

Vermont's Prevailing Wage: Background Information

House Appropriations Committee

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Outline of talk

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Part 2: What are Davis-Bacon wage rates?

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Part 1: What is the State Prevailing Wage?

The State Prevailing Wage applies to construction projects in Vermont funded through the “Capital Construction Act.”



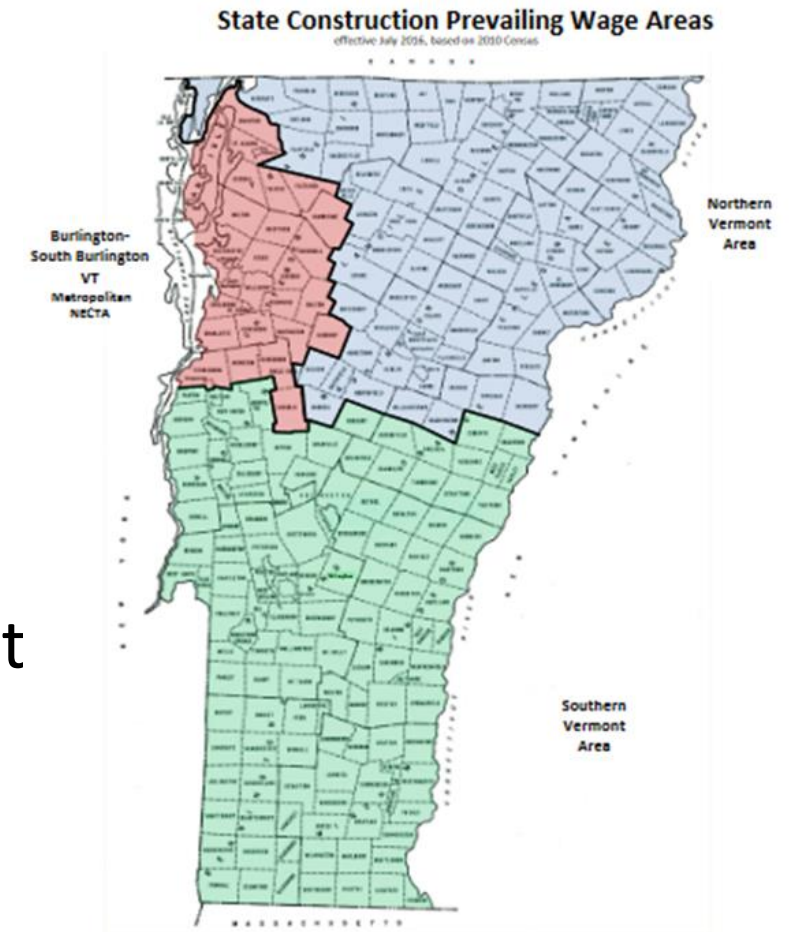
The State Prevailing Wage requirement today

- All employees working on construction projects, as defined below, shall be paid no less than
 - the mean (average) prevailing wage determined by the Vermont Department of Labor plus
 - 42.5 percent Fringe Benefit component (payable in benefits or wages).
- Definition of construction project: Any project authorized or funded, in whole or part, by the State of Vermont "Capital Construction Act," 29 V.S.A. Section 161(b), and
 - which costs more than \$100,000 or
 - is at least 50% funded by this Act and costs more than \$200,000



Vermont has three Prevailing Wage areas

- The State Prevailing Wage may differ by occupation across three geographic areas
 - Burlington-South Burlington Metropolitan New England City and Town Area (NECTA)
 - Southern Vermont Area
 - Northern Vermont Area
- Registered apprentices may be paid a wage that is a percentage of the prevailing wage for the apprenticed occupation



Vermont Department of Labor, Economic and Labor Market Information Division



The State Prevailing Wage rates are published each year

- The Vermont Department of Labor issues an annual report:
 - <http://www.vtlmi.info/Vermont-State-Construction-Prevailing-Wage-Rate-Schedule-2021.pdf>
- Today's mean prevailing wage rates are effective July 1, 2021 – June 30, 2022 and were established in 2016.
- The current Vermont Prevailing Wage rates are based on 2020 Occupational Employment and Wage Survey estimates.
 - They will be updated July 1, 2022 using 2021 Occupational Employment and Wage Survey estimates.



Selected Vermont Prevailing Wage Rates, July 1, 2021 - June 30, 2022

| Occupation Code | Occupation Title | Burl-So.Burl \$/hr. | So. Vermont \$/hr. | No. Vermont \$/hr. |
|-----------------|--|------------------------|-----------------------|-----------------------|
| 47-2061 | Construction Laborers | 19.36 | 18.21 | 18.22 |
| 49-9051 | Electrical Power-Line Installers and Repairers | 42.24 | 42.30 | 40.10 |
| 47-3012 | Helpers--Carpenters | 17.06 | 16.07 | 16.94 |
| 47-2231 | Solar Photovoltaic Installers | 23.08 | 23.08 | 23.08 |
| 17-1022 | Surveyors | 30.34 | 41.87 | 23.67 |

Note: Fringe benefits (or cash) of 42.5 percent of wage rate are required as well.

Source: Vermont Dept. of Labor, Vermont State Construction Prevailing Wage Rate Schedule 2021.



Part 2: What are Davis-Bacon wage rates?

Davis-Bacon wages generally apply to federally-funded projects.



The Davis-Bacon Act applies to federal government projects

- The Davis-Bacon Act applies to each federal government contract in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.
 - Many federal laws that authorize federal assistance for construction through grants, loans, loan guarantees, and insurance are Davis-Bacon “related Acts.”
- Davis-Bacon takes precedence over the State Prevailing Wage if both apply to a project.
- The Davis-Bacon "prevailing wage" is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination.
 - The contractor’s obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits.



Examples of Davis-Bacon wages in Vermont

- The particular wage rate can be a union rate (current union negotiated rate for local workers), a survey rate (weighted average rate), or a union average rate (weighted union average rate).
- Here are some contract rates for Vermont, published Jan. 7, 2022:
- Chittenden County, multi-family building construction project
 - Electrician: \$26.10 rate plus 9.25% + \$7.70 fringes (union rate)
 - Laborer, common or general: \$13.11 plus \$3.52 fringes (survey rate)
- Bennington County, building construction project
 - Carpenter: \$32.39 plus \$23.43 fringes (union rate)
 - Plumber: \$24.04 plus \$8.25 fringes (survey rate)



Note that projects funded only through ARPA are explicitly **not** subject to Davis-Bacon wages

- FAQs released by the U.S. Treasury regarding the State and Local Fiscal Recovery Programs for ARPA are clear:
- “The Davis-Bacon Act requirements do not apply to projects funded solely with award funds from the Coronavirus State and Local Fiscal Recovery Funds (CSFRRF/CLFRRF) program.”
- Projects may be subject to Davis-Bacon when CSFRRF/CLFRRF award funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act.



Part 3: How do adjacent states handle prevailing wages?

New Hampshire does not use a prevailing wage, but New York and Massachusetts do.



Prevailing Wage in adjacent states

- NH remains the only state in New England that does not require prevailing wage on state-funded projects, and one of 24 states nationally without a statewide prevailing wage law.
 - In July 2019, New Hampshire Gov. Sununu vetoed legislation that would have imposed prevailing wage requirements on state projects for the first time since the law was repealed in 1985.
- NY State sets its prevailing wage by class of worker and county, with many counties lumped together using the same prevailing wage.
- Massachusetts prevailing wage rates must be paid by contractors who register with the State for a State-funded project in a specified location.



Part 4: What is the Pearson amendment to the BAA ?

The Pearson amendment requires the State Prevailing Wage be paid to workers on construction projects funded with ARPA money of \$200,000 or more.



The Pearson amendment to the BAA

- All construction employees working on maintenance, construction, or improvement projects that receive \$200,000 or more funded by the American Rescue Plan Act (ARPA) must be paid the mean State Prevailing Wage plus an additional fringe benefit of 42.5 percent of the wage.
- The State Prevailing wage requirement would not apply to a project that has been invited or advertised for bid, is under contract, or already has obligated funds as of the effective date of the act.
- JFO is unable to estimate a fiscal impact for the amendment because of data constraints and unknown ARPA funding for construction projects going forward.



Considerations for lawmakers

- The most recent State Prevailing Wage is based on 2020 wage data from the Occupational Employment Survey and apply until July 1, 2022.
 - Tight labor market conditions make it unlikely that wages are below the State Prevailing Wage based on 2020 wage data.
- 29 VSA 161 already requires benefits of 42.5 percent when the contract is \$200,000 or more and at least 50 percent funded through the Capital Bill or for State-funded projects that exceed \$100,000.
- Until future projects are defined, it's not possible to know whether requiring the State Prevailing Wage would affect the cost.
- If the administrative burden is kept low by applying no enforcement mechanism, workers would have to come forward with claims of under-payment to benefit from the Amendment.
- See JFO Fiscal Note: https://ljfo.vermont.gov/assets/Publications/House-Bills/88589db9f9/H_679_Fiscal_Note_prevaling_wage_amendment-v2.pdf



Thank you!

