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Prevailing wage rate debate goes on

Summary: An Allegheny Institute *Policy Brief* from February 2002 made the case for repealing Pennsylvania's Prevailing Wage Law enacted in 1961. That has not happened because of the political power of the law's supporters. Many studies over the years involving many states have demonstrated the higher construction costs on government-funded projects that are caused by prevailing wage laws that require "prevailing wages and benefits" be paid to employees on projects using government funds. In most states, the prevailing wage and other compensation is the union wage.

Opposing arguments

In recent years, liberal- and progressive-oriented organizations have pushed backed against the argument that prevailing wages raise costs arguing that prevailing wage laws create other offsetting benefits. One argument is that because most of the prevailing wage workers are union labor that have been through union training and apprenticeships, the workers are more skilled, make fewer errors and have a better safety record than non-union workers.

The Center for American Progress (December 2020) argues that prevailing wages do a number of positive things for society, they do the following: (1) support good wages and benefits; (2) help close racial pay gaps; (3) promote quality work and produce value for the taxpayer; (4) prevent "low-road" contractors from undercutting "high-road" employers; (5) protect worker wage gains, and (6) promote sectoral standards by extending union wages and benefits to all workers.

Contrarily, the E21 project of the Manhattan Institute (July 2018) argued that prevailing wage laws increase compliance costs. (A side note here: there are myriad rules governing prevailing wage levels and payments). E21 further argued that mandated "wage floors discriminate against new entrants to the industry." With mandated prevailing wages, younger and lower-skilled workers at the prevailing wage are unlikely to be hired because they are competing with more experienced workers.

Further, a June 2018 George Mason University study showed that “prevailing wage restrictions disproportionately hurt minority contractors.” The study says 98 percent of African-American and Hispanic contractors are non-union and thus union-favoring prevailing wage restrictions “hit these communities harder.”

Finally, there are problems in establishing the prevailing wage rates. The Heritage Foundation in a January 2017 study reported that “The Labor Department calculates Davis–Bacon Act (the federal prevailing wage law) wage rates using unscientific survey methods. The Davis–Bacon surveys do not use representative samples, have very small sample sizes and often calculate local wage rates using statewide data. Furthermore, almost half the surveys are over a decade old. These survey errors inflate federal construction costs by approximately 10 percent.”

Recent evidence

The competing arguments about whether prevailing wages elevate construction costs continue with progressive and union-oriented organizations producing studies that say they do not. A recent report (March 2020) from Weitzman LLC Associates, a real estate consulting firm in New York City, concludes that in New York state the average prevailing wage union premium in construction costs per square foot compared to open shop costs per square foot was roughly 30 percent higher. The study examined residential, office and industrial projects in five regions. The highest differential (36 percent) was in residential construction in western New York, and the lowest (17 percent) was for office construction in western New York. Long Island’s gap was 30 percent. To carry out the analysis the company interviewed “real estate developers, contractors and other knowledgeable parties and reviewed budgets, pro formas and market-based data.”

One of the important things to note about union construction worker compensation (used to determine the prevailing wages and benefits) in regions across the state of New York is that they are very high compared to the national average. Data compiled by the Empire Center put the national construction wage in 2017 at $27.46 per hour with benefits of $7.03 per hour—25.6 percent of the wage rate. In New York state the union wage rate ranged from a low of $24.20 in Syracuse to $41.50 in New York City. Long Island at $39.60 was second highest. Most other cities had wages in the $25 to $28 range. That’s not very different from the U.S. average.

In Pennsylvania, and most likely other states, if a non-union firm does not offer a benefits package, it is required to pay a cash-equivalent which is then subject to taxation (personal income tax and payroll taxes). Whereas a union shop can offer its members inclusion into the local union’s benefit plan for coverage.

The major difference between the U.S. average and New York compensation is in benefits. In each of the New York cities in the Empire Center compilation, workers get at least 70 percent of their wage tacked on as benefits as opposed to the U.S. average of 25.6 percent. In Buffalo the benefits were 90 percent of the wage rate and in New York City they were 97 percent.

Thus, there is little surprise in the findings of the Weitzman study. Obviously, they make a strong case regarding prevailing wages in New York. Still, opponents will no doubt argue that it lacks academic rigor. Given the wide range of results in prevailing wage studies it is clear that the bias of the researchers and its influence on the design of their studies are to some extent shaping their findings.

Right to Work and prevailing wage laws

But there are construction cost data that help shed light on the issue nationally. The Cumming Corporation of San Diego is an international project and cost consulting firm that has produced construction cost per square foot figures for cities around the country for several building categories. Their cost figures for 2020 are available at https://ccorpinsights.com/costs-per-square-foot/.

This *Policy Brief* compares Cumming construction costs in six cities in prevailing wage states that have not adopted Right to Work with costs in six cities in states that either have no prevailing wage law or have passed Right to Work. In three of those cities the states have no prevailing wage law (PWL) and have Right to Work (RTW).

Cumming's data selected for the 12 cities include cost per square foot for: (1) elementary school construction which is predominately government construction and therefore subject to prevailing wage in six cities and (2) three-star hotels, which are predominately private. The prevailing wage, no Right to Work cities include Washington, D.C., Philadelphia, Boston, Portland, San Diego and Chicago. The extremely high cost cites of New York and San Francisco were not included to avoid skewing the averages unnecessarily. The no prevailing wage or Right to Work cities are Atlanta (RTW, no PWL); Dallas (RTW, PWL); Denver (no RTW, no PWL); Nashville (RTW, PWL); Orlando (RTW, no PWL) and Raleigh-Durham (RTW, no PWL). Note that five cities are in Right to Work states.

Cumming presents for each building type costs that are high-side estimates and low-side estimates for each city. The low range for each building type was chosen for the comparisons. The Cumming cost estimates are *exclusively construction costs*. Land acquisition, professional fees and other soft costs are not included nor are furniture, fixtures or equipment expenditures.

For the six cities with PWL and no RTW, the average construction cost per square foot for elementary schools was $280.20. For the six cities with either RTW or no PWL, the cost per square foot for elementary schools was $197.30. The six high-cost city average was $83 per square foot or 42 percent higher than the six lower cost cities. For hotel construction the high-cost cities (PWL and no RTW) averaged $448.50 per square foot while the other group of six cities averaged $346, a difference of $102 per square foot or 30 percent.

In the no prevailing wage or Right to Work city group, only Denver has not adopted RTW and it had by a small margin the highest cost for both schools and hotels among the six lower cost cities.

There is an important conclusion here: Even in cities with PWL but *with* RTW, the lack of a legal requirement to pay union dues or join a union as condition of getting a job, the presence of RTW seems to dominate the construction cost differences.

Repeal of prevailing wage laws

There is one additional salient point to make in this debate over whether PWLs are a good thing. Since 2002 when the Allegheny Institute recommended that Pennsylvania repeal its 1961 law, six states have repealed their PWL to join the 10 states that had already done so since 1979. And in two other states (Oklahoma and Arizona) PWLs were invalidated by court decisions over the period. And note that even though Tennessee and Texas have prevailing wage laws, they are strong Right to Work states.

The debate will undoubtedly rage on as its defenders in deep blue states are well entrenched and have the complete support of unions. But the bottom line must hinge on whether in the long run heavy government interference in the marketplace harms the economy and produces overly strong interest groups with outsized political influence that further stifles free markets and free enterprise and creates intended or unintended consequences and injustices.

The evidence of that unfortunate outcome keeps piling up in the form of slower employment growth rates in many of the prevailing wage states.

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