



1 annually on January one of each year and shall remain in effect  
2 during the successive year: *Provided, however, That such rates*  
3 *shall not remain in effect for a period longer than fifteen months*  
4 *from the date they are published.*

5 *In determining such prevailing rates, the department of labor*  
6 *may ascertain and consider the applicable wage rates established by*  
7 *collective bargaining agreements, if any, and such rates as are*  
8 *paid generally within the locality in this state where the*  
9 *construction of the public improvement is to be performed.*

10 *(2) A copy of the determination so made, certified by the*  
11 *secretary of the board, shall be filed immediately with the*  
12 *Secretary of State and with the department of labor. Copies shall*  
13 *be supplied to all persons requesting same within ten days after*  
14 *such filing.*

15 *(3) At any time within fifteen days after the certified copies*  
16 *of the determination have been filed with the Secretary of State*  
17 *and the department of labor, any person who may be affected thereby*  
18 *may object in writing to the determination or such part thereof as*  
19 *he or she deems objectionable by filing a written notice with the*  
20 *department of labor stating the specific grounds of the objection.*

21 *(4) Within ten days of the receipt of the objection, the*  
22 *department of labor shall set a date for a hearing on the*  
23 *objection. The date for the hearing shall be within thirty days*  
24 *after the receipt of the objection. Written notice of the time and*

1 ~~place of the hearing shall be given to the objectors at least ten~~  
2 ~~days prior to the date set for the hearing and at a time so as to~~  
3 ~~enable the objectors to be present.~~

4 ~~(5) The department of labor at its discretion may hear such~~  
5 ~~written objection separately or consolidate for hearing any two or~~  
6 ~~more written objections. At the hearing the department of labor~~  
7 ~~shall introduce into evidence the results of the investigation it~~  
8 ~~instituted and such other facts which were considered at the time~~  
9 ~~of the original determination of the fair minimum prevailing hourly~~  
10 ~~rate including the sources which formed the basis for its~~  
11 ~~determination. The department of labor or any objectors thereafter~~  
12 ~~may introduce such further evidence as may be material to the~~  
13 ~~issues.~~

14 ~~(6) Within ten days of the conclusion of the hearing, the~~  
15 ~~department must rule on the written objections and make such final~~  
16 ~~determination as shall be established by a preponderance of the~~  
17 ~~evidence. Immediately upon such final determination, the~~  
18 ~~department of labor shall file a certified copy of its final~~  
19 ~~determination with the Secretary of State and with the department~~  
20 ~~of labor and shall serve a copy of the final determination on all~~  
21 ~~parties to the proceedings by personal service or by registered~~  
22 ~~mail.~~

23 ~~(7) Any person affected by the final determination of the~~  
24 ~~department of labor, whether or not such person participated in the~~

1 ~~proceedings resulting in such final determination, may appeal to~~  
2 ~~the board from the final determination of the department of labor~~  
3 ~~within ten days from the filing of the copy of the final~~  
4 ~~determination with the Secretary of State. The board shall hear~~  
5 ~~the appeal within twenty days from the receipt of notice of appeal.~~  
6 ~~The hearing by the board shall be held in Charleston. The hearing~~  
7 ~~by the board shall be upon the record compiled in the hearing~~  
8 ~~before the department of labor and the board shall have the~~  
9 ~~authority to affirm, reverse, amend, or remand for further~~  
10 ~~evidence, the final determination of the department of labor. The~~  
11 ~~board shall render its decision within ten days after the~~  
12 ~~conclusion of its hearing.~~

13       ~~(8) Any party to the proceeding before the board or any person~~  
14 ~~affected thereby may within thirty days after receipt of the notice~~  
15 ~~of its decision, appeal the board's decision to the circuit court~~  
16 ~~of the county wherever the construction of a public improvement is~~  
17 ~~to be performed, which shall consider the case on the record made~~  
18 ~~before the commissioner of labor and before the board. The~~  
19 ~~decision of such circuit court may be appealed to the Supreme Court~~  
20 ~~of Appeals of West Virginia by any party to the proceedings or by~~  
21 ~~any person affected thereby in the manner provided by law for~~  
22 ~~appeals in civil actions.~~

23       ~~(9) Pending the decision on appeal, the rates for the~~  
24 ~~preceding year shall remain in effect.~~

1       (1) The Department of Labor, each year, must determine the  
2 true prevailing wage rate of the counties in this state.  
3 Calculation of the prevailing wage rates must include the actual  
4 gross wages of all four quarters of payroll from West Virginia  
5 contractors as recorded by Workforce, West Virginia, and shall  
6 remain in effect during the successive year and be posted by  
7 February 15 of the successive year.

8       In determining prevailing wage rates, the Department of Labor  
9 must determine prevailing wage rates on actual hours worked, not on  
10 available hours worked, per trade, on a county by county basis, as  
11 evidenced by using the West Virginia unemployment quarterly tax  
12 returns from each West Virginia contractor to determine the true  
13 prevailing wage rates. The West Virginia Workforce office will  
14 certify the total gross wages from all West Virginia contractors by  
15 each trade classification for each county to the Department of  
16 Labor.

17       (2) A copy of the certification of wages, certified by West  
18 Virginia Workforce, must be filed immediately with the Secretary of  
19 State from the Department of Labor. Copies will be provided to all  
20 persons requesting same within thirty days after such filing.

21       (3) At any time within the thirty days of the wages filed with  
22 the Secretary of State, a person who may be affected may object to  
23 the certification by filing a written notice to the Department of  
24 Labor stating the specific grounds for the objection.

1       (4) Within ten days of the receipt of the objection, the  
2 Department of Labor shall set a date for a hearing. The date of  
3 the hearing shall be within thirty days after the receipt of the  
4 objection. Written notice of the time and place of the hearing  
5 shall be given to the objectors at least ten days prior to the date  
6 set for the hearing and at a time to enable the objectors to be  
7 present.

8       (5) The Department of Labor shall hear the objection and shall  
9 render its decision within ten days after the conclusion of its  
10 hearing. After the hearing, the objector may appeal the Department  
11 of Labor's decision to the circuit court of the county where the  
12 construction of a public improvement is to be performed. The  
13 decision of the circuit court may be appealed to the Supreme Court  
14 of Appeals of West Virginia by any party to the proceedings, or by  
15 any person affected, in the manner provided by law for appeals in  
16 civil actions.

17       (6) Pending the decision on appeal, the rates for the  
18 preceding year shall remain in effect.

NOTE: The purpose of this bill is to modify the manner in which prevailing wages are determined and alter the manner in which objections are heard.

This section has been completely rewritten; therefore, it has been completely underscored.