

**PROPOSED REGULATION OF THE
LABOR COMMISSIONER**

LCB File No. R072-00

April 20, 2000

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-5, NRS 338.012.

Section 1. NAC 338.010 is hereby amended to read as follows:

338.010 ~~[The]~~ *Based on the information described in subsection 2 of NAC 338.020, the labor commissioner will determine the prevailing rate of wages paid to each class of workmen in a locality, as defined by the labor commissioner, as follows:*

1. Where the *rate of pay is the same for the* majority of *the total hours worked by* a class of workmen who are employed in the locality on construction similar to the proposed construction, ~~[are paid wages at the same rate,]~~ that rate will be determined as the prevailing rate.

2. Where there is no such majority, the prevailing rate for the class will be determined as ~~[-~~
~~—(a) The rate paid to the greater number of workmen in the class if that number constitutes 30 percent or more of those so employed; or~~
~~—(b) The average rate paid to those so employed if the number of workmen paid at the same rate is less than 30 percent of those so employed.]~~ *the average rate paid per hour, based on the number of hours worked per rate, paid to a class of workmen who are employed in the locality on construction similar to the proposed construction.*

3. If no similar construction has been performed within the locality in the past year, the labor commissioner will consider wage rates paid on the nearest similar project of construction in the State of Nevada.

Sec. 2. NAC 338.020 is hereby amended to read as follows:

338.020 1. The labor commissioner will conduct a continuing program of obtaining and compiling information for use in determining prevailing rates of wages.

2. The kinds of information which the labor commissioner will consider in making determinations of prevailing rates of wages include:

(a) Statements showing rates of wages paid on public and private projects, where the statements *are signed by the contractors and subcontractors and* contain:

(1) The names and addresses of the contractors and subcontractors;

(2) The locations, approximate costs, dates of construction and types of projects;

(3) The number of *hours each class of* workmen *is* employed ~~[in each class]~~ on each project; and

(4) The respective rates of wages paid to ~~[such workmen.]~~ *each class of workmen employed on each project.*

(b) ~~[Signed]~~ *To the extent described in subsection 3,* collective bargaining agreements ~~[]~~ *which are signed by the parties and which are filed with the office of the labor commissioner within 30 days after their effective date. At his discretion, the labor commissioner may consider signed collective bargaining agreements that are filed with his office more than 30 days after their effective date.*

(c) Wage rates determined by officials of the Federal Government for public construction and other information furnished by state and federal agencies.

3. When establishing a prevailing rate of wages, the labor commissioner may consider the wage and benefit adjustments and the classifications established in a collective bargaining agreement for a class of workmen if the current prevailing rate of wages for the class of workmen and the wage rate in the collective bargaining agreement for such class of workmen were the same at the time the current prevailing rate of wages was established.

4. When determining prevailing rates of wages, the labor commissioner may exclude from consideration any information submitted to him that is duplicative, incomplete or otherwise determined by the labor commissioner to be inaccurate or unverifiable.

Sec. 3. NAC 338.040 is hereby amended to read as follows:

338.040 1. A determination by the labor commissioner of the prevailing rates of wages in a locality *becomes effective on October 1 of each year and* remains effective for 1 year after ~~[the date on which the determination is issued]~~ *that date* except as otherwise provided in this section.

2. If a determination of prevailing rates expires between the opening of bids and the award of a contract for a particular project of public work, the labor commissioner, upon receiving a written notice of that fact, will allow the prevailing rates used for the bids to apply for the duration of the project.

3. If a public body believes that a pattern of wages is not clearly established in a locality, it may request the labor commissioner to make a new determination of the prevailing wages in the locality. Such a request must be accompanied by the information outlined in paragraph (a) of subsection 2 of NAC 338.020.

Sec. 4. NAC 338.050 is hereby amended to read as follows:

338.050 At the request of a public body or upon his own initiative, the labor commissioner will correct any determination of prevailing wages which he has issued if he finds that it contains a clerical error. *A correction pursuant to this section expires at the time the prevailing rate of wages to which it relates expires.*

Sec. 5. NAC 338.060 is hereby amended to read as follows:

338.060 Copies of the ~~[labor commissioner's determinations of]~~ prevailing rates of wages *determined by the labor commissioner* are available at his office and will be furnished to public bodies and interested persons upon request ~~[]~~ *beginning on September 20 of each year.*