



PREVAILING WAGE RATE INFORMATIONAL HEARING

**House Committee on Business and Labor
February 6, 2019**

Topics



- History and Purpose of the Prevailing Wage Rate (PWR) Law.
- How the PWR is Determined and Implemented.
- PWR Law Enforcement:
 - Triggers for Coverage
 - Exemptions
 - Investigations
 - Civil Penalties and Debarment

Prevailing Wage Rate History

- Oregon's Prevailing Wage Rate (PWR) laws were first passed in 1959; based on the federal Davis-Bacon Act.
- In 1994, voters rejected Measure 12, which would have repealed the PWR laws.
- In 1995, the laws were amended by the legislature:
 - Increased threshold for coverage from \$10,000 to \$25,000;
 - Added PWR fee requirement; and
 - Added a declaration of purpose of the laws, in ORS 279C.805.

Prevailing Wage Rate History

The Legislative Assembly declares that the purposes of the laws are to:

- Ensure contractors compete on the ability to perform work competently and efficiently while maintaining community-established compensation standards;
- Recognize local participation in publicly financed construction and family wage income and benefits are essential to the protection of community standards;
- Encourage training and education of workers to industry skill standards; and
- Encourage employers to use funds allocated for employee fringe benefits for the actual purchase of those benefits.

Prevailing Wage Rate History

- Additional changes were made in 2005:
 - Increased threshold for coverage to \$50,000;
 - Projects subject to federal PWR law can also be subject to state PWR law; on such projects workers must be paid the higher of the two rates; and
 - Required \$30,000 public works bonds.
- More changes made in 2007:
 - The definition of “public works” was modified to include some public/private projects; and
 - The definition of “funds of a public agency” was amended to exclude certain things.

Prevailing Wage Rates

- Prevailing wage is a minimum wage that must be paid to a worker for the type of work performed on a PWR project.
 - It consists of an hourly base rate and an hourly fringe benefit rate.
- Rate books are published on January 1 and July 1 each year.
- Amendments are published on April 1 and October 1 each year.



An Overview of the Construction Industry Survey

House Committee on Business and Labor
February 6, 2019

Jason Payton
Occupational Economist
Employment Department



Construction Industry Survey

Construction Industry Occupational Wage Survey is an annual survey that collects relevant Labor Market Information used by the Bureau of Labor and Industries in their process to determine state prevailing wage rates

The Survey is....

- Focused Non-Residential Construction
- Mandatory (Typical Response Rate Greater Than 85%)
- Based on a market review that narrows down a list of 25,000 contractors down to 6,000 who may perform related work

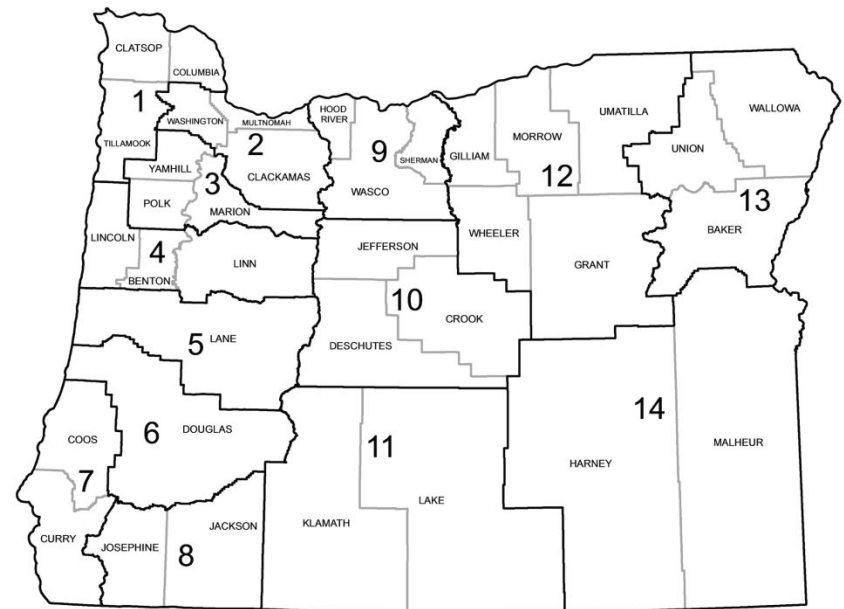
Designed For a High Level of Detail

Over 50 Occupations

Occupation	Reporting Status	Occupation	Reporting Status
Asbestos Worker / Insulator	Report Information	Laborer Group (1-3)*	Not Required
Boilermaker	Report Information	Landscape Laborer / Technician	Not Required
Bricklayer/Stonemason	Report Information	Limited Energy Electrician	Report Information
Bridge and Highway Carpenter	Not Required	Line Constructor	Report Information
Carpenter Group 1	Report Information	Marble Setter	Not Required
Carpenter Group 2	Report Information	Millwright	Report Information
Cement Mason	Report Information	Painter	Report Information
Diver	Not Required	Piledriver	Not Required
Divers' Tender	Not Required	Plasterer and Stucco Mason	Report Information
Dredger	Not Required	Plumber/Pipefitter/Steamfitter	Report Information
Drywall, Lather, Acoustical Carpenter and Ceiling Installer	Report Information	Power Equipment Operator Group (1-6)*	Not Required
Drywall Taper	Report Information	Roofer	Report Information
Electrician	Report Information	Sheet Metal Worker	Report Information
Elevator Constructor, Installer and Mechanic	Report Information	Soft Floor Layer	Report Information
Fence Constructor (Non-Metal)	Report Information	Sprinkler Fitter	Report Information
Fence Erector (Metal)	Report Information	Tender to Mason Trades (Brick and Stonemason, Mortar Mixer, Hod Carrier)	Report Information
Flagger	Not Required	Tender to Plasterer and Stucco Mason	Report Information
Glazier	Report Information	Testing, Adjusting, and Balancing (TAB) Technician	Report Information
Hazardous Materials Handler / Mechanic	Report Information	Tile Setter / Terrazzo Worker: Hard Tile Setter	Report Information
Highway and Parking Striper	Not Required	Tile, Terrazzo, and Marble Finisher	Report Information
Ironworker	Report Information	Truck Driver, All	Not Required

*Report Laborer and Power Equipment Groups Separately.

In 14 Wage Rate Regions



Respondents Provide Detailed Information

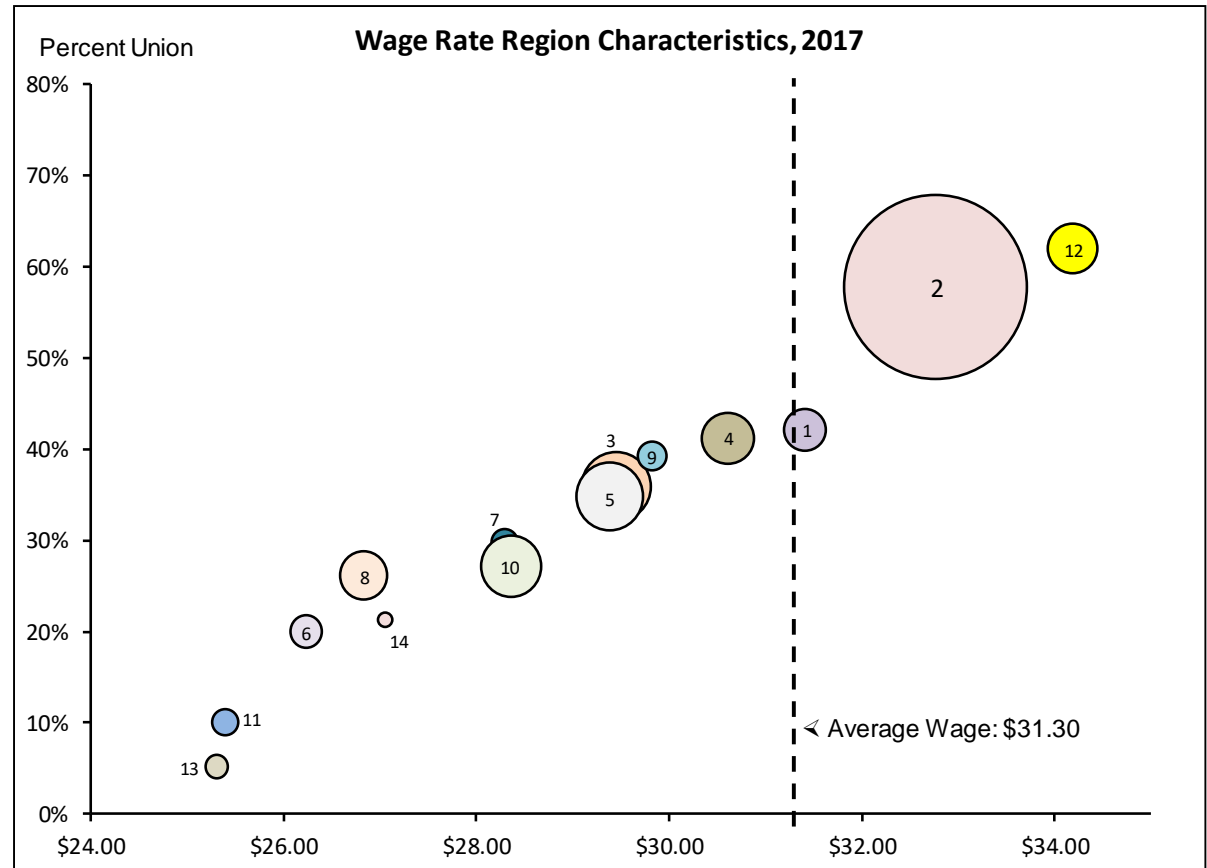
Occupation

Skill Level

Union Affiliation

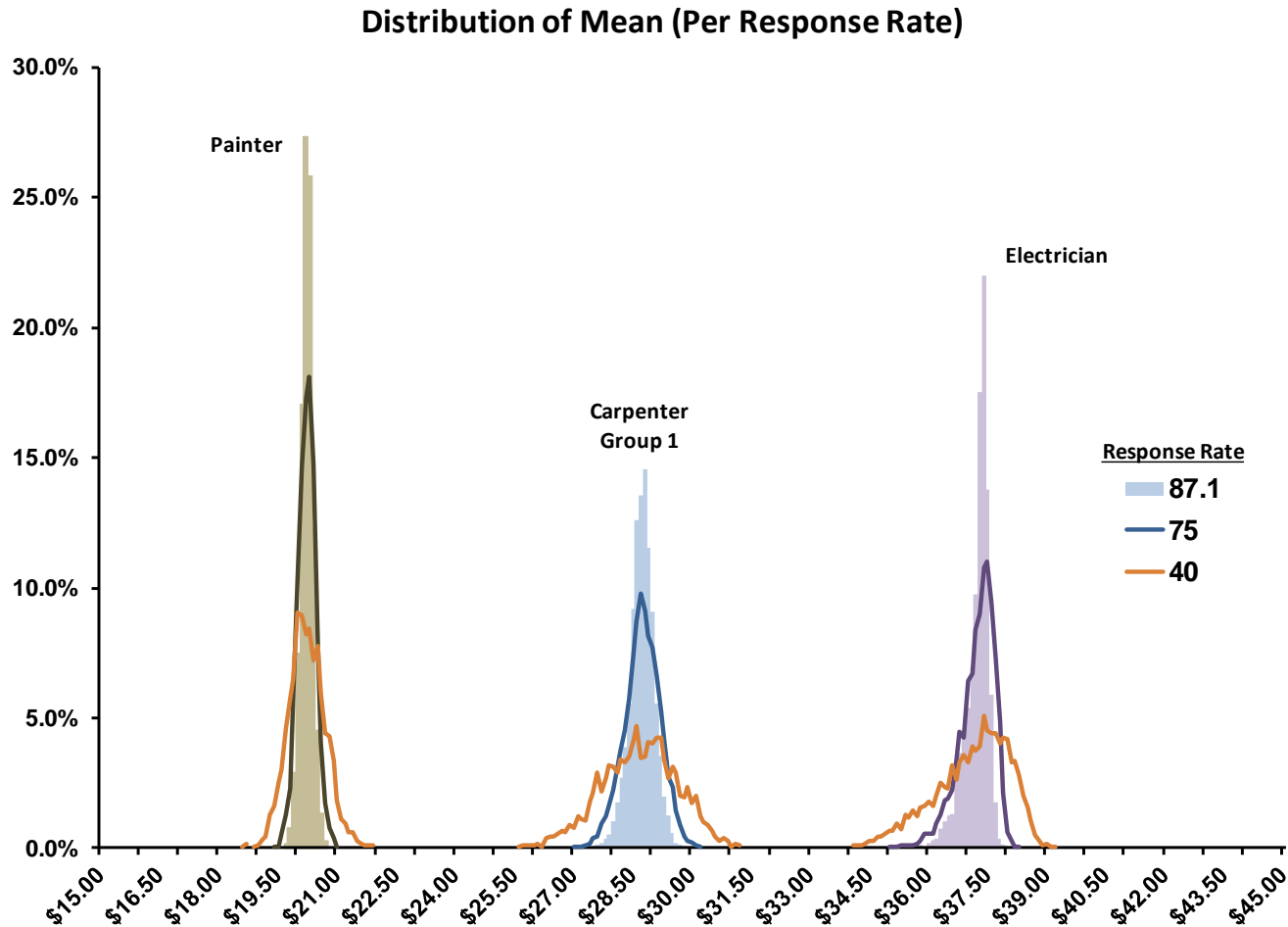
Basic Hourly Rate

Fringe Benefits



Need High Response Rates

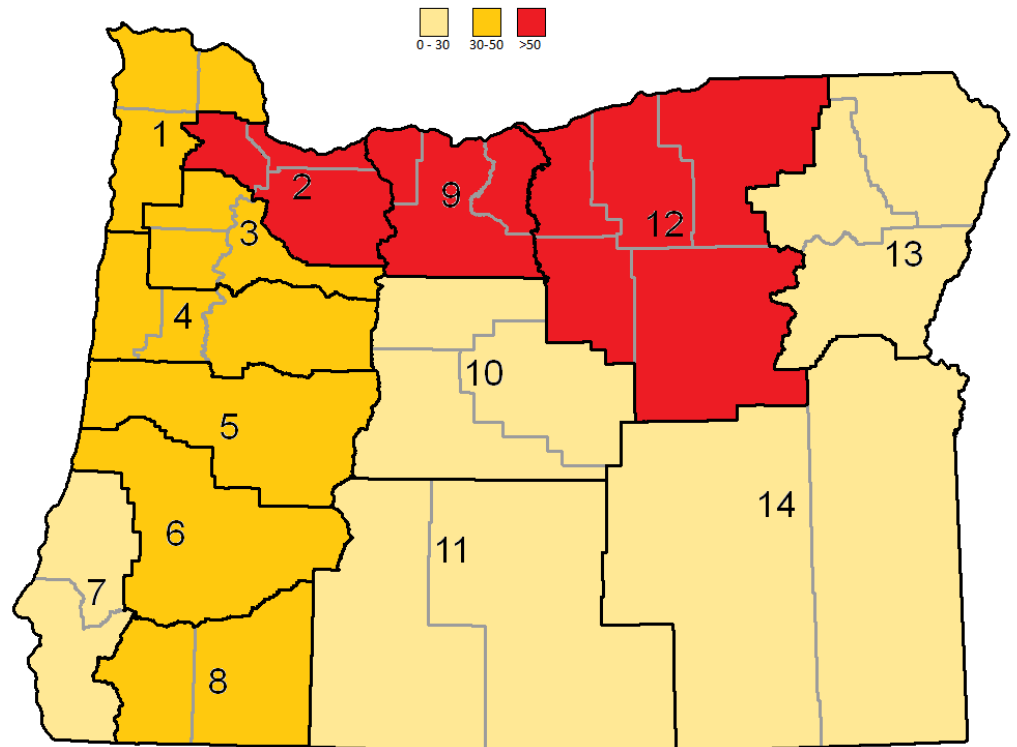
We want reliable occupational estimates...




Need High Response Rates

To accurately identify the differences between local areas...

Union work is reported around the state. Since 2014, the majority of work reported in Regions 2, 9 and 12 have been union work



Want Most Complete View of Selected Labor Market

All Trades						
Wage Rate Region	Data	Current (2018-1)	1 Year (2017-1)	2 Years (2016-3)	3 Years (2015-3)	4 Years (2014-3)
2	Firms Reporting	2483	2489	2425	2437	2422
	Hours Reported	1,813,659.3	1,634,620.6	1,435,931.4	1,391,139.9	1,574,222.6
	Percent Union	57.9%	58.2%	54.9%	56.6%	64.0%
	Hourly Rate	\$34.08	\$32.79	\$31.48	\$31.13	\$32.15
	Hourly Fringe	\$14.08	\$13.10	\$11.95	\$11.77	\$12.99
	Hourly Fringe w/o Zero	\$15.80	\$14.67	\$13.46	\$13.27	\$14.25
8	Firms Reporting	518	477	482	401	431
	Hours Reported	118,357.4	117,216.4	109,464.0	83,005.8	89,816.5
	Percent Union	29.0%	29.8%	30.5%	36.9%	33.8%
	Hourly Rate	\$28.11	\$27.02	\$26.22	\$27.31	\$26.53
	Hourly Fringe	\$8.10	\$7.65	\$7.83	\$8.65	\$8.05
	Hourly Fringe w/o Zero	\$10.97	\$10.47	\$11.24	\$11.59	\$10.60
Total Firms Reporting		8249	8259	8274	8029	7987
Total Hours Reported		3,047,136.4	2,925,153.3	2,683,003.7	2,468,717.2	2,635,944.9
Total Percent Union		48.7%	48.3%	46.2%	48.4%	54.7%
Total Hourly Rate		\$32.76	\$31.31	\$30.32	\$30.27	\$30.77
Total Hourly Fringe		\$12.60	\$11.56	\$10.85	\$10.79	\$11.60
Total Hourly Fringe w/o Zero		\$14.40	\$13.38	\$12.71	\$12.52	\$13.10
Total Comp, Fringe w/o Zero		 \$47.16	\$44.69	\$43.03	\$42.79	\$43.87

Wage Determination Process

- After surveys have been submitted, Employment Department compiles the data; using this information, the Commissioner determines the prevailing wage rates. Generally:
 - If 50% or more of hours reported for an occupation in a region are union hours, the union rate prevails.
 - If less than 50% of hours reported for an occupation in a region are union hours, a statewide average rate is applied.

Wage Determination Process

- The Commissioner may consider additional information such as collective bargaining agreements, other independent wage surveys, and the prevailing rates of wage determined by appropriate federal agencies or agencies of adjoining states.

Enforcement – Public Works

To be subject to the PWR laws, a project must meet the definition of “public works,” and no exemption from the laws can apply.

Public works is defined in ORS 279C.800(6)(a):

- (A) – construction, reconstruction, renovation or painting projects that are carried on or contracted for by a public agency to serve the public interest;
- (B) – construction, reconstruction, renovation or painting projects that use \$750,000 or more in funds of a public agency;

Enforcement – Public Works

Public works continued:

- (C) – construction projects where a public agency will occupy or use 25% or more of the square footage of the completed project;
- (D) – installation or construction of a device that uses solar power on public property, regardless of project cost and whether or not project uses funds of a public agency; and
- (E) – construction, reconstruction, renovation or painting projects on public university property, regardless of whether or not project uses funds of a public agency.

Enforcement- Exemptions

Exemptions under ORS 279C.810(2):

- (a) – projects for which the total project cost does not exceed \$50,000, except for solar projects on public property;
- (b) – projects that don't use any funds of a public agency, except for solar projects on public property and construction, reconstruction, renovation or painting projects on public university property; and
- (c) – privately owned residential construction projects that predominately provide affordable housing.

Enforcement – Contractor Responsibilities

Contractor responsibilities include:

- Paying the appropriate prevailing wage rate to all workers, including daily, weekly, weekend, and holiday overtime when required;
- Posting the rates on the project site;
- Filing a \$30,000 public works bond with CCB;
- Including required language in all subcontracts;
- Submitting accurate and complete certified payroll reports; and
- Maintaining records to show workers were paid appropriately.

Enforcement – Investigations

- BOLI investigates hundreds of PWR complaints and claims each year.
- We gather and review evidence from all available sources; includes certified payroll reports, time and payroll records, interviews and witness statements, agency and prime daily logs, contracts and subcontracts, etc.
- The first goal is to collect any wages owed to workers, and bring the contractors into compliance with the PWR and Wage and Hour laws.

Enforcement – Investigations

Biennium	# of Investigations	Amount Collected
2001-2003	403	\$1,728,220
2003-2005	375	\$952,429
2005-2007	511	\$2,030,322
2007-2009	285	\$1,560,668
2009-2011	303	\$2,294,209
2011-2013	377	\$3,064,200
2013-2015	266	\$1,358,253
2015-2017	210	\$3,441,891
July 2017-June 2018	113	\$1,535,193

Enforcement – Civil Penalties

If violations are intentional, or if contractor is a repeat violator, the PWR unit may pursue action through a hearing with BOLI's Administrative Prosecution Unit. Action can include:

- Civil Penalties
 - Can be up to \$5000 per violation; for ongoing violations, each day may be a new violation.
- Placement on the List of Ineligibles (debarment)
 - Length of debarment is generally three years, but can vary depending on the circumstances.
 - The List of Ineligibles is in rate book & on BOLI's website.

Enforcement – Debarment

The only violations that may lead to debarment are:

- Intentionally failing or refusing to pay PWR to workers;
- Intentionally falsifying certified payroll reports;
- Intentionally failing to post the rates on the project site; and
- Contractor fails to pay its employees PWR and the surety holding the bond pays the wages, or subcontractor fails to pay its employees PWR and the prime and/or surety pays the wages.

Links to PWR Resources

PWR Law Handbook:

https://www.oregon.gov/boli/WHD/PWR/Pages/W_PWR_Pwrbk.aspx

Prevailing Wage Rate Books and Amendments:

https://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx

Definitions of Covered Occupations:

https://www.oregon.gov/boli/WHD/PWR/docs/Definitions_July_1_2018.pdf

BOLI Website:

<https://www.oregon.gov/BOLI/pages/index.aspx>

BOLI Contacts

Susan Wooley (971) 673-0853

Mary Sharman (971) 673-0839

Eva Marie Schiedler (971) 673-0838