



## MASSACHUSETTS

- Q1. When was the state prevailing wage law adopted (or repealed) and most recently amended?**  
A1. Adopted 1896. Latest amendment 2008. M.G.L. ch. 149, §§ 26-27D (2007).
- Q2. Have there been any recent challenges to enforcement of the state prevailing wage law?**  
A2. Yes. *See Mullally v. Waste Management of Massachusetts, Inc.*, 452 Mass. 526 (2008) (Waste Management's wage scheme that paid the prevailing wage after averaging overtime and base pay was invalid. By avoiding the economic disincentives to have people work overtime, Waste Management has frustrated the idea of the prevailing wage law.)
- Q3. What is the monetary threshold for coverage?**  
A3. None. M.G.L. c. 149 § 26.
- Q4. Does the law cover more than "construction" work, and if so, what type of work has been found to be included or excluded from such coverage of "construction."**  
A4. Construction work includes additions and alterations to public buildings or structures, painting, demolition, soil explorations, test borings and demolition. M.G.L. c. 149, § 27D.
- Q5. How is the prevailing wage determined?**  
A5. Collectively bargained rates are given preference by the statute. M.G.L. c.149 § 26. When no such rates exist, the wage shall not be less than the wages paid to similar workers in the private sector. M.G.L. c.149 § 26. When a contract lasts longer than one year, there must be an annual update to prevailing wages for the work to reflect the wage rates for the new year.
- Q6. Are job duties published and are there any special work assignment restrictions?**  
A6. Job classifications are published by the commissioner. M.G.L. c.149, §27. It is recommended, however, that nonunion contractors should contact the Department to determine whether any hidden work assignment restrictions apply, particularly to the extent that specific wage determinations appear to be based upon union wage scales.
- Q7. Are there any restrictions on recognition or crediting of fringe benefits?**  
A7. The statute recognizes payments by employers to health and welfare plans, pension plans and supplementary unemployment benefit plans. M.G.L. c. 149, § 27.

**Q8. At what point does the law require payment of time-and-one-half for overtime?**

A8. Over 40 hours a week. 455 C.M.R. 2.02(3).

**Q9. Are there defined apprenticeship ratios?**

A9. Yes. The maximum ratio of apprentices to journeymen is supplied by the Department of Labor and Workforce Development when the prevailing wage rates are issued. *See* <http://www.ago.state.ma.us/sp.cfm?pageid=1116>.

**Q10. Are there criminal and civil penalties and is there a private right of action in addition to state enforcement?**

A10. Yes, criminal and civil penalties are provided for in addition to a private right of action. G.L.M. c.149, §27C.