



# FAQ FOR WORKERS ON PWR PROJECTS

## Best Practices While Working on a Prevailing Wage Rate Project:

- ✓ Public works projects typically have a project name given to it by the contracting public agency. In case an issue arises later, it is a good practice to know the name of the project you are working on and the public agency that contracted the work.
- ✓ Find where on the project site your employer posted the prevailing wage rates and (if applicable) your company's fringe benefit information.
- ✓ Keep track and maintain your own record of all hours you worked on the project, especially the time spent doing work in different classifications.
- ✓ With your payment of wages, employers are required to provide you an earnings statement (pay stub) that reports all of your hours worked, rates of pay, and itemized deductions. Make sure that all your hours, rates, and deductions are reported correctly.
- ✓ Follow up with the fringe benefit program you are enrolled in regularly to ensure payments are being made at least quarterly.

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**Q: What is the Prevailing Wage Rate (PWR)?**

**A:** The Prevailing Wage Rate (PWR) is the minimum hourly wage rate, including all fringe benefits, that must be paid for covered work duties performed on public works projects subject to PWR laws. BOLI classifies these typical duties to a “trade” or “occupation” (ex. Plumber, Carpenter, Roofer, etc.) and each job classification has its own prevailing wage rate.

The prevailing wage for each classification includes an hourly Base Rate and an hourly Fringe Rate, and it is the combination of these two amounts that must be paid to the worker.

Generally, the prevailing wage rates for Oregon public works projects vary depending on 1) the type of work performed, 2) the county in which the work is performed, and 3) the date when the public agency first advertised the project. That means it is possible that you could work on two prevailing wage projects in the same day and have two different prevailing wage rates for the same classification of work.

**Q: How do I know if the project I am working on is subject to prevailing wage rate laws?**

**A:** While a project might meet the definition of a public works project, not all public works are subject to PWR laws. For example, if the total project cost is under \$50,000 or if the project does not use funds of a public agency, then the project might not be subject to PWR laws.

Your employer should be able to inform you about whether or not the work you are performing is subject to PWR laws. Additionally, the law requires employers to post the prevailing wage rates in a conspicuous place on the project and submit certified payroll for all work on covered projects to the contracting public agency.

If you think the project you are working on is subject to PWR laws and you are not being paid as such, you can call the PWR Unit at (971) 673-0839 and BOLI will try to determine for you if the project is a public works.

**Q: Does my employer have to pay me the fringe rate?**

**A:** The prevailing wage rate consists of **both** the hourly Base and Fringe Rates. An employer may 1) pay the entire Fringe Rate in wages, 2) take a full credit for the Fringe Rate for contributions to employee benefit programs (e.g., health insurance, pension/retirement, paid time off, apprenticeship/training), or 3) take a partial credit for the Fringe Rate for contributions to employee benefit programs and pay the remaining amount as wages.

**Q: What are fringe benefits?**

**A:** Examples of fringe benefit programs include health and welfare plans, vacation plan, some pension plans, and apprenticeship training. Employers may claim a credit against the hourly Fringe Rate for these bona fide fringe benefits they provide to employees.

Safety training, drug testing, state industry council contributions, trade promotion funds, equipment costs, travel pay, per diem payments, workers' compensation insurance **do not** qualify as fringe benefits.

Oregon law requires some employers to provide paid sick leave. When paid sick leave is required by law, the hours required by law will not qualify for a fringe credit.

**Q: I worked over 8 hours in a day last week but only 35 hours total during the week. Am I owed daily overtime or only weekly overtime?**

**A:** Generally, on projects subject to the PWR law, overtime is due on a daily basis, after 8 hours per day, Monday through Friday. This is the case even if you have not worked 40 hours in the work week.

However, if an employer establishes and maintains a "four-ten" schedule (ten hours on four consecutive days, either Monday through Thursday or Tuesday through Friday) overtime may not be due until after 10 hours per day. If an established four-ten schedule is not maintained, overtime will be owed for all hours worked over 8 per day that week. The "four-ten" schedule applies to ALL work (both prevailing and private) performed for an employer.

*\*\*The only exemptions to the daily overtime requirement are if your work is performed on a public university contract or if your employer is party to a collective bargaining agreement with a union that has different overtime requirements. If there is a bargaining agreement, its provisions will govern and the PWR law's overtime rules will not apply.\*\**

**Q: How do I determine my overtime rate of pay?**

**A:** Overtime = (the hourly base rate x 1.5) + the hourly fringe rate

If premium pay (such as shift differential, hazard pay, or zone pay) is required, that amount is added to the base rate:

Overtime = ((premium pay + hourly base rate)) x 1.5) + hourly fringe rate

If you earn more than one wage rate, then your employer must pay you at least 1.5 times the weighted average of the rates earned for the applicable daily or weekly overtime.

**Q: Does my employer have to pay me overtime on weekends and holidays?**

**A:** Yes, on public works projects, workers must be paid overtime for all hours worked on Saturdays, Sundays, six legal holidays, and for hours worked over 40 in a week. If one of the legal holidays falls on a Saturday or Sunday, the preceding Friday or Monday becomes the recognized holiday and all hours worked on that day on a PWR project must be paid at an overtime rate.

**Legal Holidays**

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

*\*\*The only exemptions to the daily overtime requirement are if your work is performed on a public university contract or if your employer is party to a collective bargaining agreement with a union that has different overtime requirements. If there is a bargaining agreement, its provisions will govern and the PWR law's overtime rules will not apply.\*\**

**Q: My employer scheduled me to work 5 hours on a prevailing wage project in the morning and then another 5 hours on a different project in the afternoon. Am I owed daily overtime?**

**A:** Maybe. Generally, if you work on multiple prevailing wage projects in the same day, then you are due daily overtime after 8 hours per day, Monday through Friday, or after 10 hours if you work on an established four-ten schedule.

However, if the 5 hours of work in the afternoon was on a private project not subject to PWR laws, then the daily overtime is not required by law.

*\*\*The only exemptions to the daily overtime requirement are if your work is performed on a public university contract or if your employer is party to a collective bargaining agreement with a union that has different overtime requirements. If there is a bargaining agreement, its provisions will govern and the PWR law's overtime rules will not apply.\*\**

**Q: How do I determine what my rate of pay is on a prevailing wage project?**

**A:** Your employer is required to post the applicable prevailing wage rates on the project site where you can readily access the information. ALL contractors and subcontractors are required to comply with this law.

If you want to verify that the posted rates are correct, you can call the PWR Unit at (971) 673-0839.

**Q: My employer considers me a laborer, but my job duties regularly involve operating power equipment and installing drywall. Can my employer pay me as laborer for these tasks?**

**A:** It is the work you do on the public works project, not the title or qualifications your employer assigns you, that determines your applicable classification and prevailing wage rate. BOLI's [Definitions of Covered Occupation so for Public Works Contracts in Oregon](#) is the appropriate source for determining the correct classification for work duties performed on a public works project.

If you have questions regarding whether or not you are receiving the appropriate prevailing wage rate for a task you are performing on a public works project, you can review the [Definitions](#) on BOLI's website or you can call the PWR Unit at (971) 673-0839 for assistance.

If you perform more than one classification of work, than you must be paid at least the applicable prevailing wage rate for the time spent working in each classification. While it is the employer's responsibility to track separately the hours spent by each employee doing each classification, it is a good idea for all employees to keep their own record of hours worked.

**Q: I'm a union member and work for a union contractor. Am I exempt from prevailing wage laws?**

**A:** Union members are not exempt from receiving at least the prevailing wage rate for the work performed on a PWR project. However, provisions regarding overtime, breaks, and travel pay within collective bargaining agreements may supersede the PWR requirements.

**Q: What is Davis Bacon?**

**A:** The Davis-Bacon Act, as amended, and its related acts refer to the requirement to pay the prevailing wage rate for work on public works projects that receive federal funding. The prevailing wage rates determined by the U.S. Department of Labor apply for such projects.

For projects that are subject to both state and federal PWR laws, workers must receive the higher of the two published rates for the work performed on the project.

If you believe that you were not paid the prevailing wage rate for work on a project that is subject to ONLY the federal Davis Bacon Act, you must contact the [U.S. Department of Labor](#) regarding filing a complaint and claim.

**Q: How do I file a complaint for work on an Oregon prevailing wage project?**

**A:** Print and return the [Prevailing Wage Rate Complaint Form \(WH-168\)](#). If you have a claim for unpaid prevailing wages, overtime, or fringe benefits, you MUST complete the [Wage Claim Form](#). These forms are also available for pick up and return at BOLI's Portland, Salem, and Eugene offices.

Please include copies (do **not** send originals) of all supporting evidence available to you, including earnings statements, timecards, schedules, and anything else that supports your claim such as pictures, personal calendars, and witness statements.

**Q: Does my employer have to pay me a prevailing wage for my drive time to the prevailing wage project?**

**A:** Generally, ordinary home-to-work and work-to-home travel is unpaid time.

Employees are due prevailing wages for travel time when they are traveling between the public work's project site of work and another dedicated site for the project. An employer must pay you for any other travel time that is considered compensable by law at an agreed rate that is at least the minimum wage. The same rule applies to shop time.

If work such as travel time or shop time is both 1) compensable by law and 2) related to a public works project, an employer must count these travel time and shop time hours toward daily overtime. For example, if a worker on a "five-eight" schedule works the following hours during one day:

Drive time from shop to PWR project – ½ **hour**  
 Work on PWR project – **8 hours**  
 Drive time from PWR project to shop – ½ **hour**  
 Work in shop related to PWR project – **1 hour**

This employee worked 10 hours this day, and all the work is related to the public contract for the PWR project. Therefore, the employee is due two hours of overtime at the daily weighted average rate. The drive time and shop hours can be paid at an agreed rate rather than at a prevailing wage rate, as the hours are not worked on the PWR project site. However, in this example, both drive time and shop hours count toward daily overtime.

**Q: Does my employer have to pay me a per diem for work on a prevailing wage project?**

**A:** PWR law does not require an employer to pay employees per diem on a prevailing wage rate project.

**Q: As an apprentice, if my employer does not provide the required apprentice to journey-level worker ratio, am I entitled to the full prevailing wage rate for my classification?**

**A:** Yes. If your employer does not provide the correct ratio (i.e. 1:1 or 2:3 ratio of apprentices to journey-level workers) for supervision and training purposes, the employer is required to pay the journey-level prevailing wage rate to all apprentices who performed work out of ratio. The applicable ratio standards vary depending on the apprenticeship program.

**Q: I think I was paid the wrong rate but the project I was working on is over. Is it too late to file a complaint or make a wage claim?**

**A:** Possibly. Prevailing wage rate violations by employers are subject to wage claims initiated by employees for up to six years from the date of the violation ORS 12.080(1). The statute of limitations for overtime claims is two years ORS 12.110(3). However, claims for unpaid prevailing wages or benefits must be filed as soon as possible to ensure BOLI's ability to enforce the law.

**Contact BOLI's Prevailing Wage Rate Unit for More Information**

Oregon Bureau of Labor and Industries (BOLI)  
Wage and Hour Division  
800 NE Oregon St. Ste. 1045  
Portland, OR 97232-2372  
Phone: 971-673-0839  
[WWW.OREGON.GOV/BOLI/PWR](http://WWW.OREGON.GOV/BOLI/PWR)



*This document is not intended to provide legal advice. If you need legal advice, please consult an attorney.*