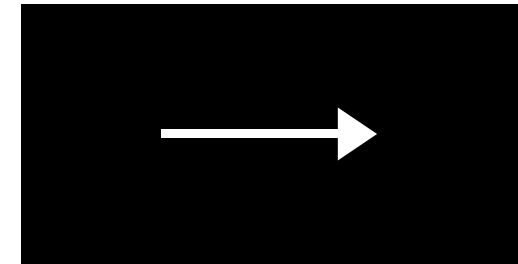


BUILDING

NEVADA'S
FUTURE



**DAVIS-BACON, PREVAILING WAGE, AND PUBLIC
WORKS IN NEVADA**

The Building and Construction Trades have been training, supporting, and advancing the men and women who build Nevada for almost a century.

Our priorities are:

- Facilitating and promoting state-of-the-art workforce training programs,
- Furthering opportunities for construction career growth from apprenticeship to small business ownership,
- Providing a highly-skilled workforce to local construction industry companies,
- Partnering with local leaders and organizations to improve our communities,
- Promoting economic development in Nevada to keep our state growing, vibrant, and a great place to live, work, and play.

- What is prevailing wage?
- When does prevailing wage apply in Nevada?
- The benefits of Project Labor Agreements on
- public works

Potential funding mechanisms for the
Office of the Labor Commissioner

What is prevailing wage?

Federal Davis-Bacon law sets a wage floor for federal construction projects that prevents government spending from undermining local wages and living standards. Thirty-two states also have “Little Davis Bacon Acts” or state prevailing wage laws that apply to state-funded construction projects, including Nevada.

Prevailing wage laws ensure that all contractors bidding on public construction projects will pay family-supporting wages and that these projects will be built to the highest standards by skilled, safe, well-trained construction craftspeople. The projects built under the Davis-Bacon Act have stood the test of time while enabling generations of craftspeople to build better, stronger lives for themselves and their families.

When does prevailing wage apply in Nevada?

Pursuant to NRS 338.020, every contract over **\$100,000** pursuant to Assembly Bill 136 passed during 2019 Legislative Session (for Redevelopment Projects the contract amount is \$100,000 NRS 279.500) to which a public body is a party and that requires the employment of skilled or unskilled labor in the performance of a public work must pay prevailing wage.

Prevailing wage rates are published by the Office of the Labor Commissioner each odd-numbered year. These rates become effective October 1st. Amendments to those rates are published on an as-needed basis and are posted on the Labor Commissioner's website.

“PUBLIC WORK” defined in NRS 338.010(19):

19. “Public work” means any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for:

- (a) Public buildings;
- (b) Jails and prisons;
- (c) Public roads;
- (d) Public highways;
- (e) Public streets and alleys;
- (f) Public utilities;
- (g) Publicly owned water mains and sewers;
- (h) Public parks and playgrounds;
- (i) Public convention facilities which are financed at least in part with public money; and
- (j) All other publicly owned works and property.

Who must be paid the Prevailing Wage Rate?

NRS 338.020 – Hourly and daily rate of wages must not be less than Prevailing Wage Rate set for County.

NRS 338.050 – Prevailing Wage applies to contract and temporary workers.

NAC 338.0095 – Workers and apprentices: Payment of applicable prevailing rate of wage for type of work actually performed and in accordance with recognized class of workers; identification of employer. (NRS 338.012, 338.020)

1. For the purposes of NRS 338.010 to 338.090, inclusive, and NAC 338.005 to 338.125, inclusive:

(a) A worker employed on a public work must be paid the applicable prevailing rate of wage for the type of work that the worker actually performs on the public work and in accordance with the recognized class of the worker; and

(b) Each contractor and subcontractor shall be deemed to be the employer of each worker and apprentice who performs work directly for that contractor or subcontractor in the execution of a contract for a public work, whether the worker or apprentice is employed directly by the contractor or subcontractor or is furnished to the contractor or subcontractor by or through another person or entity such as an employee leasing company or equipment rental business.

Exceptions to Prevailing Wage on Public Works

- Normal maintenance
(Janitorial, Landscaping, etc. NRS 338.011)
- Emergencies (Disaster/Health, Safety, Welfare)
- Railroads
- Projects under \$100,000
Cannot break project up to fit below threshold.

Exemptions from Payment of Prevailing Wage

- Apprentices
Workers who are enrolled in a bona fide apprenticeship program and registered with the Nevada State Apprenticeship Council are exempt from being paid the prevailing wage rate.
- Design professionals (architects, interior designers, etc.)
- Service Providers

Responsibilities of the Contractor

1. Contractors must report subcontractors working on Public Works Project 10 days after the subcontractor commences work. (NRS 338.013)
2. Contractors must determine Compliance with Senate Bill 207 – Apprenticeship Utilization Act.
3. Contractors engaged on public works projects must submit certified payroll reports within 15 days after the end of the month. (NRS 338.070)
4. General contractor is responsible for wages. (NRS 608.150)
5. The contractor and any subcontractor must maintain payroll records. (NAC 338.092)
6. Contractors must comply with Apprenticeship Utilization requirements and submit the required reporting documenting the use of apprentices on public works projects

Recent Legislation

- **SB226** (2023) fixed the lease buyback loophole
 - Some loopholes still exist, including abatements of certain types of fees and selling property below market value.
- **AB227** (2021) would have dramatically reduced worker misclassification in construction, but is currently tied up in court. Companies still use misclassified “temp workers” to avoid paying prevailing wage or benefits.
- **SB207** (2019) & **SB82** (2023) require a contractor or subcontractor engaged on a public work to employ registered apprentices for certain percentages of the total hours of labor performed on a public work.

Project Labor Agreements

A PLA is similar to a collective bargaining agreement between a union and its employer, but differs in that it applies to a single project and is agreed upon by all parties: general contractors, subcontractors and labor unions. Typically, the areas a PLA covers include:

Local hiring // Wages and benefits // Apprenticeship and training programs // Jobsite rules, like alcohol and drug policies, harassment policies and break rules // Work hours and overtime // Jobsite safety

A PLA will also cover procedures for resolving any employment disputes and prohibit strikes or work stoppages for the entirety of the agreement.

Funding Mechanisms for Enforcement

Prevailing wage is enforced by the Office of the Labor Commissioner. Enforcement and staff are not free and the Office has been persistently underfunded.

One potential solution is implementing a registration fee for bidding on public works projects.

- Registration to bid on public works projects to fund additional staff for Office of the Labor Commissioner for public works/prevailing wage enforcement.
- For reference, California requires contractors to pay a \$400.00/\$800.00/\$1200.00 registration fee to bid on a public works project. Oregon and Idaho also have separate provisions for contractors to work on public works projects.

Questions?

Rob Benner

Secretary-Treasurer

Building & Construction Trades

Council of Northern Nevada

(775) 313-1292

rbenner@bctnn.org