



# Fact Sheet

## PREVAILING WAGE LAW

PREPARED AND UPDATED BY JERED McDONALD  
RESEARCH DIVISION  
LEGISLATIVE COUNSEL BUREAU

JUNE 2016

### BACKGROUND

“Prevailing wage law” is the common term used for the Davis-Bacon Act. This Act is a federal law (40 U.S.C. § 276a) that requires contractors who are awarded bids for federal public works projects to pay their laborers a minimum wage “that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed.”

The Act was named after its sponsors, Senator James J. Davis (a Republican from Pennsylvania and former Secretary of Labor) and Representative Robert L. Bacon (a Republican from New York). It was signed into law in 1931 by President Herbert Hoover in response to complaints about the award of federal construction contracts to itinerant contractors who were importing low-wage workers from outside the construction areas.

A number of states have enacted their own versions of the Davis-Bacon Act. These laws are commonly referred to as “little Davis-Bacon Acts.” Nevada’s original prevailing wage law was enacted on March 24, 1937, with the passage of Assembly Bill 36 (Chapter 139, *Statutes of Nevada 1937*). The current provisions are found in *Nevada Revised Statutes* (NRS) 338.020 through 338.090.

### INFORMATION REGARDING PREVAILING WAGE LAWS IN NEVADA

The Office of Labor Commissioner, Department of Business and Industry, has jurisdiction over prevailing wage issues in Nevada as well as jurisdiction of certain apprenticeship programs, enforcement of private wage law (such as minimum wage, overtime compensation, and child labor), and regulation of employment agencies.

Pursuant to NRS 338.010(24) “Wages,” with respect to “Prevailing Wages,” are defined as: “(a) The basic hourly rate of pay; and (b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.”

*Nevada Revised Statutes* 338.030 specifies the procedures to be followed by the Labor Commissioner in establishing prevailing wages for each county, and those wages must be

paid on all public works projects that are subject to the prevailing wage provisions of Chapter 338 (“Public Works”) of NRS. To establish a prevailing wage in each county, the Labor Commissioner conducts an annual survey of contractors who have performed work in the county. In certain circumstances, the Labor Commissioner may also consider other sources of wage information including, but not limited to, contracts determined through a collective bargaining process; wage rates determined by officials of the federal government for public construction; and other information furnished by state and federal agencies.

In Nevada, the exemptions from the provisions of the prevailing wage law are found in NRS 338.080 and include work for a railroad company and certain apprentices. Additionally, with the passage of A.B. 172 (Chapter 456, *Statutes of Nevada 2015*), charter school public works projects are exempt from prevailing wage provisions. Assembly Bill 172 also raised the exemption level for public works projects with a cost of under \$100,000 to \$250,000, which means projects with a cost less than \$250,000 are exempt from prevailing wage requirements. Failure to pay the prevailing wage is a misdemeanor for which an offender may be required to pay the difference between the prevailing wage and the actual wage paid and an administrative fine in an amount necessary to cover the cost of the investigation.

### **RECENT LEGISLATION**

In addition to those provisions outlined above, A.B. 172 also sets the prevailing wage at 90 percent of the determined rate on projects conducted by school districts and the Nevada System of Higher Education. The bill also clarifies that if a survey conducted by the Labor Commissioner results in the same wage for more than 50 percent of the total hours worked, that rate will be the prevailing wage. In instances where no rate can be determined, the prevailing wage will be ascertained as the average rate of wages paid per hour based on the number of hours worked.

In the 2005 Session, the Legislature approved Senate Bill 116 (Chapter 73, *Statutes of Nevada*), which modifies the responsibilities of the Labor Commissioner to investigate and penalize employers for violations of laws governing prevailing wages and employment practices on public works projects. It requires the Labor Commissioner to provide notice and an opportunity for hearing before imposing a fine for a violation and allows the Commissioner to impose fines on governmental entities that violate the law. It also allows the Attorney General to decide whether or not to prosecute violators.

### **ADDITIONAL INFORMATION**

For a complete listing of current prevailing wage rates by occupation and county, visit the Nevada Labor Commissioner’s website at the following address: [http://labor.nv.gov/PrevailingWage/Public Works/Prevailing Wages/](http://labor.nv.gov/PrevailingWage/PublicWorks/PrevailingWages/).