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PREVAILING WAGE LAW CLARIFICATION

Date Issued: December 1, 2015

It has recently come to the attention of the Division of Labor Standards that there may not be a general understanding regarding the appropriate calculation of fringe benefits due to apprentices covered by the Prevailing Wage Law, §§ 290.210-290.340, RSMo. In order to clarify the correct application of the law in this situation, the Division issues this statement.

The provision governing the application of the Prevailing Wage Law to apprentices is 8 C.S.R. 30-3.030(2), which states in relevant part:

Every apprentice shall be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate for the class or type of worker specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices shall be paid the full amount of fringe benefits listed on the wage determination for the applicable class or type of work performed.

The first of these sentences provides that the cash portion of the prevailing wage that is due to a registered apprentice in an approved plan (and working within an authorized apprentice/journeyman ratio) is determined by multiplying the applicable prevailing wage rate by the apprentice's level of progress percentage. The last of these sentences provides that, if fringes are not addressed in the apprenticeship program, full fringes (100%) are to be paid. And under the second sentence, when an apprenticeship program does address the affect on fringe benefits of a person's participation in the program, fringes are also to be adjusted by the participant's level of progress percentage.

The second and third sentences establish an "on/off" standard for determining the amount of fringes due apprentices on prevailing wage projects. If the apprenticeship program does provide that fringes are to be paid at less than the full journeyman level, then the level of progress percentage applied to the cash wage portion of the applicable prevailing wage is also to be applied to the fringe portion of the prevailing wage. If the program does not address fringes, then the level of progress percentage is not applied and 100% of the fringes called for by the applicable wage order is due to the apprentice.

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PREVAILING WAGE LAW CLARIFICATION

Page 2

For example, suppose the prevailing wage for a particular occupational title in a county is \$30.00 per hour in basic hourly rate plus \$10.00 per hour in total fringe benefits. Further suppose that an apprenticeship program covering apprentices working within this occupational title has nine levels of progress calling for wages rising in 10 % increments from 50% to 90% of journeyman wages. Finally suppose that the apprenticeship program does not address fringe benefits at all. In this case, the Prevailing Wage Law and 8 C.S.R. 30-3.030(2) would require the apprentice working on a public construction project to be paid a cash wage determined by multiplying his or her particular level of progress percentage by the cash portion (basic hourly rate) of the applicable prevailing wage (\$30.00 per hour in this example) plus the full amount of the fringe portion of the prevailing wage (\$10 per hour in this example). So, if the apprentice at issue is at the 70% level of progress, she would need to be paid an amount per hour equal to 70% of \$30.00, plus an additional \$10.00, or \$31.00 per hour. Or, expressed as an equation: $(.7 \times 30.00) + 10.00 = 31.00$. (Under § 290.210(8), RSMo, a contractor's obligation to pay prevailing wage rates may be met by making payments in cash, by providing fringe benefits, or by providing any combination of cash and fringes, where the aggregate of the cash and fringes is not less than the applicable prevailing wage rate.)

To illustrate with another example, suppose the same facts as above, except the apprenticeship standards do address fringe benefits and provide for fringes at some level less than the full rate due to journeymen (by providing for a percentage of fringes, a flat amount of fringes, or any other calculation). In this example, the Prevailing Wage Law and 8 C.S.R. 30-3.030(2) would require the apprentice to be paid a cash wage determined by multiplying his or her particular level of progress percentage by both the cash portion (basic hourly rate) of the applicable prevailing wage (\$30.00 per hour in this example) and the fringe portion (\$10 per hour in this example). So, if the apprentice at issue is at the 70% level of progress, he would need to be paid an amount per hour equal to 70% of \$30.00, plus an additional 70% of \$10.00, or \$28.00 per hour. Or to express this as an equation: $(.7 \times 30.00) + (.7 \times 10) = 28.00$. A bit more simply, the same result can be obtained by this equation: $.7 \times (30.00 + 10.00) = 28.00$.

If further information is needed, please contact a representative of the Division by calling 573-751-3403, or by e-mailing a message to laborstandards@labor.mo.gov.

ADDENDUM

Date Issued: April 25, 2016

Due to previously existing confusion regarding the appropriate manner of calculating the required fringe benefits to pay apprentices under the Prevailing Wage Law, if the prevailing wage rate for a particular occupational title in a particular county has been established by a collective bargaining agreement in effect on December 1, 2015, then apprentices may be paid fringe benefits as set out in that collective bargaining agreement through that agreement's expiration date.