

Prevailing Wage



A briefing of the law and recommended action steps for the City of Mankato

Introduction

Prevailing wage laws have been passed at both the federal and state level. The primary intent of the law(s) is a means to require construction contractors working on government-funded projects to pay their workers based on area standards. The Davis Bacon Act (federal law) and State prevailing wages laws have supporters and critics. Much of the prevailing wage debate focuses on the costs and benefits to the federal government and states of prevailing wage laws. Critics of prevailing wage focus on the increased labor costs associated with the enforcement of prevailing wage. Advocates acknowledge that labor costs may be higher where there are prevailing wage regulations, but point out that project costs are not significantly different due to the higher efficiency of the workforce. Advocates also argue that prevailing wage laws encourage training, promote higher levels of safety on the job site, reduce cost over-runs and the costs of future maintenance, and generate a number of other positive outcomes. The intent of this report will not be to determine whether the critics or advocates vantage points are founded. The purpose will be to provide an overview of the Davis Bacon Act, state prevailing wage law, other greater Minnesota cities policies, survey information from contractors, and, ultimately provide a recommendation for the City of Mankato that is in the best interest of the region, community and organization.

Davis-Bacon Act

The federal Davis-Bacon Act requires that prevailing wages be paid on construction projects that are fully or partially federally funded. The Davis-Bacon Act (DBA) of 1931, was named for sponsors Congressman James Bacon of New York and Senator James Davis of Pennsylvania. The legislation was introduced during the Great Depression after a contractor employed African-American workers from Alabama to build a Veteran's Bureau hospital in New York. Congress at the time felt that the law would preserve jobs on federal projects for local workers during a time of widespread unemployment, preserve local wage standards and promote local employment by preventing contractors who bid on public contracts from basing their bids on the use of cheap labor recruited from foreign sources.

Davis-Bacon requires prevailing wages to be paid on construction projects that are fully or partially federally funded.

The Act covers "laborer and mechanic" job classifications that include those workers whose duties are manual or physical in nature (including those workers whose duties are performing the work of a trade), as distinguished from mental or managerial duties. It includes apprentices, trainees and helpers. The term laborer or mechanic does not include workers whose duties are primarily administrative, executive or clerical. The DBA requires the payment of applicable prevailing wage rates to all laborers and mechanics regardless of any contractual relationship which may exist.

DBA is made up of two interchangeable components-hourly rate and fringe benefits. The prevailing wage can be paid entirely as cash wages, payments made or cost incurred by the contractor for fringe benefits may be creditable toward requirement to meet total required prevailing wage. Fringe benefits must be paid for all hours worked, including overtime. However, the fringe benefit amounts may be excluded from the half-time premium due as overtime compensation. The DBA is subject to provision of the Fair Labor Standards Act and related labor acts.

Davis-Bacon is determined by a combination of hourly rate and fringe benefits.

**Davis-Bacon
applies to
projects over
\$2,000.**

The DBA provided legislative authority for enforcement of the prevailing wage at the federal and state level. The DBA requires workers to be paid a minimum wage equal to the “prevailing wage” as determined by the Department of Labor for projects exceeding \$2,000. Since adoption by Congress in 1931, the DBA has had a series of modifications; however, the project threshold had never been modified. The law receives continual debates related to the argument that the DBA raises construction costs and reduces wage competition.

**The Department of
Labor makes the
prevailing wage
determination.**

Within the Department of Labor, The Wage and Hour Division (WHD) is charged with determining the prevailing wage. The WHD uses two approaches to calculate prevailing wage, if more than half of the workers surveyed are paid the same wage, then that wage is used. If no majority emerges, then an average is used.

A "wage determination" is the listing of wage rates and fringe benefit rates for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., building, heavy, highway, or residential). The Wage and Hour Division issues two types of wage determinations: general determinations, also known as area determinations, and project determinations. The term "wage determination" is defined as including not only the original decision but any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates and scope of the original decision. General wage determinations reflects those rates determined by the Division to be prevailing in a specific geographic area for the type of construction described. Project wage determinations are issued at the specific request of a contracting agency; each is applicable to the named project only; and expires 180 calendar days from the date of issuance unless an extension of the expiration date is requested by the agency and approved by the Wage and Hour Division.

**The
withholding of
contract funds
is the
enforcement
tool for Davis
Bacon.**

To protect the rights of covered workers, the DBA and related Department of Labor regulations provide for remedies when compliance with the prevailing wage requirement are challenged. The primary means of compliance is withholding of contract funds sufficient to satisfy alleged wage underpayment pending the resolution of a wage dispute. The withholding of contract funds is a very effective enforcement tool in government contracts. It assures the availability of monies for the payment of the back wages if a contractor refuses to make restitution when back wages are found due to covered workers. Assuring that the proper wages are received by covered workers on government projects. ¹

According to a report published by Beacon Hill Institute at Suffolk University, Davis Bacon calculation methods inflates wages by an average of 22%, construction costs by 9.91% and raise public construction costs by \$8.6 billion per year. The report further argues that the data is collected by an unrepresentative survey and the measurement methods solely benefit union workers. ²

¹ Information on the Davis Bacon Act was taken from The Federal Davis-Bacon Act: The Prevailing Mismeasure published by Beacon Hill Institute at Suffolk University and Prevailing Wage Resource Book published by the U.S. Department of Labor

² Information obtained from The Federal Davis Bacon Act: The Prevailing Mismeasure published by the U.S. Department of Labor

**Minnesota
Prevailing
Wage is the
most
frequently
report wage or
mode.**

Minnesota State Law

Minnesota’s prevailing wage law requires contractors to pay laborers and mechanics working on state-funded construction projects wages that “prevail” in the geographic area for the type of work performed. The “prevailing wage” is the most frequently reported wage (or mode) among data collected by Department of Labor and Industry through an annual survey. When more than one mode exists for a job class in a particular geographic area, the highest mode “prevails”.

In 1973, Minnesota passed a prevailing wage law. Minnesota’s prevailing wage law applies to construction projects that are “financed in whole or part by state funds”.³ The law applies to local government projects that are entirely or partially financed with state dollars. For example, the law applies to a local government road construction project that is financed with municipal state aid. However, local government projects are do not receive direct state aid are not subject to prevailing wages.

**MN Prevailing
Wage applies
to projects that
are financed
fully or
partially with
State Funds**

State funded construction projects are covered by the prevailing wage law if they meet the minimum dollar thresholds set by law. A construction project involving only one job class is covered by the law if the project costs more than \$2,500. If the project involves more that one job class, prevailing wages must be paid on projects of \$25,000 or more. For example, a electrical project would be covered if it involved only electricians and cost at least \$2,500. But, if it included other job classes besides electricians, the project would be covered only if it cost at least \$25,000. The project threshold level has not changed since the passage of the prevailing wage law in 1973, which means that smaller scale projects are subject to prevailing wage law than were originally covered under the law.

³ *Minnesota Statutes* 2006, 177.42, subd.2.

**Total
compensation
rate must be at
least as high as
the prevailing
wage.**

The state prevailing wage law generally applies to all construction workers on a state-funded project. The law also covers “laborers or mechanics who deliver mineral aggregate such as sand, gravel, or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.”⁴ However, the law does not cover “laborers or mechanics who process or manufacture materials or products” and those who deliver “materials or products by or for commercial establishments which have a fixed place of business from which they regularly supply processed or manufactured materials or products”⁵ are not subject to the law. For example, a truck driver who simply delivers material from a commercial establishment to the construction site and is not involved in any construction work is not covered by the law. However, if the truck driver delivers and is involved in construction work (i.e. spreading gravel) then it is covered by the law.

The law requires contractors and subcontractors on state-funded projects to pay a compensation rate that is at least as high as the prevailing wage rate set by the Department of Labor and Industry (DLI). The compensation rate includes both a wage component and a fringe benefit component. The contractor can pay more or less in wages and fringe benefit as long as the total compensation rate is at least as high as the prevailing wage.

Also according to statute the contractor is required to pay overtime wages to workers who work more than eight hours in a day or 40 hours in a week.⁶ If hours worked exceed those limits then the contractors are required to pay one and one-half times the prevailing wage rate.

Contractors are required to post at the construction site the prevailing wage rates for the project. Law requires contractors to provide, upon request, payroll

⁴ *Minnesota Statutes* 2007, 177.43, subd 4; 177.44 subd 2

⁵ *Minnesota Statutes* 2007, 177.43, subd 4; 177.44 subd 2

⁶ *Minnesota Statutes* 2006, 177.42, subd.4

**Department of
Labor and
Industry enforce
prevailing wage
for all projects
except highway.
Department of
Transportation
enforces
highway
projects.**

**It is a
misdemeanor
to violate
prevailing
wage laws.**

records of prevailing wage projects. For all projects except state-funded highway projects, the Department of Labor and Industry has the responsibility for enforcing the prevailing wage law. For state funded highway projects, the Department of Transportation is responsible for enforcement.

Contractors who pay compensation rates lower than prevailing wage rates can be charged with a misdemeanor. Violators can be fined up to \$1,000 or imprisoned up to 90 days for each day of noncompliance.⁷ For state funded highway projects they can be fined up to \$300 or jailed up to 90 days for each day of noncompliance. Additionally, contractors can be fined \$1,000 and imprisoned for up to one year for enticing workers to accept a wage that is less than the prevailing wage. An employee who knowingly permits a contractor or subcontractor to pay less than the prevailing wage rate or kicks back to the employer part of the wage can be fined \$40 or imprisoned up to 40 days.^{8 9}

⁷ *Minnesota Statutes* 2006, 177.43, subd 5.

⁸ *Minnesota Statutes* 2006, 177.44, subd 6

⁹ Information included within the MN Prevailing Wage section was derived from Department of Labor Staff and the Office of the Legislative Auditor Evaluation Report February 2008.

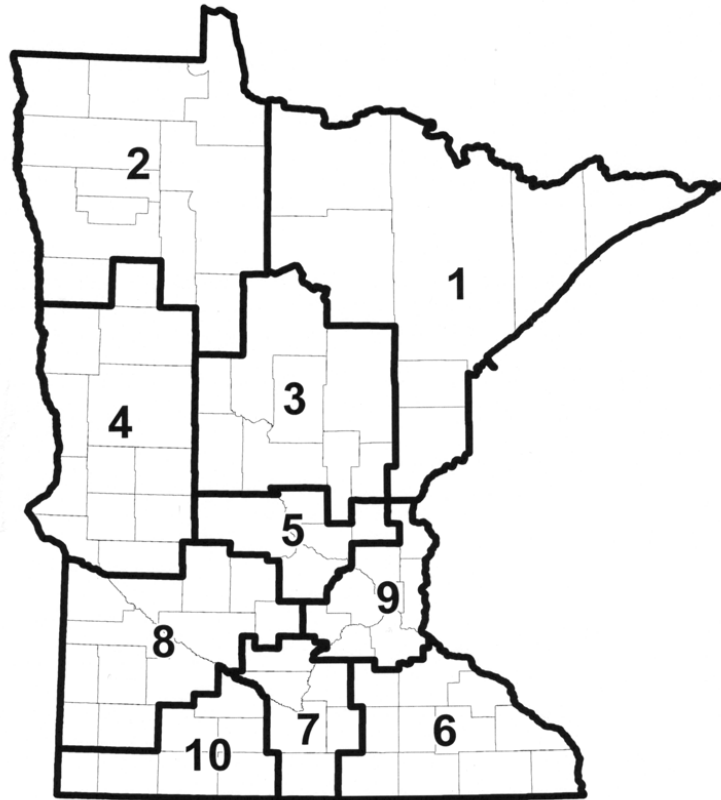
Department of Labor and Industry establish up to 4,656 prevailing wages each year that cover 147 job classifications.

Determination of Prevailing Wage in Minnesota

The Department of Labor and Industry sets prevailing wages for commercial constructions and highway and heavy construction. Commercial construction rates are set for each county and apply to all state funded building construction except highway and heavy construction. Highway/heavy construction rates are set for public works projects such as roads, highways, streets, airport runways, bridges, power plants, dams, and utilities. For the purpose of setting highway/heavy construction prevailing wages, counties are divided into ten regions. Overall, the DLI establishes up to 4,656 prevailing wages each year that cover 147 job classifications (Table 1).

Figure 1: Prevailing Wage Highway/Heavy Regions

Figure 1.1: Prevailing Wage Highway/Heavy Regions



Source: Office of the Legislative Auditor

Table 1: Prevailing Wage Master Job Classifications

<p>Laborers</p> <ul style="list-style-type: none"> • Laborers, common • Laborers, skilled • Laborers, landscaping • Flag persons • Watch persons • Blasters • Pipelayers • Tunnel Miners • Underground and open ditch laborers 	<p>Special Crafts</p> <ul style="list-style-type: none"> • Heating and frost insulators • Boilermakers • Bricklayers • Carpenters • Carpet layers (linoleum) • Cement masons • Electricians • Elevator constructors • Glaziers • Lathers • Ground persons • Ironworkers • Linemen • Millwrights • Painters • Piledrivers • Pipefitters and steamfitters • Plasterers • Plumbers • Roofers • Sheet metal workers • Sprinkler fitters • Terrazzo workers • Tile setters • Drywall tapers • Wiring system technicians • Wiring system installers • Asbestos abatement workers • Sign erectors
<p>Power Equipment Operators</p> <ul style="list-style-type: none"> • Group 1 (includes five job classes such as operators of helicopter and tower cranes) • Group 2 (includes 12 job classes such as operators of locomotive cranes and stationary plant concrete mixers) • Group 3 (includes five job classes such as operators of elevating graders) • Group 4 (includes 39 job classes such as operators of tractors, bulldozers and pavement breaker or tamping machines) • Group 5 (includes 19 job classes such as operators of air compressors and tree chippers) • Group 6 (includes 13 job classes such as operators of portable gravel screening plants and power actuated jacks) 	
<p>Truck Drivers</p> <ul style="list-style-type: none"> • Group 1 (includes three job classes such as tractor-trailer drivers) • Group 2 (includes drivers of four or more axle unit, straight body trucks) • Group 3 (includes three job classes such as drivers of three axle units) • Group 4 (includes nine job classes such as drivers of two axle units) 	
<p>Source: Office of the Legislative Auditor summary of master job classifications listed in Minnesota Rule 2005, 5200.1100 and Evaluation Report Prevailing Wages</p>	

There are two professional and one clerical staff that are charged with administering the prevailing wage law. Administration of the law includes setting the prevailing wage rates based on the annual survey of construction wages and handles questions /complaints regarding prevailing wage.

A voluntary annual survey is used to collect data for prevailing wage determinations.

The DLI conducts an annual survey of construction wages and benefit. Then the Staff use the information to determine which combined wage and benefit is the most commonly reported for each job class and geographic area. If contractors did not report wage and benefit information for a job class and geographic area, staff then use the prevailing wage from the previous year. Then DLI certifies prevailing wages in October of each year for highway/heavy construction and in December for commercial construction.

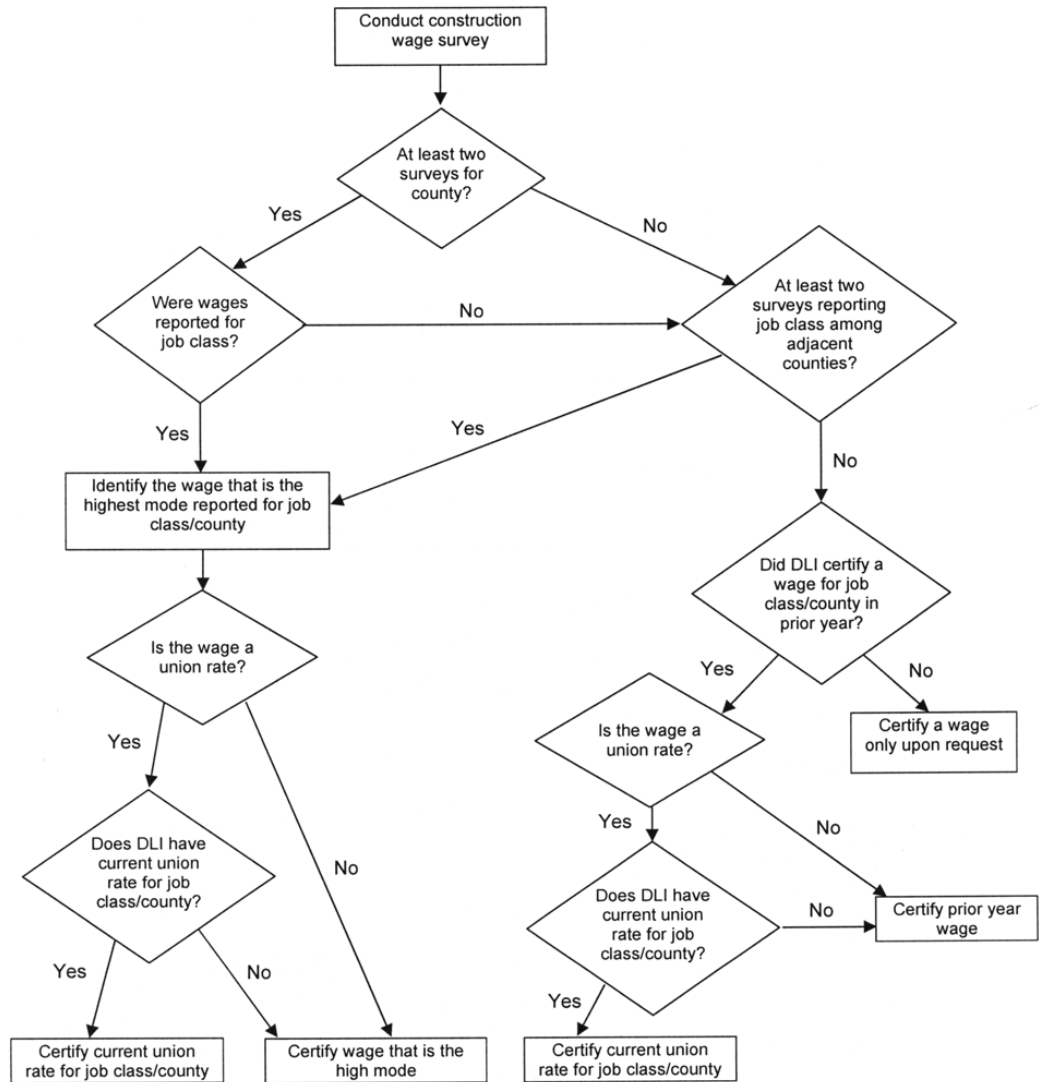
The survey response rate barely meets the requirement for scientific results.

The survey is voluntary. This means that contractors may not respond or respond with information on only some projects. If participating, the contractor must complete a separate survey for each project that was subject to prevailing wages. For each project a contractor reports, the contractor is requested to list the wages, benefits and job classifications of each worker on the project. At least two projects must be reported for a county or highway/heavy area for a prevailing wage to be calculated. Figure 2 depicts the prevailing wage certification process for commercial construction. According to the Office of the Legislative Auditor, it is difficult to determine if whether the prevailing wage rates are representatives of the rates paid in the region because there is not other useable source of information on compensation rates. Furthermore, according to Department of Labor Staff and the Office of the Legislative Auditor report, the survey response is low. Department of Labor Staff indicated that the response rate barely meets the number need for scientific results.¹⁰

¹⁰ Information regarding the determination of MN prevailing wage was taken from the phone interviews with Department of Labor Staff and Office of the Legislative Auditor Prevailing Wage Report.

Figure 2: Prevailing Wage Certification Process for Commercial Construction

Figure 1.2: Prevailing Wage Certification Process for Commercial Construction



NOTES: In this figure, "job class" refers to the 38 job classes, six groups of power equipment operators, and four groups of truck drivers for which DLI may set rates. The process for certifying highway/heavy rates is similar to the process illustrated above except that all rates are by highway/heavy region instead of county and adjacent-region data are not used in the absence of current-year information. DLI is the Department of Labor and Industry.

Source: Office of the Legislative Auditor

The Minnesota Taxpayers Association recommends revising the Minnesota Department of Employment and Economic Development (DEED) quarterly survey for a prevailing wage determination tool. The survey has a wider distribution than current prevailing wage rate surveys, since employers are required to participate in the survey in order to qualify for certain discounts associated with the state's insurance policies. In their estimations state and local governments would experience significant savings in wages costs if DEED averages were substituted for the current calculations. The Association estimates a savings of \$126 million to \$71 million or 7.4% to 10.0% less than current project costs.

Minnesota Taxpayers Association Estimates \$71-126 million in savings if DEED averages were subtotaled for current calculations.

Table 2: Estimated (Savings) or Cost Associated with Substituting DEED Average Wages on Calendar Year 2002 Minnesota Public Construction Costs, by County.

County	Total Project Costs (000 of \$)	Range of (Savings) or Cost \$(000)		Range of (Savings) or Cost as % of Total Project Cost	
		Minimum	Maximum	Minimum	Maximum
Blue Earth	9,524	(1,498)	(1,915)	(15.7)	(20.1)
All Counties	\$1,707,269	(126,495)	(171,120)	(7.4)%	(10.0)%

Minnesota and California use the modal method of calculation.

Davis-Bacon, Minnesota and Other States' Calculation Methodology

Minnesota bases its prevailing wage on the mode or the combined wage and fringe benefit rate that is paid to the greatest number of workers reported for a particular job class in a geographic area. Minnesota and California are the only states to use the mode method to determine prevailing wage. There are another 15 states that use the mode calculation method but only if a minimum percentage of the rates paid for in a particular job class and geographic area.

Most state and the federal government use an average calculation approach.

Most states and the federal government use two approaches to calculate prevailing wage. If more than half of the workers surveyed are paid the same wage, then that wage is used. If no majority emerges, then an average is used. Minnesota (and California) use a modal calculation model of determining prevailing wage-the most frequently reported wage is the prevailing wage. Opponents of the Minnesota prevailing wage law argue that prevailing wages are not representative of their area and are likely to be the collectively bargaining union rate, even in cases where unions do not predominate the area. Proponents of law indicate that the law prevents contractors working on state funded projects from under compensating workers because the State awards contracts to the lowest bidder.

A report by the Minnesota Taxpayers Association calculated the estimated minimum and maximum savings or costs associated with using the federal prevailing wage rates in place of Minnesota's rates. The report concluded that public construction costs would rise slightly if the state would use the federal method of determining prevailing wage. Appendix A includes comparison of Minnesota and Federal Prevailing Wages.

Table 3: Estimated (Savings) or Cost Associated with Substituting Federal Prevailing Wage Rates on Calendar Year 2002 Minnesota Public Construction Costs, by County

County	Total Project Costs (000 of \$)	Range of (Savings) or Cost \$(000)		Range of (Savings) or Cost as % of Total Project Cost	
		Minimum	Maximum	Minimum	Maximum
Blue Earth	\$9,524	(708)	(905)	(7.4)%	(9.5)%
All Counties	\$1,707,269	\$3,091	\$8,427	0.2%	0.5%

Table 4: Cost Savings of Substituting Federal Prevailing Wage for State Determination, by Construction Type, for Counties with Building and Transportation Projects

County	Total Project Costs (000 of \$)	Range of (Savings) or Cost for Building Projects as % of Total Project Cost		Range of (Savings) or Cost as % of Total Project Cost	
		Minimum	Maximum	Minimum	Maximum
All Counties	\$1,707,269	1.33%	1.96%	(1.15)%	(1.47)%

32 States have prevailing wage laws.

There are a total of 32 states with prevailing wage laws, including Minnesota. From state to state the prevailing laws vary from types of construction, size of construction projects and methods of calculation. Table 5 illustrates the threshold amount for prevailing wage laws by state. There are 9 States that had prevailing wage laws but were repealed.

Prevailing wage determinations in the 32 states are made in one of 4 ways:

1. by adopting the federal prevailing wage determinations
2. by empowering a state official or officials to determine the rates,
3. by adopting collectively bargained rates,
4. by surveying to set prevailing wage rates (the method used by the federal government)¹¹

¹¹ *The Federal Davis-Bacon Act: A Prevailing Mismeasure of Wages*

Table 5: Threshold Amount for State Prevailing Wage Laws

State	Threshold Amount, \$
Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Utah and Virginia	No prevailing wage law
Connecticut, Delaware ^a , Indiana, Kentucky, Maryland, Nevada, Vermont and Wisconsin ^b	100,000 to 500,000
Arkansas, Maine, Minnesota ^c , Montana, New Mexico, Ohio ^d , Oregon, Pennsylvania, Tennessee and Wyoming	25,000 to 75,000
Alaska, California, Hawaii, New Jersey ^e and Rhode Island	1,000 to 2,000
Illinois, Massachusetts, Michigan, Missouri, Nebraska, New York, Texas, Washington ^f and West Virginia ^g	None
^a The threshold amount in Delaware begins at \$15,000 for remodeling. ^b State and Municipal contracts:\$21±6,000 where more than one trade is involved; \$44,000 where a single trade is involved, State highway contracts: none. ^c A \$2,500 threshold is applicable where a single trade is involved, ^d A \$20,955 threshold is applicable for remodeling. ^e A \$10,743 threshold is applicable if work is done for municipality. ^f A \$25,000 threshold is applicable for State college/university construction, per separate law. ^g A \$50,000 threshold is applicable for projects of the West Virginia Infrastructure and Jobs Development Council.	

Source: The Federal Davis-Bacon Act: A Prevailing Mismeasure of Wages

Table 6 is a comparison of prevailing wage calculation by State. States that use the “majority/average” method use the mode to set the prevailing wage as long as the mode represents a majority of reported wages. If the mode does not represent the majority, these states use an average of reported rates. States that use the “minimum percentage/average” method use the mode to set the prevailing wage rate if the mode represents a minimum percentage of reported rates (such as 30 percent), and use the average if it does not.

Nine states use the “majority/average” method to set their prevailing wage rates. Two of the nine states adopt DBA rates, which are based on the majority/average method. An additional five states use the “minimum percentage/average” method. They use the mode if it represents at least 30 to 50 percent of the reported rates. Otherwise, they use the average rate. One state (Maine) uses the mode if it represents a majority of reported rates and, if not, it uses the median.

Eight states do not use the mode at all. Two states use the average rate without first considering the mode. In addition, there are six states that use the rates from collective bargaining agreements. These states use union rates without whether the rates represent the mode.¹²

¹² The comparison of state methods for calculating prevailing wages was taken directly from the Office of the Legislative Auditor Report title Prevailing Wages February 2007.

Table 6: State Methods for Calculating Prevailing Wages Methods Using Mode

State	Collective Bargaining Agreement	Simple Mode	Minimum Percentage/Average ^a	Majority/Average ^b	Median	Average	Other
Alaska				x ^c			
Arkansas				x			
California		x					
Connecticut				x ^d			
Delaware				x			
Hawaii		x					
Illinois							x
Indiana		x					
Kentucky				x			
Maine					x		
Maryland			x ^e				
Massachusetts	x						
Michigan	x						
Minnesota		x					
Missouri		x					
Montana			x ^f				
Nebraska							x
Nevada			x ^e				
New Jersey	x						
New Mexico			x ^g				
New York	x						
Ohio	x						
Oregon				x			
Pennsylvania	x						
Rhode Island				x ^d			
Tennessee						x	
Texas							x
Vermont						x ^h	
Washington				x			
West Virginia							x
Wisconsin				x ⁱ			
Wyoming			x ^g				
Number of states	6	5	5	9	1	2	4

^aStates that use the “minimum percentage/average” method use the mode to set the prevailing wage rate if the mode represents a minimum percentage of reported rates and use an average if it does not.

^bUnder the “majority/average” method, a state uses the mode to set the prevailing wage as long as the mode represents a majority of reported wages. If the mode does not represent the majority, the state uses an average of reported rates.

^cAlaska calculates the average after excluding the top and bottom 5 percent of wages.

^dConnecticut and Rhode Island use the Davis-Bacon rates calculated by the federal government using a majority/average method.

^eIn Maryland and Nevada the mode must represent at least 40 percent of reported wages.

^fIn Montana, the mode must represent at least 50 percent of reported wages. The state uses Davis-Bacon wage determinations for highway and heavy construction.

^gIn New Mexico and Wyoming, the mode must represent at least 30 percent of reported wages.

^hVermont uses the average wage (excluding fringe benefits) from a survey that covers all construction workers.

ⁱWisconsin calculates the average based on the highest-paid 51 percent of hours worked in the trade or occupation.

Source: Office of the Legislative Auditor

The only comparable Greater MN Cities with a prevailing wage policy is St. Cloud.

Other Cities

Greater Minnesota cities of Austin, Faribault, Moorhead, Winona and Austin do not have a prevailing wage ordinance or policy. The City of Rochester does not have an ordinance or policy enforcing prevailing wages for locally funded projects. However, the City may require prevailing wage on large building projects such as the construction of a public works facility. According to Staff, the determination of application of prevailing wages to locally funded projects is a case by case basis.

The City of St. Cloud adopted a prevailing wage in 1987 as a method to ensure that public works projects and buildings are construction to the highest quality and laborers are paid a comparable wage. City Staff wanted to point out that since the adoption of the policy they have not experienced higher quality workmanship or improved timetables. According to the resolution, Davis-Bacon wage determinations are to be followed from projects valued at \$200,000 or above. However, the practice is to use the State wage determinations. The City may be revising their policy to reflect practice.

There are no known Minnesota cities that extend prevailing wage to economic development projects. Extension of prevailing wage to economic development projects is problematic as it is positioning the public sector to dictate what the private sector would pay for construction projects. Additionally, it is estimated that the cost of monitoring would be substantially higher because the contract monitor would not be working directly with the contractors.

KARE 11

Rick Kupchella, KARE 11 reporter, recently aired a two part series on KARE 11. The report exposed what Staff has determined from research - apparent two sides to the prevailing wage issue-proponents and opponents. The report cites examples within Greater Minnesota in which prevailing wage escalates labor costs. Kupchella indicated that one of the reasons may be the misclassification of positions through the data collection process.

The Reporter stated that unions argue that prevailing wage brings better quality work and more highly skilled workers. However, one contractor was quoted stating that he was paying the same people with or without the prevailing wage, so the work quality is the same. To further muddy the issue, the report quotes the author of the Legislative Auditor Report, John Yunker, as stating, "There is no connection, no relationship, between the prevailing wage requirements and the overall construction costs." In contrast, the Minnesota Taxpayers Association has reported that prevailing wage adds 7.4% to 10% to the total cost of public works projects. Some interviewed within the report indicated the law is working as it is intended and others content the law needs an overhaul.¹³

¹³As of May, 22, 2008, the KARE prevailing wage two part report can be found at <http://www.kare11.com/news/investigative/extras/>

Contractor Survey Summary

The City Council was presented with a proposal to adopt a prevailing wage ordinance at the February 25, 2008 Council Work Session by Union Representatives. In an effort to solicit feedback from contractors regarding the adoption of a prevailing wage ordinance, a survey was developed and sent to 92 contractors. This was a non-scientific survey. Fifty-nine contractors responded resulting in a 61% response rate.

61% of Contractors responded to our non-scientific survey.

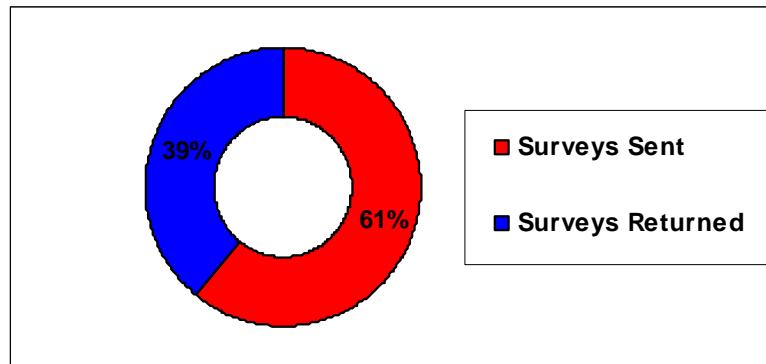


Chart 1: Contractor Response Rate

Of the respondents, over 50% were general building and road, utilities, paving and/or excavation contractors.

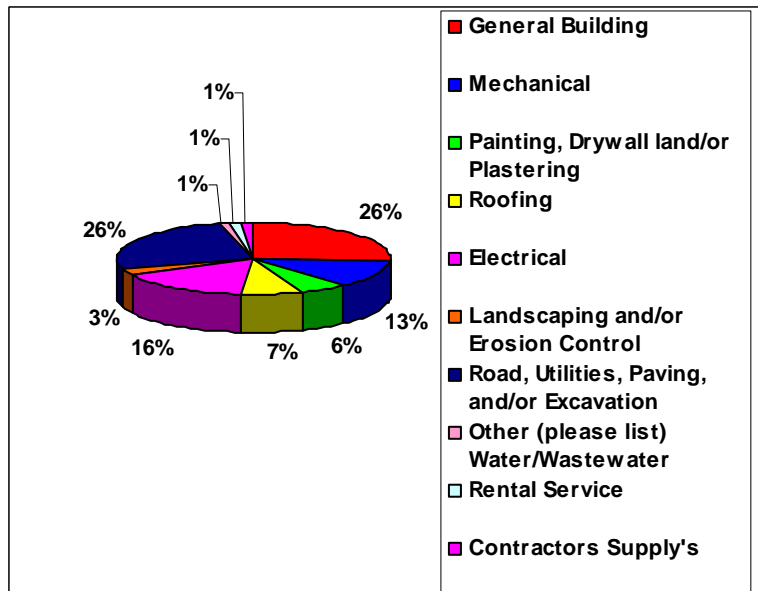


Chart 2: Question: Type of Service Provided

Contractors were asked what impact (if any) would a prevailing wage ordinance will have on bid costs. The most common response answer was increase bid cost by 10-15% and the second most common response was no impact.

29% of contractors stated prevailing wage would increase bid cost by 10-15% 27% stated it would have no impact.

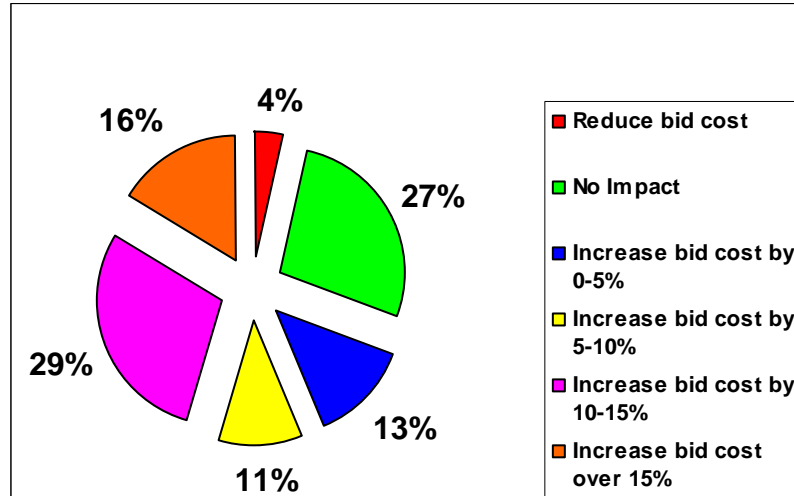


Chart 3: Question: What impact will a prevailing wage ordinance have on bid cost?

As shown in Chart 4, 42% of respondents indicated that over 75% of their employees are paid at \$20.80 per hour (not including benefits).

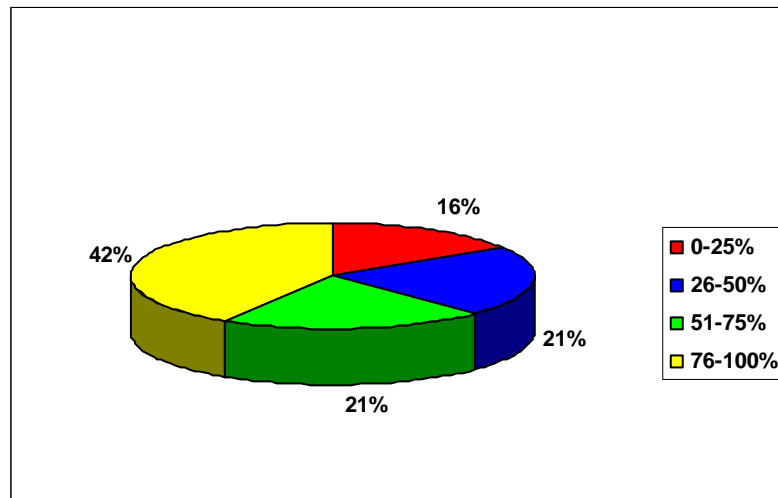


Chart 4: Percentage of Employment Base Paid \$20.80/hr or above (not including benefits)

Fifty-one percent respondents indicated that \$20.80 per hour (not including benefits) is not an accurate average hourly rate of pay for this region. The \$20.80 per hour wage was obtained from Minnesota Department of

Employment and Economic Development (DEED). Within Davis-Bacon and MN prevailing wage determinations there are multiple job classifications, the DEED per hour wage is an average of all classifications. It should be noted that Contractors are not required to pay the DEED rate. The DEED rate of \$20.80 per hour is the statistical average for construction within Region 9.

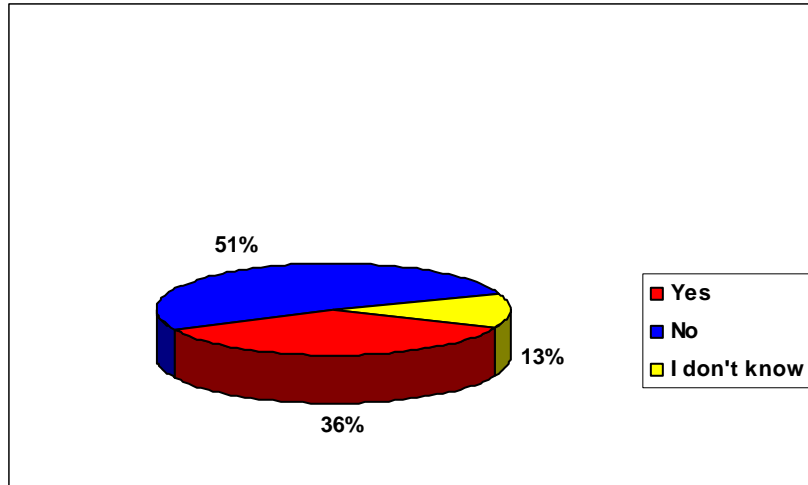


Chart 5: Do you believe that the average hourly rate of \$20.80 (not including benefits) is an accurate average hourly rate of pay for this region?

The majority of contractors stated that prevailing wage would be burdensome.

The majority of contractors indicated that it would be burdensome to report wages on a scheduled basis if a prevailing wage policy is adopted.

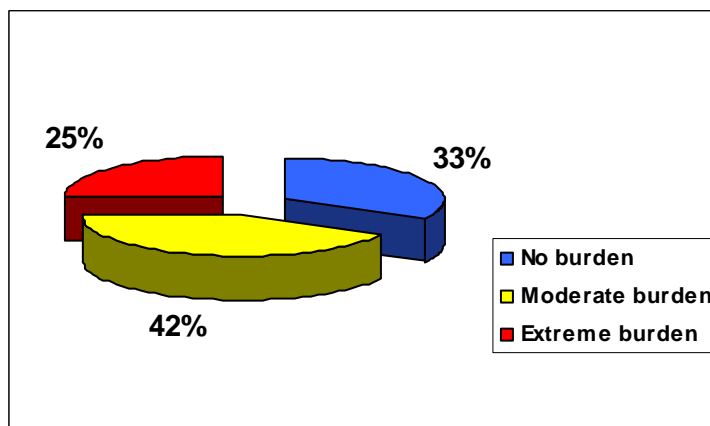
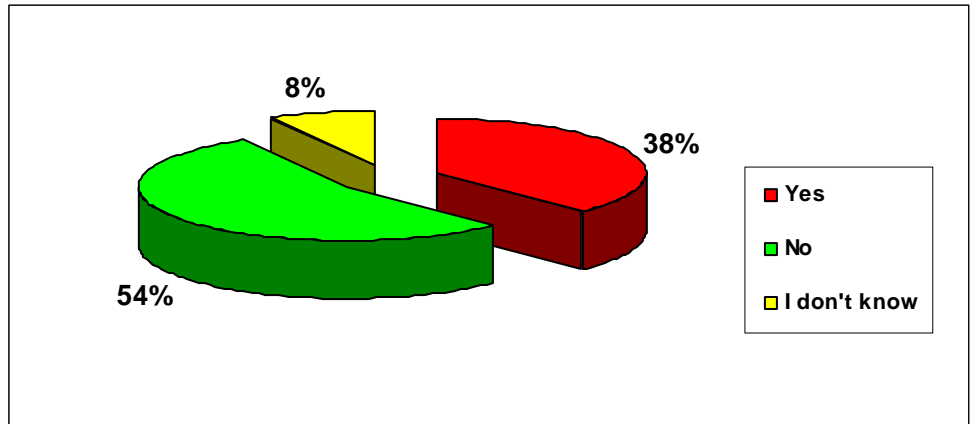


Chart 6: If a prevailing wage ordinance is adopted, contractors may be required to report wages on a scheduled basis. Indicate the level of burden this requirement will have on your business.

The majority of respondents indicated that the City should not adopt a prevailing wage ordinance.



The majority of contractors indicated that the city should not adopt a prevailing wage.

Chart 7: Do you believe that Mankato should adopt a prevailing wage ordinance?

If a prevailing wage ordinance is adopted, then 22% of respondents indicated that a project threshold level of \$100,000 to \$499,999 should be adopted.

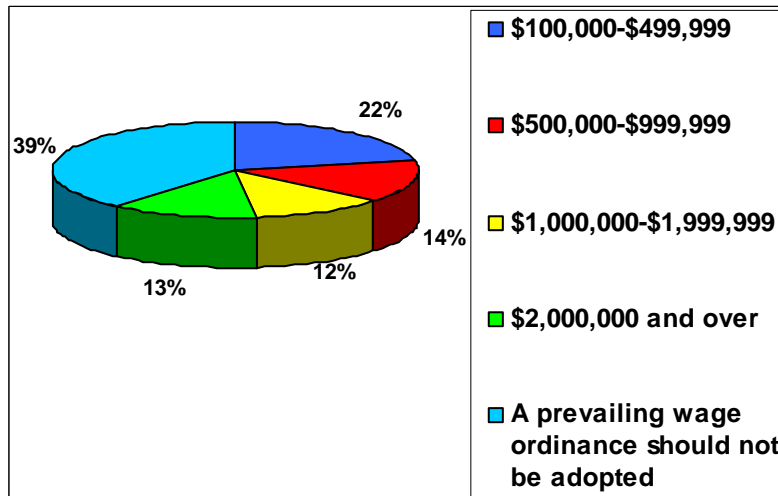


Chart 8: If the City of Mankato were to adopt a prevailing wage ordinance, please indicate the bid cost that you believe should reflect prevailing wages.

Impact of Prevailing Wage on City of Mankato Budget

A prevailing wage policy would have an \$860,000-987,000 (minimum) budget impact for 2009.

Tables 7, 8, and 9 calculate the estimated fiscal impact of a prevailing wage policy. According to research, it can not be fully determine what fiscal impact a prevailing wage policy will have on the budget. Some research, such as the Minnesota Taxpayers Association, indicates a 7.4% to 10% project cost increase. For the purpose of this analysis, a 3% project increase for road and excavation and 7% for general construction was used. A lower percent for road and excavation was used because those projects are typically more equipment intensive than personnel in comparison to general construction projects.

It is known that there will be monitoring costs incurred with the adoption of a prevailing wage policy. It is estimated that monitoring cost will be \$5,000 (minimum) per project. The cost of monitoring will result in additional staff; possibly an additional full-time position.

Table 7: City of Mankato Capital Improvement Projects and Fiscal Impact of Prevailing Wage with Project Threshold of \$1,500,000 for road and excavation and \$750,000 for general construction

Project-General Construction	# of Projects Not Subject to Federal/State Prevailing Wage/\$5,000 per project monitoring	Current Estimated Project Cost (not including projects with State or Federal Funds)	Estimated Project w/ Estimated Prevailing Wage Impact of 7%
2008	2/10,000	9,000,000	9,630,000
2009	2/10,000	9,500,000	9,665,000
2010	3/15,000	13,300,000	14,231,000
2011	0	0	0
2012	0	0	0
Total	7/35,000	31,800,000	33,526,000
Project-Streets	# of Projects Not Subject to Federal/State Prevailing Wage/\$5,000 per project monitoring	Current Estimated Project Cost (not including projects with State or Federal Funds)	Estimated Project w/ Estimated Prevailing Wage Impact of 3%
2008	0	0	0
2009	0	0	0
2010	0	0	0
2011	1/5,000	2,646,518	2,725,913
2012	0	0	0
Total	1/5,000	2,646,518	2,725,913

Estimate Annual Budget Impact w/Monitoring Cost

2008	2009	2010	2011	2012
640,000	175,000	946,000	84,395	0

Table 8: City of Mankato Capital Improvement Projects and Fiscal Impact of Prevailing Wage with Project Threshold of \$1,000,000 for road and excavation and \$500,000 for general construction

Project- General Construction	# of Projects Not Subject to Federal/State Prevailing Wage/\$5,000 per project monitoring	Current Estimated Project Cost (not including projects with State or Federal Funds	Estimated Project w/ Estimated Prevailing Wage Impact of 7%
2008	2/10,000	9,000,000	9,630,000
2009	4/20,000	10,626,000	11,369,820
2010	5/25,000	13,300,000	14,231,000
2011	2/10,000	1,000,000	1,070,000
2012	0	0	0
Total	13/65,000	33,426,000	35,765,820
Project- Streets	# of Projects Not Subject to Federal/State Prevailing Wage/\$5,000 per project monitoring	Current Estimated Project Cost (not including projects with State or Federal Funds	Estimated Project w/ Estimated Prevailing Wage Impact of 3%
2008	2/10,000	2,715,712	2,797,183
2009	3/15,000	2,697,489	2,778,413
2010	1/5,000	1,162,992	1,197,881
2011	2/10,000	4,089,927	4,212,624
2012	0	0	0
Total	8/40,000	11,746,056	10,986,101

Estimate Annual Budget Impact w/Monitoring Cost

2008	2009	2010	2011	2012
731,471	860,291	995,889	212,697	0

Table 9: City of Mankato Capital Improvement Projects and Fiscal Impact of Prevailing Wage with Project Threshold of \$750,000 for road and excavation and \$250,000 for general construction

Project- General Construction	# of Projects Not Subject to Federal/State Prevailing Wage/\$5,000 per project monitoring	Current Estimated Project Cost (not including projects with State or Federal Funds)	Estimated Project w/ Estimated Prevailing Wage Impact of 7%
2008	3/15,000	9,400,000	9,658,000
2009	7/35,000	11,738,300	12,559,981
2010	6/30,000	13,550,000	14,498,500
2011	3/15,000	1,300,000	1,391,000
2012	1/5,000	300,000	321,000
Total	20/1,000,000	35,788,300	37,893,481
Project- Streets	# of Projects Not Subject to Federal/State Prevailing Wage/\$5,000 per project monitoring	Current Estimated Project Cost (not including projects with State or Federal Funds)	Estimated Project w/ Estimated Prevailing Wage Impact of 3%
2008	3/15,000	4,645,462	4,784,825
2009	5/25,000	3,540,012	3,646,212
2010	3/15,000	2,833,845	2,918,860
2011	3/15,000	5,017,289	5,167,807
2012	3/15,000	2,592,883	2,670,669
Total	17/85,000	18,629,491	19,188,373

Estimate Annual Budget Impact w/Monitoring Cost

2008	2009	2010	2011	2012
427,363	987,881	1,078,015	271,518	118,786

Table 10: Prevailing Wage Estimated Budget Impact Summary

Threshold	2008	2009	2010	2011	2012
1,500,000 Streets/1,000,000 General Construction	731,471	860,291	995,889	212,697	0
1,000,000 Streets/500,000 General Construction	731,471	860,291	995,889	212,697	0
750,00 Streets/250,000 General Construction	427,363	987,881	1,078,015	271,518	118,786

Conclusions and Recommendations

Conclusion: The adoption of a prevailing wage policy will have an impact on the budget. Through research it has been determined that a prevailing will increase project cost. Staff were unable to determine the exact percentage of increase; however, the estimated increase in project cost of 7% has been used for general construction and 3% for streets. A lower percentage was used for streets project calculations because they are typically less manpower intensive compared to general construction projects. The Minnesota Taxpayer Association report determined that prevailing wage increases project cost 7.4% to 10%. In addition to the increase in project cost, there will be staff cost incurred for monitoring.

Conclusion: Research has indicated that there are flaws with the Davis-Bacon and MN Prevailing wage determinations. The most apparent flaw is the low response rate. The Minnesota Taxpayer Association has concluded that the DEED quarterly survey should be updated to determine prevailing wage. Staff are unable to conclude what is the recommended wage determination method at this time.

Conclusion: The Union presented the City Council with a proposal to adopt a prevailing wage ordinance at the February 25, 2008 Council Work Session. According to our non-scientific survey, the majority of Contractors report that they do not want a prevailing wage ordinance.

Conclusion: We believe that the cost of monitoring the prevailing wage ordinance to be \$5,000 per project. This will have a direct impact on the budget and will require additional personnel. Dependent upon the threshold level, it may require the addition of a full-time position.

Conclusion: It is inconclusive if workmanship or project time tables are improved if prevailing wages are applied to a project. Our experience is

“quality contractor equals quality work”. There are quality union and non-union contractors. The quality contractors typically have training programs as part of general operations of the company. This may include apprenticeships. It should be noted that typically the number of apprentice or helper positions allowed on a job site are commonly negotiated by Unions. An Incentive Grant may be available through the Southern Minnesota Initiative Foundation for development of a program to training non-college bound youth in the building trades. This Grant is typically awarded only for start-up/planning efforts up to \$20,000 and stresses partnerships between organizations.

Conclusion: The KARE 11 extra report on prevailing wage illustrates that there are two distinct sides on the prevailing wage issue. Some individuals interviewed state that the prevailing wage system is broken and others believe it works just as it is intended.

Conclusion: St. Cloud is the only comparable Greater Minnesota City with a prevailing wage policy. There are no known cities with prevailing wage policies that extend to economic development projects. Extending a prevailing wage policy to include economic develop is viewed as problematic.

Recommendation: If the Council determines to adopt a prevailing wage policy, Staff recommend that the Council adopt a two year prevailing wage monitoring period. During this time under Council determined project thresholds and prevailing wage determinations, Staff would work with a contract monitor on selected general construction and street projects to include prevailing wage in bid specs and monitor projects. At the conclusion of the two year period, Staff would report to Council comparing prevailing wage project to non-prevailing wage projects. Within the report, Staff would include an evaluation of workmanship, project completion schedule, impact of bid cost, monitoring procedures and survey of wages (including fringe benefits). The monitoring period will have a budget impact. It is not recommended that a

prevailing wage policy include economic development projects. Most cities do not extend prevailing wage policies to economic development projects as it is view to be a conflict with the private sector.