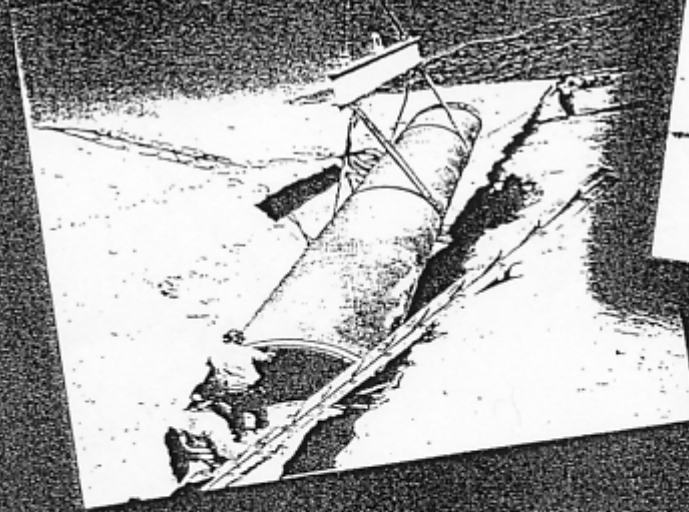
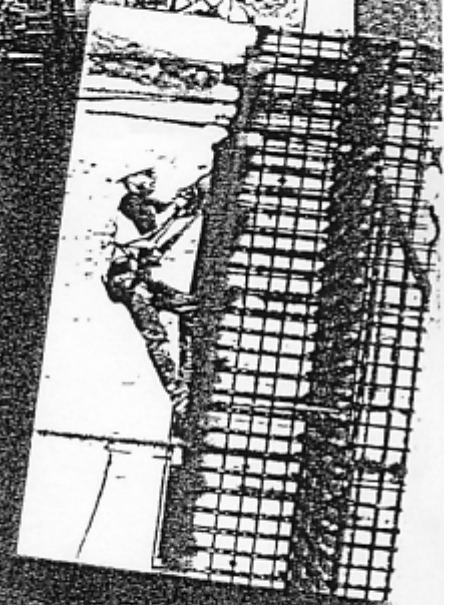
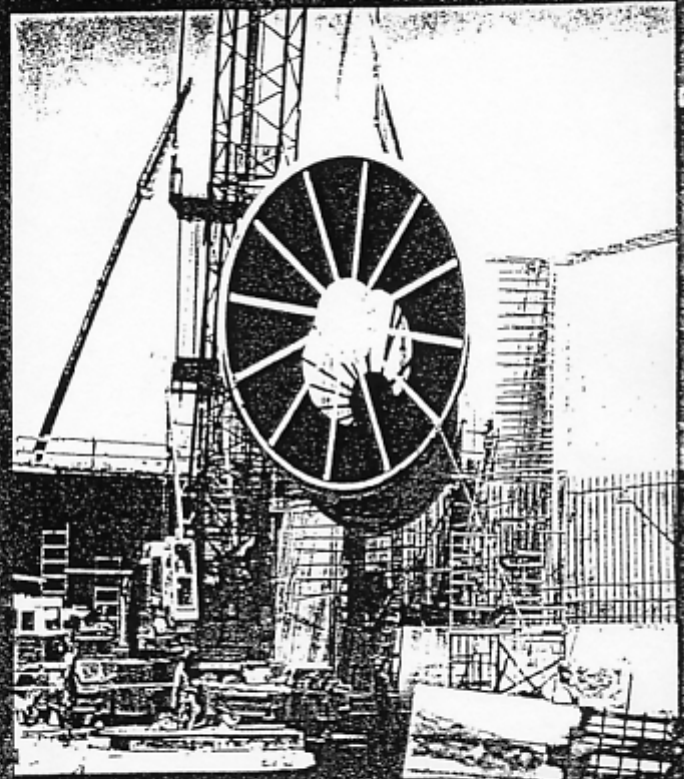


Report on the Prevailing Wage Law of Nevada

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Its History, Cost and Effects



Executive Summary

Nevada's prevailing wage law was passed in 1937. But support for prevailing wage regulations goes all the way back to the beginning of the state. Nevada's first two U.S. Senators, Republicans William Stewart and James Nye both supported the first prevailing wage law embedded in the National Eight-Hour Day Act of 1868. Stewart argued that when hours were cut by regulation from around 10 to 12 hours per day to 8, the daily wage should remain that which prevailed in the area. Critics responded that such a provision would result in higher hourly wages for workers on public projects. Stewart contended that workers would be more productive if given reasonable rest from their labors and that higher productivity would justify the higher wage. But that in any case, Stewart argued, the law would result in safer work, longer and better lives and an increase in the "aggregate of human happiness". Critics complained that the law interfered with the operations of a free market and that anyone worth their salt should be ready and willing to work the longer hours.

Strange how—the more things change, the more they remain the same. Today politicians and others still argue about prevailing wage laws—one of the most venerable of labor market regulations. But this argument is embedded in a wider argument over whether the reforms that began after the Civil War, took up speed during the Progressive Era prior to World War I, and were codified into national policy during the Great Depression were good ideas or not. These reforms included

- Free public schooling and compulsory school attendance
- Factory safety inspection
- Child labor laws
- Social Security
- Minimum wages
- Overtime protection
- Workers compensation
- And prevailing wage laws

Today some critics want to replace public schooling with school vouchers that may, or may not, cover the cost of private schools. Other critics want OSHA regulations and enforcement to become voluntary. Worldwide there is a debate over the

permissibility of child labor. Some want to privatize social security. Others resist raising the minimum wage with inflation. Some want to change the 40-hour workweek to longer hours over a longer period. Some see workers compensation awards as overly generous and fraught with fraud. And many of these critics also wish to eliminate prevailing wage laws.

While there are specific complaints against each of these regulations, there is also a general pattern—regulations stand in the way of flexibility; they interfere with the operations of the market; they raise costs. These criticisms sometimes create strange bedfellows. School boards—in the hopes of saving on their construction costs—sometimes ally themselves with critics of prevailing wage regulations—the same critics that in other venues are critical of public schooling. Critics of prevailing wage laws will sometimes say they are unneeded now that we have minimum wage laws—yet in other venues, these same critics will resist raising the minimum wage.

In this report, we will do six things. First, we will examine the history and debate surrounding prevailing wage laws, in general, and Nevada's prevailing wage law, in particular.

Second, we will examine the key contention of critics of prevailing wage laws—namely that *prevailing wage regulations raise public construction costs*. In this section, we will pay particular attention to the investigations and contentions of the *Las Vegas Review Journal*. We will find that critics tend to assert that public agencies can save from 15% to 50% on construction costs by eliminating prevailing wage laws. We will find that this contention rests on an unlikely assumption and a back-of-the-envelope calculation. The unlikely assumption is that when 1) prevailing wage regulations are eliminated and 2) wages are consequently cut by roughly half, *worker productivity will remain completely unaffected*. Workers will bring to the job the *same* skills, the *same* experience, and the *same* work ethic as before. Contractors will trust these workers with the *same* valuable tools and equipment and materials. And, in short, productivity will remain entirely unchanged despite a major drop in wages.

This is an odd assumption from a camp that also contends that markets work through prices. Here is a price that falls by roughly half, yet nothing else in the market happens.

In any case, from this assumption, critics make a simple calculation. If labor costs in construction are roughly half of total costs, and labor costs are cut in half, total costs will fall by 25%. Q.E.D. The problem with this *back of the envelope* calculation is that labor costs in construction are not half of total costs. They are more likely to run 20% to 25% of total costs—not including land purchases or architect and engineering fees. So even assuming that *when wages are cut by 50%* productivity is unchanged, for total costs to be cut by 25%, everyone will simply have to work for free.

But we need not settle for assumptions and simple calculations. In Chapter 2: "The Costs of Public Road and School Construction" we use actual construction costs in states with and without prevailing wage laws. Comparing legal regimes, we find that there is no statistically measurable difference in the cost of public construction in states that apply prevailing wage regulations compared to states that do not have these laws.

We do find, however, that there are other ways of saving on public construction. Looking specifically at school construction costs, we find that school districts that build into the teeth of a construction boom are going to pay a premium price to get their work done. If, for instance, the unemployment rate in an area is cut in half because of good economic conditions, school boards can expect the cost of building a school of any given size and type to go up around 20%. This is true in states with prevailing wage laws as well as states without prevailing wage laws. And it is not primarily due to higher market wages during tight construction markets. Contractors are pulling wider profit margins, material suppliers are raising their prices, and the coordination problems multiply when things are tight.

We also find that school boards can create their own tight construction conditions—tiny local over-demand pressures that stretch the capacity of local construction contractors. Double the number of new school construction starts in a local area, and school boards can expect their costs to rise 3.6% per square foot.

So for school boards considering trying to save costs on local school construction, the best place to look is at their local planning. Counter-cyclical construction saves money. Even stretching out work over a longer time span saves money. But the same data that find these results cannot find a statistically measurable or significant effect associated with eliminating prevailing wage regulations. Now why is that?

Chapter 3, "Training and Productivity—the High-Wage, High-Skill, Low-Wage, Low-Skills Growth Paths in U.S. Construction"—explains why. This chapter shows that there are two divergent paths of development in U.S. construction. Along one path, few workers are trained, little capital is invested, many workers move out of the industry rather than making careers that generate lifetime experience, and consequently, productivity is low. This sector is primarily associated with open shop contractors.

In the U.S., open shop contractors account for only about 25% of all the apprentices graduating to journeyworker status. Furthermore, to the extent apprenticeship training takes place at all in the open shop, it is focused on electricians and plumbers. A comparison of 2000-2001 apprenticeship graduations in Nevada shows that 14 open-shop electrician apprentices turned out as journeyworkers. This

compares to 83 graduating apprentices sponsored by the Nevada National Electrical Contractors Association jointly with the International Brotherhood of Electrical Workers. Three open shop plumber apprentices graduated compared to 38 jointly sponsored by the Nevada Mechanical Contractors Association and the United Association of Plumbers and Pipefitters.

In the case of both crafts, the training process was basically 25% longer, 5 years compared to 4, in the case of the joint labor-management programs. So the longer and more demanding training courses turned out substantially more trained workers.

A national survey of "owners"—the people buying construction services—found that owners believe the following:

- Joint labor-management apprentices are more likely to learn all the skills of their trade
- Joint apprentices are more likely to be properly trained
- Joint apprentices are more likely to be utilized to the fullest extent on-the-job

Furthermore, owners found that signatory contractors—those working under collective bargaining—are more likely to

- Manage the job properly
- Equip their workers with the most current tools of the trade
- Do the job right the first time

U.S. government data from the *Census of Construction* and the *Current Population Survey* are consistent with these opinions of owners. These government data show that workers under collective bargaining in construction are:

- One-third more likely to have some college education
- Be equipped with 9% to 17% more capital machinery per worker

In turn, these workers

- Process 11% to 13% more materials per worker in a given day
- Turn out 14% to 18% more output per worker

- Generate 17% to 20% more value added per worker

In contrast, again according to these government data, open shop workers are

- Twice as likely to be high school drop outs
- Twice as likely to be young and inexperienced

Owner-surveys indicate that open shop contractors working with a younger, less-trained and less experienced work force are likely not to do the job right the first time one-third of the time. These are the facts that put the lie to the assumption critics of prevailing wage regulations rely on. It is not true that you can cut wages by 50% and expect worker productivity not to fall. Indeed, it does fall and may fall quite dramatically. This accounts for the fact that hypothetical cost savings from prevailing wage law repeals are not forthcoming.

But the dangers of using a low-skill, low-wage construction industry to build the infrastructure of a state are not limited to unmet promises. One very real danger is simply the increase in injuries associated with using a less trained and less experienced labor force. Again referring to owner surveys, owners experienced with both open shop and signatory contractors find that

- Union workers are more likely to be committed to safety.
- Union workers are more likely to receive on-going safety training.
- Signatory contractors are more likely to be committed to safety.
- Workplace accidents are more likely to be minimized, and
- Safety investments are more likely to translate into enhanced project value.

Using Bureau of Labor statistics data on workplace injuries over the period 1976 to 1999, in Chapter 4, "Construction Safety," we find that among general contractors in states that repealed their prevailing wage laws, less serious injuries went up by 13% while more serious injuries rose by 23%. Among specialty contractors, less serious injuries in states that repealed their prevailing wage laws went up by 6% while more serious injuries went up by 12%. Only among heavy and highway contractors did injuries remain unchanged after the repeal of state prevailing wage laws. But the Davis-Bacon Act—the federal prevailing wage law—still largely regulated heavy and highway work before and after state law repeals. Thus, the dangers of repealing prevailing wage laws are real dangers born primarily by the workers themselves. However, to the extent that this increase in injury rates raises worker compensation

claims, the industry and owners will end up also paying for a more dangerous construction sector of the local economy.

When advocates of prevailing wage law repeals make their case that wages will be cut substantially, they rarely mention that benefits will be cut even more. This is obviously a problem for the construction worker and his or her family. Losing health insurance is a family problem. But to the extent society cares about the health of children, it is a public health problem too. Losing pension benefits, cutting social security contributions is a family problem. But to the extent that the old age security is a social concern, the loss of pensions and the cutting of social security is a public policy problem as well. Chapter 5, "The Cruellest Cut," examines what happens to health insurance and old age insurance when prevailing wage laws are repealed.

In comparing Nevada construction workers with Arizona—a state that repealed its prevailing wage law—we find that in 1997 (the last year of the *Census of Construction*)

- Nevada construction workers earned \$29,812 in wages—3% more than the average wage earner nationally contributing to social security. In contrast,
- Arizona construction workers earned \$23,862 in wages—17% less than the average wage earner contributing to social security.
- A typical low-wage earner contributing to social security who retires at age 65 can expect to receive \$7,176 annually in retirement benefits while the typical average wage earner can expect to receive 65% more—\$11,844 per year. Thus, Arizona construction workers begin from behind in two ways as they prepare for retirement.
 - They make less, so they can save less.
 - They contribute less to social security, so they will receive less.

But that is just the beginning of the problem for Arizona construction workers. Arizona contractors pay 47% less into company health insurance and pension contributions. This too is a double whammy.

- Arizona workers can expect to receive roughly half as much in pension income to supplement social security compared to Nevada construction workers.

- Not having health insurance means medical bills are paid out-of-pocket, threatening what little family savings the lower Arizona construction income is capable of generating for retirement.

So Arizona construction workers enter retirement *perhaps with poorer health due to less health insurance over their working lives, with less accumulated savings, less or no pension and fewer social security benefits.*

What we find for Arizona and Nevada is typical of the U.S. as a whole. Contractors in states with prevailing wage laws pay, on average, twice as much into health and *old age insurance compared to states without prevailing wage laws.* And while states that did not change their prevailing wage policies over the years found their contributions into health insurance and pensions keeping up with both general and *medical inflation, states that repealed their prevailing wage laws between 1977 and 1997 found contractors cutting back on contributions to health insurance and pensions and thus falling behind inflation.*

Finally, in Chapter 6 "Critics Play the Race Card," we consider an auxiliary complaint that is sometimes raised by critics of prevailing wage regulations. The allegation is that prevailing wage laws were, in their original intent and in their current effect Jim Crow laws designed to exclude blacks from public construction jobs. This charge was made by the *Las Vegas Review Journal* in an editorial of March 30, 1997. But the *Review Journal* did not originate the claim. We trace the claim back to a 1990 *Wall Street Journal* op-ed piece by a Washington think-tank scholar, one Alan Hodge. Hodge admitted in his piece that the cost-saving argument was losing traction. The flurry of state repeals of the 1980s had ceased and, in particular, the three Southern states with prevailing wage laws had *repealed their statutes.* An effort to eliminate the Massachusetts law through referendum had failed. It was time to try something new.

So critics played the race card, and it bounced from one Washington think tank to another as various scholars took a hand in repeating the notion that the federal *Davis Bacon Act (1931) had been intended to exclude blacks from northern construction.* The history these think tanker and editorialist tell is examined in the light of what we know not only about the Congressional debate of 1931 but also of *the construction industry at the time.* In particular, we note that the *Davis Bacon Act* was vigorously supported by progressive Republicans such as Fiorello LaGuardia—who subsequently would play a role in helping the Brooklyn Dodgers bring Jackie *Robinson up to the majors.* We then turn to the question of whether prevailing wage laws prove a barrier to black employment in construction today. We examine the work of Armond Thieblot who claims this to be the case and we find his evidence *unconvincing.*

Construction is a remarkably unstable, cyclically sensitive, boom-bust industry, knitted together by a system of articulated subcontracting where the issues of coordination and responsibility continually threaten to fall between the cracks. It is an industry of intense competition where, in the public sector, at least, the job goes to the lowest bidder regardless of contractor reputations, past histories of nonperformance, histories of litigation or noncompliance with safety regulations, building codes or other mandated standards. This creates a delicate environment and a slippery slope upon which the industry develops. While in many cases, the industry maintains its commitments to training, safety, quality and on-time performance, in other instances the industry slips into a downward cycle of negative competition and the abandonment of the long-term costs of the industry for short-term competitive gains. When this happens, the industry moves from a high-skill, capital-intensive, high-wage and quality growth path to a low-skill, under-equipped, low-wage and shoddy construction growth path. Safety issues are shoved under the rug and poor workmanship is hidden behind the walls. In the short run, this type of strategy can win in a market that does not measure downstream maintenance costs, does not adequately capture the costs of worker injuries, does not calculate the impact of lost health insurance and old-age pensions and fails to sponsor adequate training. Prevailing wage regulations are about keeping the Nevada construction industry on track, redressing market failures and ensuring that the local construction industry is capable both now and in the future of building the quality infrastructure upon which all industries in the state rely.