

Article - State Finance and Procurement

§17–208.

(a) (1) For each public work to which this subtitle applies, the Commissioner shall determine the prevailing wage rate for each classification of worker engaged in work of the same or a similar character.

(2) The Commissioner shall determine the prevailing wage rates for both straight time and overtime.

(3) These determinations shall be made in accordance with:

(i) the applicable provisions of Title 10, Subtitles 1 through 3 of the State Government Article; and

(ii) to the extent not inconsistent with those provisions, the requirements of this section.

(b) (1) Except as provided in subsection (c) of this section, the prevailing wage rate for straight time for a worker is the rate paid:

(i) in the locality;

(ii) on projects similar to the proposed public work;

(iii) for work of the same or a similar character as that to be performed on the public work; and

(iv) to 50% or more of the workers in the worker's occupational classification.

(2) The prevailing wage rate for overtime for a worker shall be at least time and a half the prevailing wage rate for straight time for that worker.

(c) (1) If fewer than 50% of the workers in the locality working in the same classification receive the same wage rate:

(i) the prevailing wage rate shall be the rate paid to at least 40% of those workers; or

(ii) if fewer than 40% receive the same wage rate, the rate shall be a weighted average rate obtained by:

1. adding the products obtained by multiplying each hourly rate paid to workers in the classification by the number of workers receiving that rate; and

2. dividing that sum by the total number of workers in the

classification.

(2) If the Commissioner determines that there is not a substantial number of competent workers engaged in similar work in the locality, the Commissioner shall determine the prevailing wage rate based on the nearest locality within the State that most closely approximates that locality in:

- (i) population;
- (ii) degree of industrialization; and
- (iii) skill of work force.

(d) The calculation of the rate paid in the locality shall include the basic hourly rate of pay and either:

(1) if a contractor is not required by law to provide fringe benefits, the hourly rate of contribution irrevocably made by a contractor or subcontractor to a third person under a fund, plan, or program that provides:

- (i) medical, surgical, or hospital care;
- (ii) retirement, disability, or death benefits, including a profit sharing plan that provides benefits on retirement;
- (iii) unemployment, life, or accident insurance or compensation;
- (iv) insurance or compensation for injury or illness resulting from occupational activity;
- (v) vacation and holiday pay;
- (vi) subsidies to defray costs of apprenticeship or other similar programs; or
- (vii) other bona fide fringe benefits; or

(2) the hourly rate of costs to the contractor or subcontractor that reasonably may be anticipated in providing the fringe benefits specified in item (1) of this subsection under an enforceable commitment to carry out a financially responsible plan or program that is communicated in writing to the workers.

(e) An apprentice under a public work contract shall be paid at least the percentage, set by the Council, of the prevailing wage rate for a mechanic in the trade in which the apprentice is employed.