

## January 1, 2014 Prevailing Wage Bulletin

- It has been confirmed that Labor Standards (LS) will no longer have the authority to inspect or regulate state building projects effective January 1, 2014. Under the old law a “state contract” was defined as “any contractual agreement, written or oral, entered into by any person, firm or corporation with the state of Tennessee for the performance of work on a state construction project”. Under the new law “state contract” means any contractual agreement, written or oral, entered into by any person, firm or corporation with the state of Tennessee for the performance of work on a state highway construction project. TCA 12-4-411 requires person, firm, or corporations “who may enter into any state contract” shall provide to the state agency payroll records or any other information that may be required by the state agency to show compliance with the provision of this part. Therefore, under the new law LS does not have the authority to require a state building construction contractor to provide payroll records or other information to show compliance. Since the PW Commission will no longer have the authority beginning January 1<sup>st</sup> to set the wage rates or to require the production of payroll records or other information to confirm compliance then the PW Commission (and by default LS) is no longer an “interested party”. Therefore, LS will no longer be required to inspect or regulate state building construction projects beginning January 1, 2014.
- If a contract for a state building project is entered into prior to January 1, 2014, prevailing wage rates apply and inspection and regulation is necessary. See Agency Rule 0800-3-2.07 to determine what we are required to inspect and regulate. The prevailing Wage rates apply throughout the duration of the contract. The contract date not the advertisement date dictates.
- If a contract for a state building project is entered into on January 1, 2014 or thereafter, the prevailing wage rates do not apply. However, if any of the other laws we regulate apply (i.e. wage regulation, child labor, illegal alien), then we will pursue.
- These changes do not apply to contracts for state road, highways, and bridges. See Agency Rule 0800-3-2.07 to determine what our agency is required to inspect and regulate on state highway projects. Current rules are being modified to reflect the new changes.
- If an employee has a wage dispute on or after January 1, 2014 (as to non-highway/bridges or horizontal construction projects), his/her recourse is to file a lawsuit in a court of competent jurisdiction. The employer is not bound by rates set by the Prevailing Wage Commission or the Labor Market Information Section (LMI) of the Tennessee Department of Labor and Workforce Development (as to non-highway/bridges or horizontal construction projects). This policy applies to contracts entered into on or after January 1, 2014.
- For the law as it relates to state-funded highways, bridges, and road projects, refer to Public Chapter No. 280.

Public Chapter No. 280 11 7 13.pdf

Prevailing Wage Act for State Highway Construction Projects – Effective Date January 1, 2014.pdf

<https://www.tn.gov/workforce/employees/labor-laws/labor-laws-redirect/wages-breaks/prevailing-wage.html>

Revised May 9, 2018