

PREVAILING WAGE LAW: Construction work done by a public body upon public works comes within the purview of the Prevailing Wage law, regardless of the source of the funds used in such work, and, conversely, where work is not done by a public body it does not come within the purview of the Prevailing Wage law.



December 17, 1958

Mr. Charles E. Cates
Commissioner
Industrial Commission of Missouri
State Office Building
Jefferson City, Missouri

Dear Mr. Cates:

This will acknowledge receipt of your recent request for an official opinion of this office under date of November 17, 1958. Your letter reads:

"Recently I have been asked some questions pertaining to hospital construction and I would like an opinion of whether or not a hospital not being constructed by State Funds, but being constructed by both public subscription and funds under the Hill-Burton Act, would come under the Missouri Prevailing Wage Law."

Subsequent to our receiving your request, you have informed us that you would like to have an opinion based upon the assumption of two sets of facts. One of these is a situation in which the employing agency is the state or any political subdivision thereof, and one in which the employing agency is a group of private individuals.

The policy of the state with respect to the Prevailing Wage law is set forth in Sections 290.220 and 290.230, RSMo, Cum. Supp. 1957. These sections read:

Section 290.220.

"It is hereby declared to be the policy of the state of Missouri that a wage of no less than the prevailing hourly rate

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of wages for work of a similar character in the locality in which the work is performed shall be paid to all workmen employed by or on behalf of any public body engaged in public works exclusive of maintenance work."

Section 290.230.

"1. Not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work, shall be paid to all workmen employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work. Only such workmen as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job shall be deemed to be employed upon public works.

"2. When the hauling of materials or equipment includes some phase of construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed employed directly on public works."

From the above, it will be noted that this law applies only in situations where a public body is engaged in public works. These two terms, "public body" and "public works," are defined in numbered paragraphs 6 and 7 of Section 290.210, RSMo, Cum. Supp. 1957, and read:

"(6) 'Public body' means the state of Missouri or any officer, board or commission of the state, or other political subdivision;

"(7) 'Public works' means all fixed works constructed for public use except work done directly by any public utility company pursuant to order of the public service commission or other public authority whether

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or not done under public supervision or direction or paid for wholly or in part out of public funds; it does not include any work done for or by any drainage or levee district."

It will be noted that a "public body" means the state or any political subdivision thereof. If the hospital in question is being built by a political subdivision, then the operation would come under the Prevailing Wage law.

If, on the other hand, this is not a project by a political subdivision, but is purely private, then it would not come under the Prevailing Wage law because the operation would not be by a "public body" as that term is defined in numbered paragraph 6, supra, and only public works constructed by a public body come within the purview of the law.

CONCLUSION

It is the opinion of this department that construction work done by a public body upon public works comes within the purview of the Prevailing Wage law, regardless of the source of the funds used in such work, and, conversely, that where the work is not done by a public body it does not come within the purview of the Prevailing Wage law.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

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