a distortion of the free market across the board, and generally a distortion towards increasing costs.

We divided the state into five regions to investigate a more localized impact of DBA on wages. The Figure below depicts the taxpayer impact across professions throughout the state. Costs are highest in the southeast Wisconsin counties surrounding Milwaukee. Here, DBA wages are more than 20% higher than BLS wages on average. That said, significant increases in taxpayer costs are found in other regions as well. In southwest and northwest Wisconsin, increased costs of more than 10% were identified.

The one exception appears to be northeast Wisconsin, where DBA wages were approximately 98% of BLS wages. However, even in this region, DBA wages are higher for every profession with the exception of electricians.



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## The Survey

In order to gain further understanding of the opinions of those on the ground in Wisconsin regarding DBA, we partnered with Associated Builders and Contractors (ABC)—a trade association that represents many construction firms throughout the state. ABC sent a survey out via its email list on several occasions from December 2019 to February 2019. 125 responses were received, representing a broad cross-section of firms and locales throughout the state.

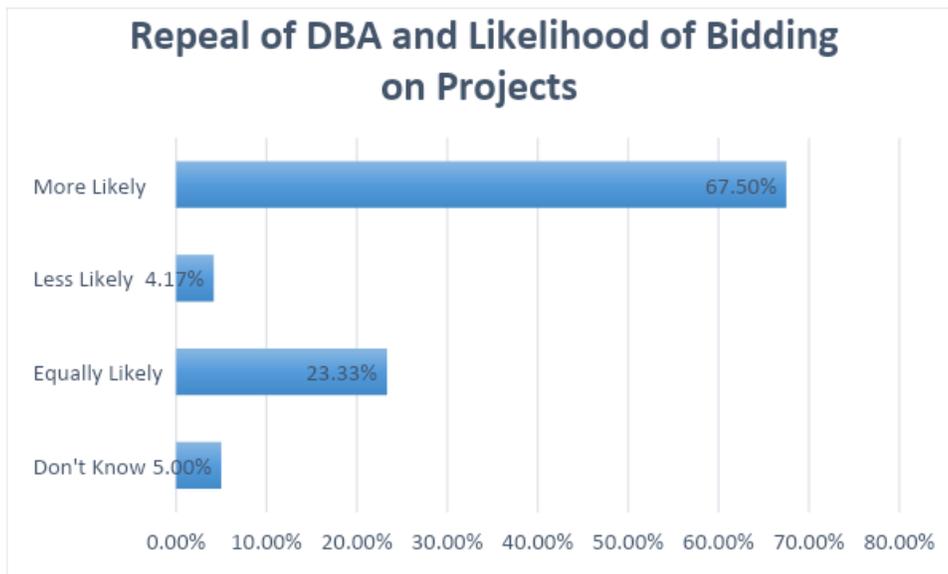
*Sample*

Respondents were first asked about the number of employees at their firm. The most common response was 21-50, for about 33% of respondents. 12% of respondents were in the lowest two categories, indicating the inclusion of a significant number of smaller firms. Respondents were then asked where their firm is located. About 43% of respondents reported that they were located in southeast Wisconsin, while just over 20% reported southwest or northeast Wisconsin. About 12% reported being located in northwest Wisconsin, the smallest share.

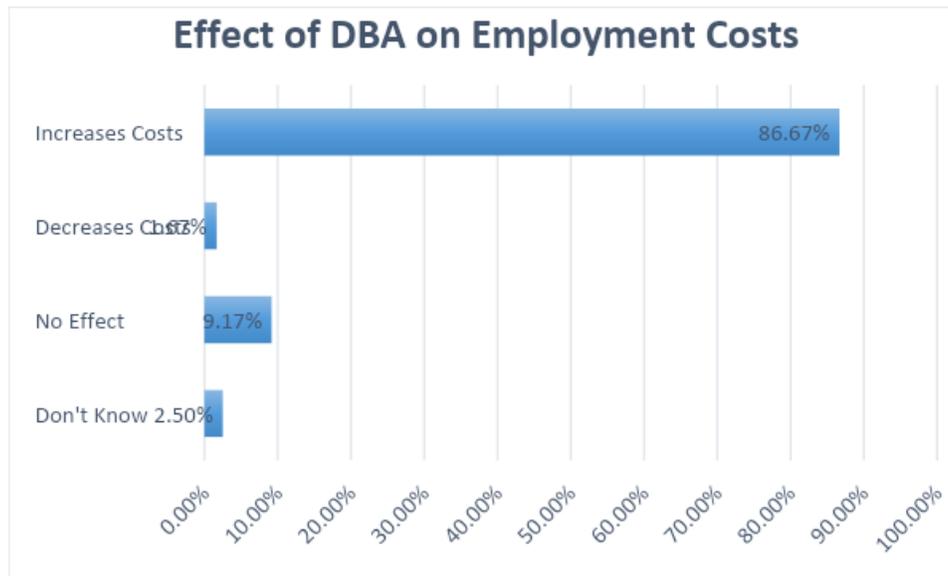
*Results*

It appears that our sample of respondents has extensive experience with DBA. Our first substantive question asked respondents whether they have bid on projects that require compliance with DBA in the past year. About 68% of respondents had bid on such projects within the past year, indicating that encountering DBA is quite common.

We asked the contractors whether a repeal of DBA would make them more or less likely to bid on projects that currently require compliance with the Act. A strong majority (67%) of respondents reported that a repeal would make them *more* likely to bid. The second most common response was that a repeal would have no effect on whether or not they bid (24%), while only 3% of respondents reported that a repeal would increase their likelihood of bidding.



Perhaps the most important question asked construction companies what impact DBA had on their employment costs. The overwhelming majority of respondents—nearly 90%--said that DBA increased employment costs. 10% of respondents said that there was no effect, while 1% said that DBA decreased employment costs.



### Limitations

While we use the residential figures for DBA wage estimates here to take the most conservative approach, we must remain open to the possibility that federally-funded jobs are substantially more difficult or complex than private sector jobs. If this were case, the comparisons with BLS prevailing wage data would be inapt. Additionally, we are limited in the professions we can examine by the small number of professions which are included in both the BLS and DBA. Many professions have additional descriptors which make it difficult to determine if they are actually the same job, or different ones. For professions beyond those examined here, the picture of the impact on wages remains somewhat murky, though we have no reason to expect that the professions chosen here are unique in their BLS-DBA wage divergence.

### Conclusions and Recommendations

The DBA has a lot of parallels to Wisconsin's Minimum Markup law.<sup>5</sup> Both are products of the Great Depression that today do less to protect the constituencies they were designed to than to drive up costs and serve as a barrier to entry for smaller firms. This policy brief has presented evidence both from publically available data and from those 'on the ground' in the construction industry that DBA has a deleterious effect on taxpayers and businesses. Policymakers at the federal level would do well to stop listening to the entrenched special interests that oppose reform, and consider bringing this form of protectionism to an end.

Short of repealing the legislation in its entirety—no doubt a herculean task given the number of years which it has been on the books—reforms to make DBA better reflect actual wages should

be considered. Instead of the non-random sample of firms currently utilized that allows companies to opt-in to participation, a random survey of firms in each industry ought to be conducted, potentially with an inducement to participate so that firms for which gathering data represents a significant time or monetary cost are more likely to participate. An alternative would be to tie DBA wages to wages that are determined in the more scientifically-sound BLS reports. However, as noted earlier, there are many job categories that are not directly comparable between the two measures. This would require wholesale changes to the employment categories of either BLS or DBA so that they could be made comparable.

Other possible changes would be to index the federal cost threshold to inflation rather than leaving it static at \$2,000. This threshold was first set in 1934, when \$2,000 was worth approximately \$39,000 today. It is clear that, even by the original intent of the law, projects that never should be subject to Davis-Bacon are being subjected to it today. Adjusting Davis-Bacon to where it should be if inflation had been accounted for could help alleviate some of the more ridiculous situations in which it is currently being applied.

A final suggestion would be to allow for projects that are jointly funded by the state and federal government to determine whether or not to opt-in to Davis-Bacon wage rates. State governments know far better the conditions on the ground in their state, and what sort of wages are likely to ensure both good stewardship of taxpayer money and that projects are completed effectively. Allowing states to opt-in to DBA compliance is consistent with the principles of American federalism.

## Endnotes

<sup>1</sup>Franz, John 1994. "Davis-Bacon: Jim Crow's Last Stand" FEE.org.  
<https://fee.org/articles/davis-bacon-jim-crows-last-stand/>

<sup>2</sup>Glassman, Sarah et. al. 2008. The Federal Davis-Bacon Act: The Prevailing Mismeasure of Wages" *Beacon Hill*.  
<http://www.beaconhill.org/BHISudies/PrevWage08/DavisBaconPrevWage080207Final.pdf>

<sup>3</sup>"Occupational Employment Statistics" BLS.Gov [https://www.bls.gov/oes/current/oes\\_wi.htm](https://www.bls.gov/oes/current/oes_wi.htm)

<sup>4</sup>"Wage Determination Search" Beta.Sam.Gov.  
[https://beta.sam.gov/search?index=wd&keywords=davis%20bacon&is\\_active=true&sort=-relevance&date\\_filter\\_index=0&date\\_rad\\_selection=date&wdType=dbra&page=1](https://beta.sam.gov/search?index=wd&keywords=davis%20bacon&is_active=true&sort=-relevance&date_filter_index=0&date_rad_selection=date&wdType=dbra&page=1)

<sup>5</sup>Flanders, Will and Ike Brannon. 2017. "A Policy in Search of a Problem: A Study of the Impact of Minimum Markup Laws on Small Businesses and Gas Stations." *Wisconsin Institute for Law & Liberty Policy Study*. <https://www.will-law.org/wp-content/uploads/2017/05/2017-MML-Final.pdf>