

**§1308. Prevailing wages and benefits established at regular intervals; how determined**

**1. Determination of wage and benefits rates.** The Bureau of Labor Standards shall investigate and determine the prevailing hourly wage and benefits rate paid in the construction industry in this State. To determine the prevailing hourly wage and benefits rate, the bureau shall:

- A. Collect a set of data by conducting a survey of wages and benefits during the 2nd and 3rd week of July of each year; [PL 2023, c. 333, §1 (AMD).]
- B. Collect a 2nd set of data through certified payroll submissions on state construction of public works during the 2nd and 3rd week of July of each year from any state agency that contracts for the construction of public works; and [PL 2023, c. 333, §1 (AMD).]
- C. Collect a 3rd set of data for the job classification under the federal Davis-Bacon Act. [PL 2023, c. 333, §1 (NEW).]

Survey data collected pursuant to paragraph A and certified payroll data collected pursuant to paragraph B must be submitted to the bureau by the 2nd week of October.

The bureau shall use the highest wage and benefits information of the 3 data sets collected pursuant to paragraphs A, B and C to determine the prevailing hourly wage and benefits rate. The bureau may also use wage and benefits information received from construction trade associations in its determination of prevailing rates. In determining the prevailing rate, the bureau may ascertain and consider the applicable wage and benefits rates established by collective bargaining agreements, if any, and those rates that are paid generally in the locality where the construction of the public works is to be performed.

For purposes of this subsection, "benefits" means health and welfare contributions, pension or individual retirement account contributions and vacation and annuity contributions, per diem in lieu of wages and any other form of payment, except for wages, made to or on behalf of the employee. If a defined contribution amount is not established, the most accurate estimated value of contributions must be included.

[PL 2023, c. 333, §1 (AMD).]

**1-A. Surveys.** The director may require any person to provide information on the wages and benefits provided to that person's employees and such other information as is needed to determine the prevailing wage and benefits. The director may assess a fine of up to \$250 for the first offense, \$500 for a 2nd offense and \$1,000 for any subsequent offense against any person who fails to provide the information as requested.

[PL 2019, c. 545, §2 (AMD).]

**1-B. Additional trades.** Any party affected by this chapter that believes that there are more than 10 workers employed in the State in a laborer, worker or mechanic trade or occupation for which no wage and benefit rates were set based on the previous survey may petition the director for inclusion of that trade or occupation in a supplemental survey. The director shall determine if the proposed trade or occupation is a definable trade or occupation, is one that has been or will be used in construction of public works covered by this chapter and is underrepresented in the survey process. If the director confirms these conditions, notwithstanding any other provision of this chapter, the director may institute supplemental survey processes to establish wage and benefit rates for the trade or occupation. These supplemental survey processes must be conducted in coordination with the regular survey and designed to minimize the burden on any employer required to respond.

[PL 2005, c. 232, §1 (NEW).]

**2. Certified copies.** A copy of any determination made at the request of the public authority must be certified by the director and filed immediately with the public authority. Copies must be supplied by the bureau to all persons requesting same within 10 days after the filing.

[PL 1999, c. 581, §1 (AMD).]

**3. Appeal.** Any person affected by the determination of the director, whether or not that person participated in the proceedings resulting in the determination, may appeal to the commissioner from that determination by filing a written notice with the commissioner stating the specific grounds of that person's objection within 10 days from the filing of the copy of the determination with the public authority. The commissioner shall hold a hearing on the appeal, pursuant to Title 5, chapter 375, subchapter IV, within 20 days from the receipt of notice of appeal. The hearing by the commissioner must be held in Augusta. The commissioner has the authority to affirm, reverse or amend the determination of the director. The commissioner shall render a decision within 10 days after the conclusion of the hearing.

[PL 1999, c. 581, §1 (AMD).]

#### SECTION HISTORY

PL 1965, c. 406, §2 (NEW). PL 1967, c. 403 (RPR). PL 1971, c. 620, §13 (AMD). PL 1977, c. 694, §484 (AMD). PL 1987, c. 786, §16 (AMD). RR 1991, c. 2, §100 (COR). RR 1995, c. 2, §67 (COR). PL 1997, c. 757, §7 (AMD). PL 1999, c. 181, §2 (AMD). PL 1999, c. 581, §1 (AMD). PL 2005, c. 232, §1 (AMD). PL 2019, c. 545, §§1, 2 (AMD). PL 2023, c. 333, §1 (AMD).

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