



MINNESOTA

Q1. When was the state prevailing wage law adopted (or repealed) and most recently amended?

A1. Adopted 1973. Latest amendment 2009. Minn. Stat. § 177.42 – 44 (2003).

Q2. Have there been any recent challenges to enforcement of the state prevailing wage law?

A2. No. *But see Dicks v. Minn. Dep't of Admin.*, 627 N.W.2d 334 (Minn. Ct. App. 2001) (holding that state employees may not benefit from the prevailing wage law provisions).

See also Minn. Chapter Of Assoc. Builders v. Dept. Of Pub. Safety, 267 F. 3d 807 (8th Cir. 2001), reaffirming *Minn. Chapter of Assoc. Builders & Contractors, Inc. v. Minn. Dep't of Labor & Indus.*, 47 F.3d 975 (Minn. 1995) (holding that the federal ERISA law preempts the state's imposition of a mandatory apprenticeship requirement in its prevailing wage law).

Q3. What is the monetary threshold for coverage?

A3. The monetary threshold is \$2,500 if the project involves only one trade and \$25,000 if involving more than one trade. Minn. Stat. § 177.43.

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. These requirements apply to state "projects," defined as work involving an "erection, construction, remodeling, or repairing of a public building or other public work financed in whole or part by state funds." Minn. Stat. § 177.42.

Q5. How is the prevailing wage determined?

A5. It is the prevailing hourly rates (including fringe benefits) paid to the largest number of workers in the same class of labor in the specific area, i.e., the mode of all the wages paid in the area. Minn. Stat. § 177.42.

Q6. Are job duties published and are there any special work assignment restrictions?

A6. No job duties or work assignment restrictions are published, and the Department's rules state that it is the contractor's responsibility to ensure that employees are properly classified. Minn. Rule 5200.1040. It is recommended 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. Fringe benefits are not addressed in any meaningful detail in the governing statute or regulations. However, regulations of the state Department of Transportation allow contractors to take credit for the costs of bona fide, allowable fringe benefit programs. See www.dot.state.mn.us/const/labor.

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

A8. Overtime pay occurs after an employee works more than eight hours per day or forty hours per week. Minn. Stat. § 177.42-43.

Q9. Are there defined apprenticeship ratios?

A9. The state apprenticeship council generally allows a 1:1 ratio for the first apprentice and journeyman, but then requires three journeymen for each additional apprentice. See <http://www.dot.state.mn.us/const/labor/apprenticeship.html>. ABC's Minnesota chapter has received a variance for its registered program, allowing a 1:1 ratio for up to three apprentices. [http://www.abc.org/Newsroom2/News Letters/5/1/Newsline](http://www.abc.org/Newsroom2/News_Letters/5/1/Newsline)

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

A10. For highway contracts, an employer is subject to a fine not more than \$1,000 and/or imprisonment not more than one year if the employer threatens an employee to accept lower wages. In fact, any employee who knowingly allows an employer to pay less than the prevailing wage or who gives up such pay may be fined up to \$40, imprisoned for up to thirty days, or both. The punishment for not paying the prevailing wage is a fine up to \$300, imprisonment of not more than 90 days, or both. Each day with a violation is considered a separate offense. Additionally state officers and employees are subject to punishment for not complying with these provisions, including up to a \$700 fine for each offense and/or imprisonment for up to 90 days. Additionally, in a recent 2007 amendment, potentially the contracting authority may withhold payment from the general contractor or subcontractor for not complying with these provisions.