

FIRST REGULAR SESSION

# HOUSE BILL NO. 89

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TAYLOR.

0736H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To repeal sections 8.675, 8.683, 34.217, 89.410, 285.500, 290.095, 290.210, 290.220, 290.230, 290.235, 290.240, 290.250, 290.257, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, 290.340, 290.550, 292.630, 393.715, 516.130, and 630.546, RSMo, and to enact in lieu thereof nine new sections relating to wage rates on public works, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 8.675, 8.683, 34.217, 89.410, 285.500, 290.095, 290.210, 290.220, 290.230, 290.235, 290.240, 290.250, 290.257, 290.260, 290.262, 290.263, 290.265, 290.270, 290.280, 290.290, 290.300, 290.305, 290.315, 290.320, 290.325, 290.330, 290.335, 290.340, 290.550, 292.630, 393.715, 516.130, and 630.546, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 8.675, 8.683, 89.410, 285.500, 290.550, 292.630, 393.715, 516.130, and 630.546, to read as follows:

8.675. As used in sections 8.675 to 8.687, the following terms mean:

- (1) "Construction management services" includes:
  - (a) Services provided in the planning and design phases of the project including, but not limited to, consulting with, advising, assisting and making recommendations to the public owner and architect, engineer or registered landscape architect on all aspects of planning for project construction; reviewing all plans and specifications as they are being developed and making recommendations with respect to construction feasibility, availability of material and labor, time requirements for procurement and construction, and projected costs; making, reviewing and refining budget estimates based on the public owner's program and other available information; making recommendations to the public owner and the architect or engineer regarding the division

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 of work in the plans and specifications to facilitate the bidding and awarding of contracts;  
12 soliciting the interest of capable contractors and assisting the owner in taking bids on the project;  
13 analyzing the bids received and awarding contracts; and preparing and monitoring a progress  
14 schedule during the design phase of the project and preparation of a proposed construction  
15 schedule; and

16 (b) Services provided in the construction phase of the project including, but not limited  
17 to, maintaining competent supervisory staff to coordinate and provide general direction of the  
18 work and progress of the contractors on the project; observing the work as it is being performed  
19 for general conformance with working drawings and specifications; establishing procedures for  
20 coordinating among the public owner, architect or engineer, contractors and construction  
21 manager with respect to all aspects of the project and implementing such procedures;  
22 maintaining job site records and making appropriate progress reports; implementing labor policy  
23 in conformance with the requirements of the public owner; reviewing the safety and equal  
24 opportunity programs of each contractor for conformance with the public owner's policy and  
25 making recommendations; reviewing and processing all applications for payment by involved  
26 contractors and material suppliers in accordance with the terms of the contract; making  
27 recommendations for and processing requests for changes in the work and maintaining records  
28 of change orders; scheduling and conducting job meetings to ensure orderly progress of the work;  
29 developing and monitoring a project progress schedule, coordinating and expediting the work  
30 of all contractors and providing periodic status reports to the owner and the architect or engineer;  
31 and, establishing and maintaining a cost control system and conducting meetings to review costs;

32 (2) "Construction manager", any person providing construction management services for  
33 a public owner;

34 (3) "Public owner", ~~[any public body, as defined in section 290.210]~~ **the state of**  
35 **Missouri or any officer, official, authority, board or commission of the state, or other**  
36 **political subdivision thereof, or any institution supported in whole or in part by public**  
37 **funds.**

8.683. Upon award of a construction management services contract, the successful  
2 construction manager shall contract with the public owner to furnish his skill and judgment in  
3 cooperation with, and reliance upon, the services of the project architect or engineer. The  
4 construction manager shall furnish business administration, management of the construction  
5 process and other specified services to the public owner and shall perform in an expeditious and  
6 economical manner consistent with the interest of the public owner. Should the public owner  
7 determine it to be in the public's best interest, the construction manager may provide or perform  
8 basic services for which reimbursement is provided in the general conditions to the construction  
9 management services contract. The construction manager shall not, however, be permitted to

10 bid on or perform any of the actual construction on a public works project in which he is acting  
11 as construction manager, nor shall any construction firm which controls, is controlled by, or  
12 shares common ownership or control with, the construction manager be allowed to bid on or  
13 perform work on such project. The actual construction work on the project shall be awarded by  
14 competitive bidding as provided by law. All successful bidders shall contract directly with the  
15 public owner, but shall perform at the direction of the construction manager unless otherwise  
16 provided in the construction manager's contract with the public owner. All successful bidders  
17 shall provide payment and performance bonds to the public owner. ~~[All successful bidders shall~~  
18 ~~meet all the obligations of a prime contractor to whom a contract is awarded, pertaining to the~~  
19 ~~payment of prevailing wages pursuant to sections 290.210 to 290.340. In addition,]~~ All  
20 nonresident employers shall meet the bonding and registration requirements of sections 285.230  
21 to 285.234.

89.410. 1. The planning commission shall recommend and the council may by ordinance  
2 adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in  
3 addition to the requirements provided by law for the approval of plats, may provide requirements  
4 for the coordinated development of the city, town or village; for the coordination of streets within  
5 subdivisions with other existing or planned streets or with other features of the city plan or  
6 official map of the city, town or village; for adequate open spaces for traffic, recreation, light and  
7 air; and for a distribution of population and traffic; provided that, the city, town or village may  
8 only impose requirements for the posting of bonds, letters of credit or escrows for  
9 subdivision-related improvements as provided for in subsections 2 to 5 of this section.

10 2. The regulation may include requirements as to the extent and the manner in which the  
11 streets of the subdivision or any designated portions thereto shall be graded and improved as well  
12 as including requirements as to the extent and manner of the installation of all utility facilities.  
13 Compliance with all of these requirements is a condition precedent to the approval of the plat.  
14 The regulations or practice of the council may provide for the tentative approval of the plat  
15 previous to the improvements and utility installations; but any tentative approval shall not be  
16 entered on the plat. The regulations may provide that, in lieu of the completion of the work and  
17 installations previous to the final approval of a plat, the council shall accept, at the option of the  
18 developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city,  
19 town, or village. The city, town, or village may accept a surety bond, and such bond shall be in  
20 an amount and with surety and other reasonable conditions, providing for and securing the actual  
21 construction and installation of the improvements and utilities within a period specified by the  
22 council and expressed in the bond. The release of any such escrow, letter of credit, or bond by  
23 the city, town or village shall be as specified in this section. The council may enforce the escrow  
24 or bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of

25 the completion of the work and installations previous to the final approval of a plat, for an  
26 assessment or other method whereby the council is put in an assured position to do the work and  
27 make the installations at the cost of the owners of the property within the subdivision. The  
28 regulations may provide for the dedication, reservation or acquisition of lands and open spaces  
29 necessary for public uses indicated on the city plan and for appropriate means of providing for  
30 the compensation, including reasonable charges against the subdivision, if any, and over a period  
31 of time and in a manner as is in the public interest.

32 3. The regulations shall provide that in the event a developer who has posted an escrow,  
33 or letter of credit, or bond with a city, town, or village in accordance with subsection 2 of this  
34 section transfers title of the subdivision property prior to full release of the escrow, letter of  
35 credit, or bond, the municipality shall accept a replacement escrow or letter of credit from the  
36 successor developer in the form allowed in subsection 2 of this section and in the amount of the  
37 escrow or letter of credit held by the city, town, or village at the time of the property transfer, and  
38 upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release  
39 the original escrow or letter of credit in full and release the prior developer from all further  
40 obligations with respect to the subdivision improvements if the successor developer assumes all  
41 of the outstanding obligations of the previous developer. The city, town, or village may accept  
42 a surety bond from the successor developer in the form allowed in subsection 2 of this section  
43 and in the amount of the bond held by the city, town, or village at the time of the property  
44 transfer, and upon receipt of the replacement bond, the city, town, or village shall release the  
45 original bond in full, and release the prior developer from all further obligations with respect to  
46 the subdivision improvements.

47 4. The regulations shall provide that any escrow or bond amount held by the city, town  
48 or village to secure actual construction and installation on each component of the improvements  
49 or utilities shall be released within thirty days of completion of each category of improvement  
50 or utility work to be installed, minus a maximum retention of five percent which shall be released  
51 upon completion of all improvements and utility work. The city, town, or village shall inspect  
52 each category of improvement or utility work within twenty business days after a request for such  
53 inspection. Any such category of improvement or utility work shall be deemed to be completed  
54 upon certification by the city, town or village that the project is complete in accordance with the  
55 ordinance of the city, town or village including the filing of all documentation and certifications  
56 required by the city, town or village, in complete and acceptable form. The release shall be  
57 deemed effective when the escrow funds or bond amount are duly posted with the United States  
58 Postal Service or other agreed-upon delivery service or when the escrow funds or bond amount  
59 are hand delivered to an authorized person or place as specified by the owner or developer.

60           5. If the city, town or village has not released the escrow funds or bond amount within  
61 thirty days as provided in this section or provided a timely inspection of the improvements or  
62 utility work after request for such inspection, the city, town or village shall pay the owner or  
63 developer in addition to the escrow funds due the owner or developer, interest at the rate of one  
64 and one-half percent per month calculated from the expiration of the thirty-day period until the  
65 escrow funds or bond amount have been released. Any owner or developer aggrieved by the  
66 city's, town's or village's failure to observe the requirements of this section may bring a civil  
67 action to enforce the provisions of this section. In any civil action or part of a civil action  
68 brought pursuant to this section, the court may award the prevailing party or the city, town or  
69 village the amount of all costs attributable to the action, including reasonable attorneys' fees.

70           6. Nothing in this section shall apply to performance, maintenance and payment bonds  
71 required by cities, towns or villages.

72           7. Before adoption of its subdivision regulations or any amendment thereof, a duly  
73 advertised public hearing thereon shall be held by the council.

74           8. The provisions of subsection 2 of this section requiring the acceptance of an escrow  
75 secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the  
76 developer, all of the provisions of subsection 3 of this section, and the provisions of subsections  
77 4 and 5 of this section regarding an inspection of improvements or utility work within twenty  
78 business days shall not apply to any home rule city with more than four hundred thousand  
79 inhabitants and located in more than one county.

80           ~~[9. Notwithstanding the provisions of section 290.210 to the contrary, improvements~~  
81 ~~secured by escrow, letter of credit, or bond as provided in this section shall not be subject to the~~  
82 ~~terms of sections 290.210 to 290.340 unless they are paid for wholly or in part out of public~~  
83 ~~funds.]~~

285.500. For the purposes of sections 285.500 to 285.515 the following terms mean:

2           (1) "Employee", any individual who performs services for an employer that would  
3 indicate an employer-employee relationship in satisfaction of the factors in IRS Rev. Rule 87-41,  
4 1987-1 C.B.296.;

5           (2) "Employer", any individual, organization, partnership, political subdivision,  
6 corporation, or other legal entity which has or had in the entity's employ five or more individuals  
7 performing public works ~~[as defined in section 290.210];~~

8           (3) "Knowingly", a person acts knowingly or with knowledge:

9           (a) With respect to the person's conduct or to attendant circumstances when the person  
10 is aware of the nature of the person's conduct or that those circumstances exist; or

11           (b) With respect to a result of the person's conduct when the person is aware that the  
12 person's conduct is practically certain to cause that result;

13           (4) **"Public works", all fixed works constructed for public use or benefit or paid for**  
14 **wholly or in part out of public funds. "Public works" also includes any work done directly**  
15 **by any public utility company when performed by such public utility pursuant to an order**  
16 **of the public service commission or other public authority, regardless of whether such**  
17 **work is done under public supervision or direction or is paid for wholly or in part out of**  
18 **public funds when let to contract by the public utility. "Public works" does not include**  
19 **any work done for or by any drainage or levee district.**

290.550. As used in sections 290.550 to 290.580, the following terms mean:

2           (1) "Laborers from nonrestrictive states", persons who are residents of a state which has  
3 not enacted state laws restricting Missouri laborers from working on public works projects in that  
4 state, as determined by the labor and industrial relations commission;

5           (2) "Missouri laborer", any person who has resided in Missouri for at least thirty days  
6 and intends to become or remain a Missouri resident;

7           (3) "A period of excessive unemployment", any month immediately following two  
8 consecutive calendar months during which the level of unemployment in the state has exceeded  
9 five percent as measured by the United States Bureau of Labor Statistics in its monthly  
10 publication of employment and unemployment figures;

11           (4) "Public works", ~~[projects defined as public works pursuant to section 290.210]~~ **all**  
12 **fixed works constructed for public use or benefit or paid for wholly or in part out of public**  
13 **funds. "Public works" also includes any work done directly by any public utility company**  
14 **when performed by such public utility pursuant to an order of the public service**  
15 **commission or other public authority, regardless of whether such work is done under**  
16 **public supervision or direction or is paid for wholly or in part out of public funds when let**  
17 **to contract by the public utility. "Public works" does not include any work done for or by**  
18 **any drainage or levee district.**

292.630. 1. At all construction projects at which twenty people or more are engaged in  
2 the performance of work, the primary employer or contractor at such project shall provide at least  
3 one portable toilet for each twenty people; except that, the provisions of this section shall not  
4 apply to any railroad company.

5           2. The provisions of this section shall be enforced by the department of labor and  
6 industrial relations through the division of labor standards. Upon a finding by a court of  
7 competent jurisdiction that a primary employer or contractor has willfully violated or omitted  
8 to comply with the requirements of this section, such person or persons shall be subject to  
9 ~~[penalty as provided by section 290.340]~~ **a fine not exceeding five hundred dollars,**  
10 **imprisonment not exceeding six months, or both such a fine and imprisonment.**

393.715. 1. The general powers of a commission to the extent provided in section 2 393.710 to be exercised for the benefit of its contracting members shall include the power to:

3 (1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate  
4 in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by  
5 participation with electric cooperative associations, municipally owned or public utilities or  
6 acquire any interest in or any rights to capacity of a project, within or outside the state, and act  
7 as an agent, or designate one or more other persons participating in a project to act as its agent,  
8 in connection with the planning, acquisition, construction, operation, maintenance, repair,  
9 extension or improvement of such project;

10 (2) Acquire, sell, distribute and process fuels necessary to the production of electric  
11 power and energy; provided, however, the commission shall not have the power or authority to  
12 erect, own, use or maintain a transmission line which is parallel or generally parallel to another  
13 transmission line in place within a distance of two miles, which serves the same general area  
14 sought to be served by the commission unless the public service commission finds that it is not  
15 feasible to utilize the transmission line which is in place;

16 (3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,  
17 wells, check dams, pumping stations, water purification plants, and other facilities for the  
18 production, wholesale distribution, and utilization of water and to own and hold such real and  
19 personal property as may be necessary to carry out the purposes of its organization; provided,  
20 however, that a commission shall not sell or distribute water, at retail or wholesale, within the  
21 certificated area of a water corporation which is subject to the jurisdiction of the public service  
22 commission unless the sale or distribution of water is within the boundaries of a public water  
23 supply district or municipality which is a contracting municipality in the commission and the  
24 commission has obtained the approval of the public service commission prior to commencing  
25 such said sale or distribution of water;

26 (4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells,  
27 pumping stations, sewage treatment plants and other facilities for the treatment and  
28 transportation of sewage and to own and hold such real and personal property as may be  
29 necessary to carry out the purposes of its organization;

30 (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling,  
31 transmission and other similar agreements with any person;

32 (6) Make and execute contracts and other instruments necessary or convenient to the  
33 exercise of the powers of the commission;

34 (7) Employ agents and employees;

35 (8) Contract with any person, within or outside the state, for the construction of any  
36 project or for any interest therein or any right to capacity thereof, without advertising for bids,

37 preparing final plans and specifications in advance of construction, or securing performance and  
38 payment of bonds, except to the extent and on such terms as its board of directors or executive  
39 committee shall determine [~~Any contract entered into pursuant to this subdivision shall contain~~  
40 ~~a provision that the requirements of sections 290.210 to 290.340 shall apply];~~

41 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat  
42 or electric power and energy, or any by-product resulting therefrom, within and outside the state,  
43 in such amounts as it shall determine to be necessary and appropriate to make the most effective  
44 use of its powers and to meet its responsibilities, and to enter into agreements with any person  
45 with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms  
46 and for such period of time as its board of directors or executive committee shall determine. A  
47 commission may not sell or distribute water, gas, heat or power and energy, or sell sewage  
48 service at retail to ultimate customers outside the boundary limits of its contracting  
49 municipalities except pursuant to subsection 2 or 3 of this section;

50 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of,  
51 mortgage, pledge, or grant a security interest in any real or personal property, commodity or  
52 service or interest therein;

53 (11) Exercise the powers of eminent domain for public use as provided in chapter 523,  
54 except that the power of eminent domain shall not be exercised against any electric cooperative  
55 association, municipally owned or public utility;

56 (12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the  
57 authority granted in Section 27 of Article VI of the Missouri Constitution;

58 (13) Sue and be sued in its own name;

59 (14) Have and use a corporate seal;

60 (15) Fix, maintain and revise fees, rates, rents and charges for functions, services,  
61 facilities or commodities provided by the commission. The powers enumerated in this  
62 subdivision shall constitute the power to tax for purposes of Article X, Section 15 of the  
63 Missouri Constitution;

64 (16) Make, and from time to time, amend and repeal bylaws, rules and regulations not  
65 inconsistent with this section to carry into effect the powers and purposes of the commission;

66 (17) Notwithstanding the provisions of any other law, invest any funds held in reserve  
67 or sinking funds, or any funds not required for immediate disbursement, including the proceeds  
68 from the sale of any bonds, in such obligations, securities and other investments as the  
69 commission deems proper;

70 (18) Join organizations, membership in which is deemed by the board of directors or its  
71 executive committee to be beneficial to accomplishment of the commission's purposes;



72 (19) Exercise any other powers which are deemed necessary and convenient by the  
73 commission to effectuate the purposes of the commission; and

74 (20) Do and perform any acts and things authorized by this section under, through or by  
75 means of an agent or by contracts with any person.

76 2. When a municipality purchases a privately owned water utility and a commission is  
77 created pursuant to sections 393.700 to 393.770, the commission may continue to serve those  
78 locations previously receiving water from the private utility even though the location receives  
79 such service outside the geographical area of the municipalities forming the commission. New  
80 water service may be provided in such areas if the site to receive such service is located within  
81 one-fourth of a mile from a site serviced by the privately owned water utility.

82 3. When a commission created by any of the contracting entities listed in subdivision (4)  
83 of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer  
84 corporation or other nonprofit agency or entity organized to provide water or sewer service, the  
85 commission may continue to serve, as well as provide new service to, those locations and areas  
86 previously receiving water or sewer service from such nonprofit entity, regardless of whether or  
87 not such location receives such service outside the geographical service area of the contracting  
88 entities forming such commission; provided that such locations and areas previously receiving  
89 water and sewer service from such nonprofit entity are not located within:

90 (1) Any county of the first classification with a population of more than six hundred  
91 thousand and less than nine hundred thousand;

92 (2) The boundaries of any sewer district established pursuant to Article VI, Section 30(a)  
93 of the Missouri Constitution; or

94 (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction  
95 of the public service commission.

516.130. Within three years:

2 (1) An action against a sheriff, coroner or other officer, upon a liability incurred by the  
3 doing of an act in his official capacity and in virtue of his office, or by the omission of an official  
4 duty, including the nonpayment of money collected upon an execution or otherwise;

5 (2) An action upon a statute for a penalty or forfeiture, where the action is given to the  
6 party aggrieved, or to such party and the state[;

7 ~~——(3) An action under section 290.300].~~

630.546. 1. The commissioner of administration is authorized to enter into a  
2 lease-purchase agreement for the use of facilities to be constructed by a private developer on the  
3 grounds of the existing St. Louis state hospital for the use of the department of mental health,  
4 provided any facilities to be constructed shall contain provisions for a possible adaptive re-use  
5 of the present "dome" building.

6 2. The attorney general shall approve the instrument of conveyance as to form.  
 7 ~~[3. Not less than the rate of wages required to be paid pursuant to sections 290.210 to~~  
 8 ~~290.340 shall be paid by contractors or subcontractors to employees or other workers when such~~  
 9 ~~contractors or subcontractors construct facilities for private developers on the grounds of the~~  
 10 ~~existing St. Louis state hospital for the use of the department of mental health. Such construction~~  
 11 ~~projects shall be considered public works and the determination of the rate of wages for the~~  
 12 ~~locality shall be made in accordance with the provisions of sections 290.210 to 290.340.]~~

~~[34.217. Notwithstanding the provisions of section 1.140, the provisions~~  
 2 ~~of sections 290.095 and 290.250 and sections 34.203 to 34.216 shall not be~~  
 3 ~~severable. In the event a court of competent jurisdiction rules that any part of this~~  
 4 ~~act is unenforceable, the entire act shall be rendered null and void.]~~  
 5

~~[290.095. 1. No contractor or subcontractor may directly or indirectly~~  
 2 ~~receive a wage subsidy, bid supplement, or rebate for employment on a public~~  
 3 ~~works project if such wage subsidy, bid supplement, or rebate has the effect of~~  
 4 ~~reducing the wage rate paid by the employer on a given occupational title below~~  
 5 ~~the wage rate required to be paid for such project pursuant to sections 290.210~~  
 6 ~~to 290.340.~~

~~2. In the event a wage subsidy, bid supplement, or rebate is lawfully~~  
 8 ~~provided or received under subsection 1 of this section, the entity receiving such~~  
 9 ~~subsidy, supplement, or rebate shall report the date and amount of such subsidy,~~  
 10 ~~supplement, or rebate to the public body within thirty days of receipt of payment.~~  
 11 ~~This disclosure report shall be a matter of public record under chapter 610.~~

~~3. Any employer in violation of this section shall owe to the public body~~  
 13 ~~double the dollar amount per hour that the wage subsidy, bid supplement, or~~  
 14 ~~rebate has reduced the wage rate paid by the employer below the wage rate~~  
 15 ~~required to be paid for such project pursuant to sections 290.210 to 290.340 for~~  
 16 ~~each hour that work was performed. It shall be the duty of the department to~~  
 17 ~~calculate the dollar amount owed to the public body under this section.]~~  
 18

~~[290.210. As used in sections 290.210 to 290.340, unless the context~~  
 2 ~~indicates otherwise, the following terms shall mean:~~

~~(1) "Collective bargaining agreement", any written agreement or~~  
 4 ~~understanding between an employer or employer association and a labor~~  
 5 ~~organization or union which is the exclusive bargaining representative of the~~  
 6 ~~employer's or employer association's employees pursuant to the terms of the~~  
 7 ~~National Labor Relations Act and which agreement or understanding or~~  
 8 ~~predecessor agreement or understanding has been used to determine an~~  
 9 ~~occupational title wage rate;~~

~~(2) "Construction", construction, reconstruction, improvement,~~  
 11 ~~enlargement, alteration, painting and decorating, or major repair;~~

~~(3) "Department", the department of labor and industrial relations;~~  
 12

- 13 ~~(4) "Labor organization" or "union", any entity which has been~~  
14 ~~designated pursuant to the terms of the National Labor Relations Act as the~~  
15 ~~exclusive bargaining representative of employees of employers engaged in the~~  
16 ~~construction industry, which entity or affiliated entity has ever had a collective~~  
17 ~~bargaining agreement which determined an occupational title wage rate;~~
- 18 ~~(5) "Locality", the county where the physical work upon public works is~~  
19 ~~performed;~~
- 20 ~~(6) "Maintenance work", the repair, but not the replacement, of existing~~  
21 ~~facilities when the size, type or extent of the existing facilities is not thereby~~  
22 ~~changed or increased;~~
- 23 ~~(7) "Prevailing hourly rate of wages" or "prevailing wage rate", the wages~~  
24 ~~paid generally, to workers engaged in work of a similar character in the locality~~  
25 ~~in which the public works is being performed, including the basic hourly rate of~~  
26 ~~pay and the amount of the rate of contributions irrevocably made to a fund, plan~~  
27 ~~or program, and the amount of the rate of costs to the contractor or subcontractor~~  
28 ~~which may be reasonably anticipated in providing benefits to workers and~~  
29 ~~mechanics pursuant to an enforceable commitment to carry out a financially~~  
30 ~~responsible plan or program which was communicated in writing to the workmen~~  
31 ~~affected, for medical or hospital care, pensions on retirement or death,~~  
32 ~~compensation for injuries or illness resulting from occupational activity, or~~  
33 ~~insurance to provide any of the foregoing, for unemployment benefits, life~~  
34 ~~insurance, disability and sickness insurance, accident insurance, for vacation and~~  
35 ~~holiday pay, for defraying costs of apprenticeship or other similar programs, or~~  
36 ~~for other bona fide fringe benefits, but only where the contractor or subcontractor~~  
37 ~~is not required by other federal or state law to provide any of the benefits;~~  
38 ~~provided, that the obligation of a contractor or subcontractor to make payment in~~  
39 ~~accordance with the prevailing wage determinations of the department, insofar~~  
40 ~~as sections 290.210 to 290.340 are concerned, may be discharged by the making~~  
41 ~~of payments in cash, by the making of irrevocable contributions by the~~  
42 ~~assumption of an enforceable commitment to bear the costs of a plan or program~~  
43 ~~as provided herein, or any combination thereof, where the aggregate of such~~  
44 ~~payments, contributions and costs is not less than the rate of pay plus the other~~  
45 ~~amounts as provided herein;~~
- 46 ~~(8) "Public body", the state of Missouri or any officer, official, authority,~~  
47 ~~board or commission of the state, or other political subdivision thereof, or any~~  
48 ~~institution supported in whole or in part by public funds;~~
- 49 ~~(9) "Public works", all fixed works constructed for public use or benefit~~  
50 ~~or paid for wholly or in part out of public funds. It also includes any work done~~  
51 ~~directly by any public utility company when performed by it pursuant to the order~~  
52 ~~of the public service commission or other public authority whether or not it be~~  
53 ~~done under public supervision or direction or paid for wholly or in part out of~~  
54 ~~public funds when let to contract by said utility. It does not include any work~~  
55 ~~done for or by any drainage or levee district;~~

56 ~~\_\_\_\_\_ (10) "Public works contracting minimum wage", the wage rate~~  
 57 ~~determined by the department pursuant to section 290.257;~~

58 ~~\_\_\_\_\_ (11) "Workers", laborers and mechanics.]~~  
 59

2 ~~[290.220. It is hereby declared to be the policy of the state of Missouri~~  
 3 ~~that a wage of no less than the prevailing hourly rate of wages for work of a~~  
 4 ~~similar character in the locality in which the work is performed or the public~~  
 5 ~~works contracting minimum wage, whichever is applicable, shall be paid to all~~  
 6 ~~workers employed by or on behalf of any public body engaged in public works,~~  
 7 ~~exclusive of maintenance work.]~~

2 ~~[290.230. 1. (1) Except as otherwise provided in this section, not less~~  
 3 ~~than the prevailing hourly rate of wages for work of a similar character in the~~  
 4 ~~locality in which the work is performed or the public works contracting minimum~~  
 5 ~~wage, whichever is applicable, shall be paid to all workers employed by or on~~  
 6 ~~behalf of any public body engaged in the construction of public works, exclusive~~  
 7 ~~of maintenance work.~~

7 ~~\_\_\_\_\_ (2) For all work performed on a Sunday or a holiday, not less than twice~~  
 8 ~~the prevailing hourly rate of wages for work of a similar character in the locality~~  
 9 ~~in which the work is performed or the public works contracting minimum wage,~~  
 10 ~~whichever is applicable, shall be paid to all workers employed by or on behalf of~~  
 11 ~~any public body engaged in the construction of public works, exclusive of~~  
 12 ~~maintenance work. For purposes of this subdivision, "holiday" shall include each~~  
 13 ~~of the following:~~

- 14 ~~\_\_\_\_\_ (a) January first;~~
- 15 ~~\_\_\_\_\_ (b) The last Monday in May;~~
- 16 ~~\_\_\_\_\_ (c) July fourth;~~
- 17 ~~\_\_\_\_\_ (d) The first Monday in September;~~
- 18 ~~\_\_\_\_\_ (e) November eleventh;~~
- 19 ~~\_\_\_\_\_ (f) The fourth Thursday in November; and~~
- 20 ~~\_\_\_\_\_ (g) December twenty-fifth;~~

22 ~~\_\_\_\_\_ If any holiday falls on a Sunday, the following Monday shall be considered a~~  
 23 ~~holiday.~~

24 ~~\_\_\_\_\_ (3) For all overtime work performed, not less than one and one-half the~~  
 25 ~~prevailing hourly rate of wages for work of a similar character in the locality in~~  
 26 ~~which the work is performed or the public works contracting minimum wage,~~  
 27 ~~whichever is applicable, shall be paid to all workers employed by or on behalf of~~  
 28 ~~any public body engaged in the construction of public works, exclusive of~~  
 29 ~~maintenance work or contractual obligation. For purposes of this subdivision,~~  
 30 ~~"overtime work" shall include work that exceeds ten hours in one day and work~~  
 31 ~~in excess of forty hours in one calendar week; and~~

32 ~~(4) A thirty-minute lunch period on each calendar day shall be allowed~~  
33 ~~for each worker on a public works project, provided that such time shall not be~~  
34 ~~considered as time worked.~~

35 ~~2. Only workers that are directly employed by contractors or~~  
36 ~~subcontractors in actual construction work on the site of the building or~~  
37 ~~construction job shall be deemed to be employed upon public works.~~

38 ~~3. Any worker who agrees in writing to volunteer his or her labor without~~  
39 ~~pay shall not be deemed to be employed upon public works, and shall not be~~  
40 ~~entitled to the wage rates required pursuant to sections 290.210 to 290.340. For~~  
41 ~~the purposes of this section, the term "worker who agrees in writing to volunteer~~  
42 ~~his or her labor without pay" shall mean a worker who volunteers his or her labor~~  
43 ~~without any promise of benefit or remuneration for such voluntary activity, and~~  
44 ~~who is not a prisoner in any jail or prison facility and who is not performing~~  
45 ~~community service pursuant to disposition of a criminal case against him or her,~~  
46 ~~and is not otherwise employed for compensation at any time in the construction~~  
47 ~~or maintenance work on the same public works for which the worker is a~~  
48 ~~volunteer. Under no circumstances may an employer or a public body force,~~  
49 ~~compel or otherwise intimidate a worker into performing work otherwise paid at~~  
50 ~~a prevailing wage rate or at a public works contracting minimum wage rate as a~~  
51 ~~volunteer.~~

52 ~~4. When the hauling of materials or equipment includes some phase of~~  
53 ~~construction other than the mere transportation to the site of the construction,~~  
54 ~~workers engaged in this dual capacity shall be deemed employed directly on~~  
55 ~~public works.~~

56 ~~5. (1) The provisions of sections 290.210 to 290.340 shall not apply to~~  
57 ~~the construction of public works for which either the engineer's estimate or the~~  
58 ~~bid accepted by the public body for the total project cost is in the amount of~~  
59 ~~seventy-five thousand dollars or less.~~

60 ~~(2) The total project cost shall be based upon the entire project and not~~  
61 ~~individual projects within a larger project.~~

62 ~~(3) The total project cost shall include the value of work performed on~~  
63 ~~the project by every person paid by a contractor or subcontractor for that person's~~  
64 ~~work on the project. The total project cost shall additionally include all materials~~  
65 ~~and supplies purchased for the project.~~

66 ~~6. A public body shall not divide a project into multiple contracts for the~~  
67 ~~purpose of lowering the total project cost below the threshold described in~~  
68 ~~subsection 5 of this section.~~

69 ~~7. For any public works project for which either the engineer's estimate~~  
70 ~~or the bid accepted by the public body for the total project cost is in the amount~~  
71 ~~of seventy-five thousand dollars or less that becomes subject to a change order~~  
72 ~~that increases the total project cost in excess of seventy-five thousand dollars, the~~  
73 ~~provisions of sections 290.210 to 290.340 shall apply only to that portion of the~~  
74 ~~project that was in excess of seventy-five thousand dollars.~~

75 ~~8. Notwithstanding any provision of law to the contrary, for the purposes~~  
76 ~~of construction of public works for which either the engineer's estimate or the bid~~  
77 ~~accepted by the public body for the total project cost is in the amount of ten~~  
78 ~~thousand dollars or less for all occupational titles, public bodies shall be exempt~~  
79 ~~from any law requiring the use of competitive bids.]~~  
80

~~[290.235. 1. Employers may use entry-level workers and federally~~  
2 ~~registered apprentices for on-the-job training periods. The wage rate for~~  
3 ~~on-the-job training workers shall be equal to fifty percent of the applicable wage~~  
4 ~~rate for a journeyman worker under the appropriate occupational title for a~~  
5 ~~specific locality.~~

6 ~~2. The combined total of entry-level workers and federally registered~~  
7 ~~apprentices shall not exceed a one-to-one ratio with the number of journeyman~~  
8 ~~workers in any occupational title on a public works project subject to sections~~  
9 ~~290.210 to 290.340.]~~  
10

~~[290.240. 1. The department shall inquire diligently into complaints~~  
2 ~~regarding any violation of sections 290.210 to 290.340, shall institute actions for~~  
3 ~~penalties herein prescribed, and shall enforce generally the provisions of sections~~  
4 ~~290.210 to 290.340. Complaints regarding any violation of sections 290.210 to~~  
5 ~~290.340 shall be filed with the department. The following interested parties are~~  
6 ~~the only parties allowed to file such complaints with the department:~~

7 ~~(1) Any decision-making public servant for a public body for which a~~  
8 ~~public works project is being performed, if the complaint is against the contractor~~  
9 ~~or subcontractor for the project;~~

10 ~~(2) Any contractor, if the complaint is against his or her subcontractor for~~  
11 ~~work performed on behalf of a public body;~~

12 ~~(3) Any subcontractor, if the complaint is against his or her contractor for~~  
13 ~~work performed on behalf of a public body; and~~

14 ~~(4) Any worker who alleges a violation of his or her rights under sections~~  
15 ~~290.210 to 290.340.~~

16 ~~2. The department may establish rules and regulations for the purpose of~~  
17 ~~carrying out the provisions of sections 290.210 to 290.340.]~~  
18

~~[290.250. 1. Every public body authorized to contract for or construct~~  
2 ~~public works before advertising for bids or undertaking such construction shall~~  
3 ~~request the department to determine the applicable wage rates in the locality~~  
4 ~~where the work is to be performed. The department shall determine the~~  
5 ~~applicable wage rates in the locality in which the work is to be performed as~~  
6 ~~provided in section 290.257. Such determination or schedule of the wage rates~~  
7 ~~shall be attached to and made a part of the specifications for the work. The~~  
8 ~~public body shall then specify in the resolution or ordinance and in the call for~~  
9 ~~bids for the contract the wage rates in the locality needed to execute the contract.~~

10 ~~The contractor to whom the contract is awarded and any subcontractor under the~~  
11 ~~contractor shall pay not less than the specified wage rates to all workers~~  
12 ~~employed by them in the execution of the contract. The public body awarding the~~  
13 ~~contract shall cause to be inserted in the contract a stipulation to the effect that~~  
14 ~~not less than the specified wage rates shall be paid to all workers performing~~  
15 ~~work under the contract. The contractor shall forfeit as a penalty to the public~~  
16 ~~body on whose behalf the contract is made or awarded one hundred dollars for~~  
17 ~~each worker employed, for each calendar day, or portion thereof, such worker is~~  
18 ~~paid less than the specified wage rates for any work done under the contract, by~~  
19 ~~the contractor or by any subcontractor under the contractor, and the public body~~  
20 ~~awarding the contract shall cause to be inserted in the contract a stipulation to this~~  
21 ~~effect. The public body awarding the contract, and its agents and officers, shall~~  
22 ~~take cognizance of all complaints of all violations of the provisions of sections~~  
23 ~~290.210 to 290.340 committed in the course of the execution of the contract, and,~~  
24 ~~when making payments to the contractor becoming due under the contract, shall~~  
25 ~~withhold and retain therefrom all sums and amounts due and owing as a result of~~  
26 ~~any violation of sections 290.210 to 290.340. Any contractor may withhold from~~  
27 ~~any subcontractor sufficient sums to cover any penalties withheld by the~~  
28 ~~awarding public body on account of the subcontractor's failure to comply with the~~  
29 ~~terms of sections 290.210 to 290.340, and if payment has already been made, the~~  
30 ~~contractor may recover from the subcontractor the amount of the penalty in a suit~~  
31 ~~at law.~~

32 ~~2. In determining whether a violation of sections 290.210 to 290.340 has~~  
33 ~~occurred, and whether a penalty shall be imposed pursuant to subsection 1 of this~~  
34 ~~section, the department shall investigate any complaint made by an interested~~  
35 ~~party listed under section 290.240. Upon completing such investigation, the~~  
36 ~~department shall notify the employer of its findings. If the department concludes~~  
37 ~~that a violation of sections 290.210 to 290.340 has occurred and a penalty may~~  
38 ~~be due, the department shall notify the employer of such finding by providing a~~  
39 ~~notice of penalty to the employer. Such penalty shall not be due until forty-five~~  
40 ~~days after the date of the notice of the penalty.~~

41 ~~3. The employer shall have the right to dispute such notice of penalty in~~  
42 ~~writing to the department within forty-five days of the date of the notice. Upon~~  
43 ~~receipt of this written notice of dispute, the department shall notify the employer~~  
44 ~~of the right to resolve such dispute through arbitration. The state and the~~  
45 ~~employer shall submit to an arbitration process to be established by the~~  
46 ~~department by rule, and in conformance with the guidelines and rules of the~~  
47 ~~American Arbitration Association or other arbitration process mutually agreed~~  
48 ~~upon by the employer and the state. If at any time prior to the department~~  
49 ~~pursuing an enforcement action to enforce the monetary penalty provisions of~~  
50 ~~subsection 1 of this section against the employer, the employer pays the back~~  
51 ~~wages as determined by either the department or the arbitrator, the department~~

52 shall be precluded from initiating any enforcement action to impose the monetary  
53 penalty provisions of subsection 1 of this section:

54 ~~4. If the employer fails to pay all wages due as determined by the~~  
55 ~~arbitrator within forty-five days following the conclusion of the arbitration~~  
56 ~~process, or if the employer fails to exercise the right to seek arbitration, the~~  
57 ~~department may then pursue an enforcement action to enforce the monetary~~  
58 ~~penalty provisions of subsection 1 of this section against the employer. If the~~  
59 ~~court orders payment of the penalties as prescribed in subsection 1 of this section,~~  
60 ~~the department shall be entitled to recover its actual cost of enforcement from~~  
61 ~~such penalty amount.~~

62 ~~5. Nothing in this section shall be interpreted as precluding an action for~~  
63 ~~enforcement filed by an aggrieved employee as otherwise provided in law.]~~  
64

~~[290.257. 1. (1) In determining the prevailing wage rate, the department~~  
2 ~~shall accept and consider information submitted in either paper or electronic~~  
3 ~~format regarding local wage rates for construction projects that occurred during~~  
4 ~~the year preceding the annual wage order to be issued, provided that information~~  
5 ~~regarding local wage rates for entry-level workers and federally registered~~  
6 ~~apprentices shall not be considered.~~

7 ~~(2) (a) The prevailing wage rate for each occupational title shall be equal~~  
8 ~~to the weighted average wage for that occupational title.~~

9 ~~(b) For purposes of this subdivision, the following terms shall mean:~~

10 ~~a. "Reported wage sum", for each occupational title, the sum of every~~  
11 ~~product of each reported wage rate, which shall include fringe benefits,~~  
12 ~~multiplied by the total number of reportable hours at such wage rate; and~~

13 ~~b. "Weighted average wage", the reported wage sum for each~~  
14 ~~occupational title divided by the total number of reportable hours for that~~  
15 ~~occupational title.~~

16 ~~2. The department shall annually calculate the public works contracting~~  
17 ~~minimum wage in each locality. The public works contracting minimum wage~~  
18 ~~shall be equal to one hundred twenty percent of the average hourly wage in a~~  
19 ~~particular locality, as determined by the Missouri economic research and~~  
20 ~~information center within the department of economic development, or any~~  
21 ~~successor agency.~~

22 ~~3. A final determination of the prevailing hourly rate of wages and the~~  
23 ~~public works contracting minimum wage applicable to every locality to be~~  
24 ~~contained in an annual wage order shall be made annually on or before July 1,~~  
25 ~~2019, and July first of each year thereafter. The wage order shall remain in effect~~  
26 ~~until superseded by a new annual wage order. The department shall, by March~~  
27 ~~10, 2019, and March tenth of each year thereafter, make an initial determination~~  
28 ~~of the prevailing wage rate for each occupational title within the locality as well~~  
29 ~~as an initial determination as to the public works contracting minimum wage.~~



30 ~~Objections may be filed as to any initial determination as provided in section~~  
31 ~~290.262.~~

32 ~~4. (1) If the total number of reportable hours that are paid pursuant to a~~  
33 ~~collective bargaining agreement and the total number of reportable hours that are~~  
34 ~~not paid pursuant to a collective bargaining agreement equal or exceed, in the~~  
35 ~~aggregate, one thousand hours for any particular occupational title within a~~  
36 ~~locality, workers engaged in that occupational title in such locality shall be paid~~  
37 ~~the prevailing wage rate determined by the department pursuant to this section.~~

38 ~~(2) If the total number of reportable hours that are paid pursuant to a~~  
39 ~~collective bargaining agreement and the total number of reportable hours that are~~  
40 ~~not paid pursuant to a collective bargaining agreement do not equal or exceed, in~~  
41 ~~the aggregate, one thousand hours for any particular occupational title within a~~  
42 ~~locality, workers engaged in that occupational title in such locality shall be paid~~  
43 ~~the public works contracting minimum wage.~~

44 ~~5. For purposes of this section, the term "reportable hours" shall mean~~  
45 ~~hours reported by a contractor for work performed under such contractor in a~~  
46 ~~particular occupational title within a particular locality.~~

47 ~~6. (1) The different types of occupational titles to which sections~~  
48 ~~290.210 to 290.340 shall apply shall be limited to, and shall include, all of the~~  
49 ~~following:~~

50 ~~(a) Asbestos worker;~~

51 ~~(b) Boilermaker;~~

52 ~~(c) Bricklayer;~~

53 ~~(d) Carpenter, which shall include pile driver, millwright, lather, and~~  
54 ~~linoleum layer;~~

55 ~~(e) Cement mason, which shall include plasterer;~~

56 ~~(f) Communications technician;~~

57 ~~(g) Electrician;~~

58 ~~(h) Elevator constructor;~~

59 ~~(i) Glazier;~~

60 ~~(j) Ironworker;~~

61 ~~(k) General laborer, including first semi-skilled laborer and second~~  
62 ~~semi-skilled laborer;~~

63 ~~(l) Mason, which shall include marble mason, marble finisher, terrazzo~~  
64 ~~worker, terrazzo finisher, tile setter, and tile finisher;~~

65 ~~(m) Operating engineer, which shall include operating engineer group~~  
66 ~~one, operating engineer group two, operating engineer group three, operating~~  
67 ~~engineer group three-A, operating engineer group four, and operating engineer~~  
68 ~~group five;~~

69 ~~(n) Outside lineman, lineman operator, groundman, lineman tree~~  
70 ~~trimmer, groundman tree trimmer, and any combination thereof;~~

71 ~~(o) Painter;~~

72 ~~(p) Plumber, which shall include pipefitter;~~

73 ~~\_\_\_\_\_ (q) Roofer;~~  
 74 ~~\_\_\_\_\_ (r) Sheet metal worker;~~  
 75 ~~\_\_\_\_\_ (s) Sprinkler fitter, and~~  
 76 ~~\_\_\_\_\_ (t) Truck driver, which shall include truck control service driver, truck~~  
 77 ~~driver group one, truck driver group two, truck driver group three, and truck~~  
 78 ~~driver group four.~~

79 ~~\_\_\_\_\_ (2) Each occupational title listed in subdivision (1) of this subsection~~  
 80 ~~shall have the same meaning and description as given to such occupational title~~  
 81 ~~in 8 CSR 30-3.060.]~~  
 82

~~[290.260. 1. The department, as it deems necessary, shall from time to~~  
 2 ~~time investigate and determine the prevailing hourly rate of wages for heavy and~~  
 3 ~~highway construction work in the localities. In doing so, the department shall~~  
 4 ~~accept and consider information regarding local wage rates that is submitted in~~  
 5 ~~either paper or electronic formats. A determination applicable to every locality~~  
 6 ~~to be contained in a general wage order shall be made annually on or before July~~  
 7 ~~first of each year for the Missouri state highways and transportation commission~~  
 8 ~~and shall remain in effect until superseded by a new general wage order. In~~  
 9 ~~determining prevailing rates, the department shall ascertain and consider the~~  
 10 ~~applicable wage rates established by collective bargaining agreements, if any, and~~  
 11 ~~the rates that are paid generally within the locality.~~

12 ~~\_\_\_\_\_ 2. A certified copy of the determination so made shall be filed~~  
 13 ~~immediately with the secretary of state and with the department in Jefferson City.~~  
 14 ~~Copies shall be supplied by the department to all persons requesting them within~~  
 15 ~~ten days after the filing.~~

16 ~~\_\_\_\_\_ 3. At any time within thirty days after the certified copies of the~~  
 17 ~~determinations have been filed with the secretary of state and the department, any~~  
 18 ~~person who is affected thereby may object in writing to the determination or the~~  
 19 ~~part thereof that he deems objectionable by filing a written notice with the~~  
 20 ~~department, stating the specific grounds of the objection.~~

21 ~~\_\_\_\_\_ 4. Within thirty days of the receipt of the objection, the department shall~~  
 22 ~~set a date for a hearing on the objection. The date for the hearing shall be within~~  
 23 ~~sixty days of the receipt of the objection. Written notice of the time and place of~~  
 24 ~~the hearing shall be given to the objectors at least ten days prior to the date set for~~  
 25 ~~the hearing.~~

26 ~~\_\_\_\_\_ 5. The department at its discretion may hear each written objection~~  
 27 ~~separately or consolidate for hearing any two or more written objections. At the~~  
 28 ~~hearing the department shall first introduce in evidence the investigation it~~  
 29 ~~instituted and the other facts which were considered at the time of the original~~  
 30 ~~determination which formed the basis for its determination. The department, or~~  
 31 ~~the objector, or any interested party, thereafter may introduce any evidence that~~  
 32 ~~is material to the issues.~~

33 ~~6. Within twenty days of the conclusion of the hearing, the department~~  
34 ~~must rule on the written objection and make the final determination that it~~  
35 ~~believes the evidence warrants. Immediately, the department shall file a certified~~  
36 ~~copy of its final determination with the secretary of state and with the department~~  
37 ~~and shall serve a copy of the final determination on all parties to the proceedings~~  
38 ~~by personal service or by registered mail.~~

39 ~~7. This final decision of the department of the prevailing wages in the~~  
40 ~~locality is subject to review in accordance with the provisions of chapter 536.~~  
41 ~~Any person affected, whether or not the person participated in the proceedings~~  
42 ~~resulting in the final determination, may have the decision of the department~~  
43 ~~reviewed. The filing of the final determination with the secretary of state shall~~  
44 ~~be considered a service of the final determination on persons not participating in~~  
45 ~~the administrative proceedings resulting in the final determination.~~

46 ~~8. At any time before trial any person affected by the final determination~~  
47 ~~of the department may intervene in the proceedings to review under chapter 536~~  
48 ~~and be made a party to the proceedings.~~

49 ~~9. All proceedings in any court affecting a determination of the~~  
50 ~~department under the provisions of sections 290.210 to 290.340 shall have~~  
51 ~~priority in hearing and determination over all other civil proceedings pending in~~  
52 ~~the court, except election contests.]~~  
53

2 ~~[290.262. 1. A certified copy of any initial wage determinations made~~  
3 ~~pursuant to section 290.257 shall be filed immediately with the secretary of state~~  
4 ~~and with the department in Jefferson City. Copies shall be supplied by the~~  
5 ~~department to all persons requesting them within ten days after the filing.~~

6 ~~2. At any time within thirty days after the certified copies of the~~  
7 ~~determinations have been filed with the secretary of state and the department, any~~  
8 ~~person who is affected thereby may object in writing to a determination or a part~~  
9 ~~thereof that he or she deems objectionable by filing a written notice with the~~  
10 ~~department, stating the specific grounds of the objection. If no objection is filed,~~  
11 ~~the determination is final after thirty days.~~

12 ~~3. After the receipt of the objection, the department shall set a date for~~  
13 ~~a hearing on the objection. The date for the hearing shall be within sixty days of~~  
14 ~~the receipt of the objection. Written notice of the time and place of the hearing~~  
15 ~~shall be given to the objectors at least ten days prior to the date set for the~~  
16 ~~hearing.~~

17 ~~4. The department at its discretion may hear each written objection~~  
18 ~~separately or consolidate for hearing any two or more written objections. At the~~  
19 ~~hearing the department shall first introduce in evidence the investigation it~~  
20 ~~instituted and the other facts which were considered at the time of the original~~  
21 ~~determination which formed the basis for its determination. The department, or~~  
22 ~~the objector, or any interested party, thereafter may introduce any evidence that~~  
is material to the issues.

23 ~~5. Within twenty days of the conclusion of the hearing, the department~~  
24 ~~shall rule on the written objection and make the final determination that it~~  
25 ~~believes the evidence warrants. Immediately, the department shall file a certified~~  
26 ~~copy of its final determination with the secretary of state and with the department~~  
27 ~~and shall serve a copy of the final determination on all parties to the proceedings~~  
28 ~~by personal service or by registered mail.~~

29 ~~6. This final decision of the department of the prevailing wages in the~~  
30 ~~locality for each occupational title is subject to review in accordance with the~~  
31 ~~provisions of chapter 536. Any person affected, whether or not the person~~  
32 ~~participated in the proceedings resulting in the final determination, may have the~~  
33 ~~decision of the department reviewed. The filing of the final determination with~~  
34 ~~the secretary of state shall be considered a service of the final determination on~~  
35 ~~persons not participating in the administrative proceedings resulting in the final~~  
36 ~~determination.~~

37 ~~7. At any time before trial any person affected by the final determination~~  
38 ~~of the department may intervene in the proceedings to review under chapter 536~~  
39 ~~and be made a party to the proceedings.~~

40 ~~8. Any annual wage order made for a particular occupational title in a~~  
41 ~~locality, that is based on the number of hours worked under a collective~~  
42 ~~bargaining agreement, may be altered once each year, as provided in this~~  
43 ~~subsection. The prevailing wage for each such occupational title may be adjusted~~  
44 ~~on the anniversary date of any collective bargaining agreement which covers all~~  
45 ~~persons in that particular occupational title in the locality in accordance with any~~  
46 ~~annual incremental wage increases set in the collective bargaining agreement. If~~  
47 ~~the prevailing wage for an occupational title is adjusted pursuant to this~~  
48 ~~subsection, the employee's representative or employer in regard to such collective~~  
49 ~~bargaining agreement shall notify the department of this adjustment, including~~  
50 ~~the effective date of the adjustment. The adjusted prevailing wage shall be in~~  
51 ~~effect until the next final annual wage order is issued pursuant to this section.~~  
52 ~~The wage rates for any particular job, contracted and commenced within sixty~~  
53 ~~days of the contract date, which were set as a result of the annual or revised wage~~  
54 ~~order, shall remain in effect for the duration of that particular job.~~

55 ~~9. In addition to all other reporting requirements of sections 290.210 to~~  
56 ~~290.340, each public body which is awarding a contract for a public works~~  
57 ~~project shall, prior to beginning of any work on such public works project, notify~~  
58 ~~the department, on a form prescribed by the department, of the scope of the work~~  
59 ~~to be done, the various types of craftsmen who will be needed on the project, and~~  
60 ~~the date work will commence on the project.]~~

61

2 ~~[290.263. The wage rates required to be paid to workers upon public~~  
3 ~~works pursuant to sections 290.210 to 290.340 shall not be less than the~~  
4 ~~minimum wage specified under Section 6(a)(1) of the Fair Labor Standards Act~~  
~~of 1938, as amended.]~~

2 ~~[290.265. A clearly legible statement of all wage rates required to be paid~~  
3 ~~to all workers employed in order to execute the contract and employed on the~~  
4 ~~construction of the public works shall be kept posted in a prominent and easily~~  
5 ~~accessible place at the site thereof by each contractor and subcontractor engaged~~  
6 ~~in the public works projects under sections 290.210 to 290.340 and such notice~~  
7 ~~shall remain posted during the full time that any such worker shall be employed~~  
8 ~~on the public works.]~~

2 ~~[290.270. The finding of the department ascertaining and declaring the~~  
3 ~~prevailing hourly rate of wages and the public works contracting minimum wage~~  
4 ~~shall be final for the locality, unless reviewed under the provisions of sections~~  
5 ~~290.210 to 290.340. Nothing in sections 290.210 to 290.340, however, shall be~~  
6 ~~construed to prohibit the payment to any worker employed on any public work~~  
7 ~~of more than the prevailing hourly rate of wages or the public works contracting~~  
8 ~~minimum wage. Nothing in sections 290.210 to 290.340 shall be construed to~~  
9 ~~limit the hours of work which may be performed by any worker in any particular~~  
10 ~~period of time.]~~

2 ~~[290.280. The authorized representative of the department may~~  
3 ~~administer oaths, take or cause to be taken the depositions of witnesses, and~~  
4 ~~require by subpoena the attendance and testimony of witnesses and the~~  
5 ~~production of all books, records, and other evidence relative to any matter under~~  
6 ~~investigation or hearing. The subpoena shall be signed and issued by the~~  
7 ~~department's authorized representative. In case of failure of any person to comply~~  
8 ~~with any subpoena lawfully issued under this section, or on the refusal of any~~  
9 ~~witness to produce evidence or to testify to any matter regarding which he may~~  
10 ~~be lawfully interrogated, the authorized representative of the department may~~  
11 ~~proceed to enforce obedience to the subpoenas in the manner provided by section~~  
12 ~~536.077 for administrative agencies. The authorized representative of the~~  
13 ~~department shall have the power to certify to official acts.]~~

2 ~~[290.290. 1. The contractor and each subcontractor engaged in any~~  
3 ~~construction of public works shall keep full and accurate records clearly~~  
4 ~~indicating the names, occupations and crafts of every worker employed by them~~  
5 ~~in connection with the public work together with an accurate record of the~~  
6 ~~number of hours worked by each worker and the actual wages paid therefor. The~~  
7 ~~payroll records required to be so kept shall be open to inspection by any~~  
8 ~~authorized representative of the contracting public body or of the department at~~  
9 ~~any reasonable time and as often as may be necessary and such records shall not~~  
10 ~~be destroyed or removed from the state for the period of one year following the~~  
11 ~~completion of the public work in connection with which the records are made.~~

12 ~~2. Each contractor and subcontractor shall file with the contracting public~~  
~~body upon completion of the public work and prior to final payment therefor an~~

13 ~~affidavit stating that he or she had fully complied with the provisions and~~  
14 ~~requirements of sections 290.210 to 290.340, and no public body shall be~~  
15 ~~authorized to make final payment until such affidavit is filed therewith in proper~~  
16 ~~form and order.~~

17 ~~3. Each contractor and subcontractor engaged in any construction of~~  
18 ~~public works shall have its name, acceptable abbreviation or recognizable logo~~  
19 ~~and the name of the city and state of the mailing address of the principal office~~  
20 ~~of the company, on each motor vehicle and motorized self-propelled piece of~~  
21 ~~equipment which is used in connection with such public works project during the~~  
22 ~~time the contractor or subcontractor is engaged on such project. The sign shall~~  
23 ~~be legible from a distance of twenty feet but the size of the lettering need not be~~  
24 ~~larger than two inches. In cases where equipment is leased or where affixing a~~  
25 ~~legible sign to the equipment is impractical, the contractor may place a temporary~~  
26 ~~stationary sign, with the information required pursuant to this subsection, at the~~  
27 ~~main entrance of the construction project in place of affixing the required~~  
28 ~~information on the equipment so long as such sign is not in violation of any state~~  
29 ~~or federal statute, rule or regulation. Motor vehicles which are required to have~~  
30 ~~similar information affixed thereto pursuant to requirements of a regulatory~~  
31 ~~agency of the state or federal government are exempt from the provisions of this~~  
32 ~~subsection.~~

33 ~~4. The provisions of subsection 3 of this section shall not apply to~~  
34 ~~construction of public works for which the contract awarded is in the amount of~~  
35 ~~two hundred fifty thousand dollars or less.]~~  
36

2 ~~[290.300. Any worker employed by the contractor or by any~~  
3 ~~subcontractor under the contractor who shall be paid for his or her services in a~~  
4 ~~sum less than the stipulated rates for work done under the contract, shall have a~~  
5 ~~right of action for double whatever difference there may be between the amount~~  
6 ~~so paid and the rates provided by the contract together with a reasonable~~  
7 ~~attorney's fee to be determined by the court, and an action brought to recover~~  
8 ~~same shall be deemed to be a suit for wages, and any and all judgments entered~~  
9 ~~therein shall have the same force and effect as other judgments for wages.]~~

2 ~~[290.305. No person, firm or corporation shall violate the wage~~  
3 ~~provisions of any contract contemplated in sections 290.210 to 290.340 or suffer~~  
4 ~~or require any employee to work for less than the rate of wages so fixed, or~~  
5 ~~violate any of the provisions contained in sections 290.210 to 290.340. Where~~  
6 ~~workers are employed and their rate of wages has been determined as provided~~  
7 ~~in sections 290.210 to 290.340, no person, either on his or her behalf or for any~~  
8 ~~other person, shall request, demand or receive, either before or after such worker~~  
9 ~~is engaged, that such worker pay back, return, donate, contribute, or give any part~~  
10 ~~or all of said worker's wages, salary, or thing of value, to any person, upon the~~  
~~statement, representation, or understanding that failure to comply with such~~

11 ~~request or demand will prevent such worker from procuring or retaining~~  
12 ~~employment, and no person shall, directly or indirectly, pay, request or authorize~~  
13 ~~any other person to violate this section. This section shall not apply to any agent~~  
14 ~~or representative of a duly constituted labor organization acting in the collection~~  
15 ~~of dues or assessments of such organization.]~~  
16

2 ~~[290.315. All contractors and subcontractors subject to sections 290.210~~  
3 ~~to 290.340 shall make full payment of the required wages in legal tender, without~~  
4 ~~any deduction for food, sleeping accommodations, transportation, use of small~~  
5 ~~tools, or any other thing of any kind or description. This section shall not apply~~  
6 ~~where the employer and employee enter into an agreement in writing at the~~  
7 ~~beginning of said term of employment covering deductions for food, sleeping~~  
8 ~~accommodations, or other similar items, provided such agreement is submitted~~  
9 ~~by the employer to the public body awarding the contract and the same is~~  
10 ~~approved by such public body as fair and reasonable.]~~

2 ~~[290.320. No public body, officer, official, member, agent or~~  
3 ~~representative authorized to contract for public works shall fail, before~~  
4 ~~advertising for bids or contracting for such construction, to have the department~~  
5 ~~determine the wage rates in the locality where the work is to be performed as~~  
6 ~~provided in sections 290.210 to 290.340.]~~

2 ~~[290.325. No public body, officer, official, member, agent or~~  
3 ~~representative thereof authorized to contract for public works shall award a~~  
4 ~~contract for the construction of such improvement or disburse any funds on~~  
5 ~~account of the construction of such public improvement, unless such public body~~  
6 ~~has first had the department determine the rates of wages required to be paid in~~  
7 ~~the locality where the work is to be performed and such determination has been~~  
8 ~~made a part of the specifications and contract for such public works.]~~

2 ~~[290.330. The department after investigation, upon complaint made by~~  
3 ~~an interested party listed under section 290.240 or upon its own initiative, shall~~  
4 ~~file with the secretary of state a list of the contractors and subcontractors who it~~  
5 ~~finds have been prosecuted and convicted for violations of sections 290.210 to~~  
6 ~~290.340 and such contractor or subcontractor, or simulation thereof, shall be~~  
7 ~~prohibited from contracting directly or indirectly with any public body for the~~  
8 ~~construction of any public works or from performing any work on the same as a~~  
9 ~~contractor or subcontractor for a period of one year from the date of the first~~  
10 ~~conviction for such violation and for a period of three years from the date of each~~  
11 ~~subsequent violation and conviction thereof. No public body shall award a~~  
12 ~~contract for a public works to any contractor or subcontractor, or simulation~~  
~~thereof, during the time that its name appears on said list. The filing of the notice~~

13 ~~of conviction with the secretary of state shall be notice to all public bodies and~~  
14 ~~their officers, officials, members, agents and representatives.]~~  
15

2 ~~[290.335. If it is found that a public body, contractor or subcontractor has~~  
3 ~~not complied with any of the terms of sections 290.210 to 290.340, the~~  
4 ~~department shall give notice of the precise violation in writing to such public~~  
5 ~~body, contractor or subcontractor. Sufficient time may be allowed for~~  
6 ~~compliance therewith as the department deems necessary. After the expiration~~  
7 ~~of the time prescribed in said notice, the department may in writing inform the~~  
8 ~~attorney general of the fact that such notice has been given and that the public~~  
9 ~~body, contractor or subcontractor or the authorized representative or agent thereof~~  
10 ~~to whom it was directed has not complied with such notice. Upon receipt thereof,~~  
11 ~~the attorney general shall at the earliest possible time bring suit in the name of the~~  
12 ~~state in the circuit court of the county in which such public body is located or~~  
13 ~~where any such contractor or subcontractor is engaged in any public works to~~  
14 ~~enjoin the award of such contract for a public works, or any further work or~~  
15 ~~payments thereunder if the contract has been awarded, until the requirements of~~  
16 ~~such notice are fully complied with. The court may issue a temporary restraining~~  
17 ~~order with due notice to the defendant in such action. The plaintiff shall in any~~  
18 ~~such injunctive action post an adequate bond to be set by the circuit judge. Upon~~  
19 ~~final hearing thereof, if the court is satisfied that the requirements of the notice~~  
20 ~~by the department to the defendant were not unreasonable or arbitrary, it shall~~  
21 ~~issue an order enjoining the awarding of such contract for a public works, or any~~  
22 ~~further work or payments thereunder if the contract has been awarded, until the~~  
23 ~~notice is fully complied with. Such injunction shall continue operative until the~~  
24 ~~court is satisfied that the requirements of such notice have been complied with~~  
25 ~~and the court shall have and exercise with respect to the enforcement of such~~  
26 ~~injunctions all the power in it in other similar cases. Both the plaintiff and~~  
27 ~~defendant in such action have the same rights of appeal as are provided by law~~  
28 ~~in other injunction proceedings.]~~

2 ~~[290.340. Any officer, official, member, agent or representative of any~~  
3 ~~public body, contractor or subcontractor who willfully violates and omits to~~  
4 ~~comply with any of the provisions and requirements of sections 290.210 to~~  
5 ~~290.340 shall be punished for each violation thereof by a fine not exceeding five~~  
6 ~~hundred dollars, or by imprisonment not exceeding six months, or by both such~~  
7 ~~fine and imprisonment. Each day such violation or omission continues shall~~  
8 ~~constitute a separate offense as contemplated by this section.]~~

✓