



The Research Bureau

The Devil's in the Details

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Telegram & Gazette, July 23, 2009

At a time of fiscal crisis, Massachusetts communities are failing to take advantage of an opportunity for savings by using civilian flaggers instead of off-duty police officers to direct traffic and guard road construction and utility projects. There are a couple reasons for this:

First, the legislation approved in 2008 requires only the *state* to use flaggers on projects on which it is the awarding authority, and then only on work sites that are considered to have low traffic volume at low speeds (under 45 mph). The decision to use flaggers on *local* projects must be made by each jurisdiction. In communities where local police union contracts require the use of off-duty police at these worksites, including four-hour minimum assignments, those contracts would have to be renegotiated.

Second, and perhaps more important, is the practice of paying prevailing wage to flaggers at construction and utility project work sites. Because of this, public officials argue that there is practically no saving from using flaggers. According to a 2008 State Transportation Department study, prevailing wage for flaggers in Massachusetts ranges from \$32 to \$37 per hour depending on the region whereas police details range from \$32 to \$42 per hour.

The obvious question then is why do 41 states use a combination of police and civilian flaggers and eight use flaggers exclusively if the savings are so minimal.

A Research Bureau survey of wages for flaggers across the nation found that they vary considerably. Nineteen states pay the Davis-Bacon wage, named for the Davis-Bacon Act of 1931. It is the hourly wage, benefits, and overtime paid to construction workers and laborers for all *Federal* government construction contracts over \$2,000. These wage determinations are made by the US Department of Labor based on so-called prevailing wages in a given locale. Twenty-nine states, including Massachusetts, have adopted mini Davis-Bacon Acts. Under these laws, prevailing wage is the hourly wage, benefits and overtime paid to construction workers and laborers in each county of a state based on local wage conditions and *union contracts*. These wages are established by each state's department of labor for each occupation performing public work in a given state. They tend to be higher in Massachusetts than Federal Davis-Bacon wages due to union labor contracts. Indeed, a 2008 *Boston Globe* study found that in Massachusetts, union hourly rates can be twice as high as hourly rates paid to non-union workers doing the same job. Massachusetts pays an average of \$40 per hour for civilian flaggers, which is the fourth highest such wage in the nation (after New York, Hawaii and California). The average

wage for flaggers in all states is \$21.49 per hour, or about half the rate of Massachusetts rate. Prevailing wage in some states is under \$10 per hour. **(See Appendix A.)**

These findings raise at least three important questions. First, why can't Massachusetts apply Federal Davis-Bacon wages especially since most of the funds for the current public infrastructure projects are coming from the American Recovery and Reinvestment Act, aka the "stimulus" money?

Second, with unemployment in the Commonwealth at more than 9%, why do we adhere to a law the original purpose of which was to prevent African-American migrants from the south from competing with unionized workers in northern cities? Prevailing wage laws discriminate against non-union and lower-skilled workers, those most in need of employment opportunities. Evidence shows that repealing state Davis-Bacon laws would create hundreds of thousands of new jobs nationwide. For example, Ohio University economist Richard Vedder showed that when Michigan suspended its prevailing wage law from 1994 to 1997 (because the law violated Federal pension regulations), it created 11,000 new jobs.¹

Third, even if we insist on adhering to Davis-Bacon, why should it apply to flaggers? Davis-Bacon applies to publicly-funded construction work, not to privately-funded construction sites or traffic control at those work sites. Detail work is not part of construction work; its purpose is traffic control and public safety at work sites. As David Tuerck, Executive Director of the Beacon Hill Institute observes, the work is similar to that of school crossing guards, who control traffic "in the vicinity of elementary schools in order to permit school children to cross safely when going to or returning from school" and "report violations of motorists who fail to stop when directed to do so." Protecting children's lives is certainly a high-priority task. Nonetheless, the average pay of these guards in Boston is about \$13 per hour or one-third of the police officer's pay.

What better time for the Governor and the Legislature to consider savings like these?

¹ David Y. Denholm, "Unions Turn to Public Sector as Membership Declines," *Labor Watch*, April 2003.

APPENDIX A.

2009 Flagger wages per hour: State-by-state comparison (in dollars)

<i>Davis-Bacon States</i>	
Iowa	21.88
Idaho	18.68
North Dakota	14.65
South Dakota	14.19
Arizona	13.94
Colorado	12.60
Vermont	11.31
Utah	10.90
Georgia	10.43
Kansas	9.50
Louisiana	9.15
Texas	8.75
Virginia	8.63
Mississippi	8.43
Florida	7.95
Alabama	7.86
North Carolina	6.55
Oklahoma	6.55
South Carolina	6.55
Average	10.97

<i>Mini-Davis-Bacon States</i>	
New York	49.37
Hawaii	46.35
California	41.43
Massachusetts	40.00
Minnesota	39.69
New Jersey	38.77
Pennsylvania	38.72
Oregon	36.13
Missouri	34.60
Rhode Island	34.60
Nevada	33.40
Ohio	33.25
Wisconsin	32.00
Indiana	30.08
Illinois	29.96
Connecticut	29.00
Michigan	28.28
Alaska	28.24
Kentucky	27.35
Washington	27.29
West Virginia	27.00
Maryland	23.67
Montana	21.07
Delaware	19.70
Maine	16.54
New Hampshire	15.95
Wyoming	15.00
Tennessee	13.08
New Mexico	12.75
Arkansas	8.42
Texas (El Paso)	8.25
Nebraska	7.60
Average	27.74

<i>All States</i>	
New York	49.37
Hawaii	46.35
California	41.43
Massachusetts	40.00
Minnesota	39.69
New Jersey	38.77
Pennsylvania	38.72
Oregon	36.13
Missouri	34.60
Rhode Island	34.60
Nevada	33.40
Ohio	33.25
Wisconsin	32.00
Indiana	30.08
Illinois	29.96
Connecticut	29.00
Michigan	28.28
Alaska	28.24
Kentucky	27.35
Washington	27.29
West Virginia	27.00
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Montana	21.07
Delaware	19.70
Idaho	18.68
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New Hampshire	15.95
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Georgia	10.43
Kansas	9.50
Louisiana	9.15
Texas	8.75
Virginia	8.63
Mississippi	8.43
Arkansas	8.42
Texas (El Paso)	8.25
Florida	7.95
Alabama	7.86
Nebraska	7.60
North Carolina	6.55
Oklahoma	6.55
South Carolina	6.55
US Average	21.49

Source: US Department of Labor: Davis-Bacon Wage Determinations,
<http://www.gpo.gov/davisbacon/allstates.html>