



Prevailing Wage Revisions

HB 1729, passed in 2018, makes major changes to Missouri's prevailing wage law.

What is the “Public Works Contracting Minimum Wage”?

The Public Works Contracting Minimum Wage (PWCMW) is used instead of the prevailing wage in counties where fewer than 1,000 hours are reported for a particular occupational title. The PWCMW is calculated by multiplying the average wage rate in each county by 120 percent. This average rate for each county is computed annually by the Missouri Economic Research and Information Center (MERIC), part of the Missouri Dept. of Economic Development (DED).

Until the new annual wage order is released in 2019, what rate should contractors and public entities use to calculate wages in the meantime?

The current wage order from 2018 will continue to be in effect until the new wage order is released in 2019. The 2019 annual wage order will contain both the PWCMW and the prevailing wage rates in each locality.

Since the new annual wage order issued by the Missouri Dept. of Labor and Industrial Relations (DOLIR) will not be released until 2019 (as late as July 1st), public entities and contractors will not be able to determine if they must pay the prevailing wage or the PWCMW, since this will depend on whether or not 1,000 hours of work in a particular occupational title category in a particular county are reported. The law provides that the existing wage order will remain in effect until replaced by a new one.

However, in some cases, the changes in the new law will take effect more quickly. See the sidebar on page 18 for a breakdown of the new changes.

When determining the Prevailing Wage and PWCMW rates, are fringe benefits added to the to the hourly rate?

Yes. In calculating the prevailing wage rate, DOLIR will continue to factor in fringe benefits as spelled out in Sec. 290.210 RSMo.

The PWCMW is calculated by multiplying the average hourly wage number (developed by DED) by 120 percent. The extra 20 percent added to the average wage by this formula is used to estimate a fringe benefit for workers in that county.

How would a valid contract for a public works project be impacted by HB 1729 once effective?

If a contract was entered into before Aug. 28, 2018, it is likely that the terms of the contract would control. Current regulations require that wage rates attached to an initial bid remain in effect for the duration of the contract (See 8 CSR 30-3.010(4)). However, DOLIR is not able to provide legal guidance on individual contracts and how they might interact with Missouri law. All contracts entered into on or after Aug. 28, 2018, need to comply with any applicable provisions of the new law.

Are the mandatory rates for overtime and holidays based only upon the hourly rate or on the total hourly wage including fringe?

The overtime and holiday rates are based on the total amount of wages and fringe benefits combined. The rate of pay for overtime is one and a half times the amount of the prevailing hourly rate of wages or the public works contracting minimum wage (whichever is applicable). The rate for holidays is twice the applicable rate.

How does the new law impact the ratio of journeymen to “apprentice” and “entry-level” workers and their rate of pay?

Rate of pay – As of Aug. 28, 2018, each apprentice and entry-level worker will be paid half of the rate of a journeyman (including fringe) working in their same occupational title classification in the county where the public project is



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located. Ratio of apprentice/entry-level workers – The new law mandates no more than a 1:1 ratio of journeymen to apprentices/entry-level workers based on their chosen occupational title for a particular project. This provision of HB 1729 became effective Aug. 28, 2018.

Does the new law affect the existing timeline for calculating the annual prevailing wage rate?

No. The timeline under the new law remains the same. For example, contractor hours for the calendar year must be reported by no later than January 31 of the following year. The DOLIR will make an initial determination of prevailing wage rates by March 10 of each year and the final wage order will be issued no later than July 1 of each year.

If a public body were to split up a project into phases, each of them costing less than \$75,000, would the prevailing wage apply?

Splitting a project up into smaller projects for the purpose of evading the requirement to pay a prevailing wage or a public works contracting minimum wage is not permitted.

Are the administrative rules currently proposed by DOLIR going to be revised to reflect the changes in HB 1729?

Yes. DOLIR anticipates withdrawing the currently proposed rules and resubmitting a more comprehensively revised set of rules in the future. 🍋

Learn more from the Missouri Department of Labor and Industrial Relations' website at <https://labor.mo.gov/prevailing-wage>.

Prevailing Wage

The following changes were effective Aug. 28, 2018

- Public works projects valued \$75,000 and under are not subject to the Prevailing Wage Law and projects valued at \$10,000 and below are not subject to a competitive bidding process.
- No project may be split up into smaller projects valued at less than \$75,000 for the purpose of evading the requirement to pay a prevailing wage or public works contracting minimum wage.
- Hours worked on holidays will be paid at twice the normal rate, including fringe benefits. Overtime hours will be paid at time and a half of the normal rate, including fringe benefits.
- Contractors may employ one "apprentice" or "entry-level" worker for each journeyman hired and pay them 50% of the pay, including fringe benefits, of a journeyman in their same occupational title.

Other important provisions of the new law will not be fully implemented until the release of the next Annual Wage Order in 2019. These include:

- The Department of Labor will only use the hours reported by contractors on non-resident projects in calculating the annual wage order in 2019. This includes both public and private, and whether or not the projects were subject to a collective bargaining agreement.
- A new "Public Works Contracting Minimum Wage" of 120 percent of the average county wage will be used instead of a prevailing wage in counties where fewer than 1,000 hours are reported for a particular occupational title.
- An initial Annual Wage Order containing the prevailing wage and the public works contracting minimum wage will be released by March 10, 2019 with a final wage order released by July 1, 2019. Until the final wage order is released, Annual Wage Order 25 will continue to control on projects valued at over \$75,000.

Changes to Occupational Titles and Categories

- HB 1729 consolidates the list of occupational categories, reducing the number down to 20 such titles. Individuals submitting information may continue to use old occupational titles and the system will automatically sort this information into the correct titles as set forth by statute.