

# Weighted Average Overtime in the World of Prevailing Wage

by Philip Ely, Advantage Resource, Inc.



Some employers still consider the payment of “time and a half” for all hours worked over 40 in a week as satisfying their overtime obligation. But does it really? What if an employee works at two or more pay rates in one week? How does working on prevailing wage change time classification and overtime premium calculation? What happens if an employee works all seven days in the week?

This article attempts to explain the requirements and calculation methods of weighted average overtime, commonly called “blended rate overtime.” This most commonly applies to an hourly worker who may perform work on prevailing wage projects part of the week or who works at more than one classification in any one week. Several key

components of overtime law are not covered, such as how exempt and nonexempt employees are defined; how commissions, pieceworkers or salaried persons affect calculations; or how other states identify and define their overtime requirements. This article is written for work performed in the state of Kentucky. Since overtime laws vary state to state, be aware of accounting programs or overtime calculators that do not take a state’s specific overtime requirements into account or do not require you to identify the specific hour worked as subject to overtime.

## Identify the OT Hours

To properly calculate an overtime pay rate, the employer must first correctly identify which hours to classify as overtime hours. Identification starts with how the employer defines the “work week,” or the seven consecutive days adopted by the employer with the intention that it shall be permanently defined with no intention to evade overtime provisions. The most common overtime requirement is to pay a

premium for employment in excess of 40 hours in a work week.<sup>1</sup> Classifying hours worked over 40 as overtime is both a federal and state requirement.

Kentucky is also one of two states to have a “seven-consecutive-day” law. An employee who works all seven days of the workweek, and who exceeds 40 total work hours on the seventh day, shall have all hours worked on the seventh day classified as overtime.<sup>2</sup>

Additional time-classification requirements exist for hours worked that are subject to Kentucky prevailing wage laws. The state of Kentucky, for prevailing wage projects, limits non-overtime hours for any laborer, workman or mechanic to no more than eight hours per day. This may be extended to 10 hours per day if the employee and employer enter into an agreement in writing prior to work taking place.<sup>3</sup> This daily overtime requirement is not applicable to federal prevailing wage projects.

In summary, and generally speaking, the state of Kentucky requires an overtime premium for the following:

- Greater than 40 hours worked in one work week
- Seven consecutive days in the work week (if exceeding 40 hours on the seventh day)
- Greater than eight hours in a day (Kentucky prevailing wage requirement; may be extended to 10 hours in a day with a prior written agreement in place)

### Calculate the “Regular Rate” and Overtime Premium

Once hours have been properly identified as overtime, the next step is correctly calculating the premium due for those hours. For employees paid a single hourly rate only, the premium is determined by multiplying one-half by the hourly rate, then adding this amount to the straight-time regular earnings (hence “time and a half”). For employees working at two or more rates, the hourly rate for that week is the weighted average of the rates.<sup>4</sup> In other words, divide the total straight-time wages by the total number of hours worked. This “blended rate” or “regular rate” is then multiplied by one-half to calculate the correct overtime premium. Adding this overtime premium to the base hourly straight-time rate for the specific hours identified as overtime yields the correct

## John’s Time Card

Job	Class	Wage	Mon	Tue	Wed	Thu	Fri	Sat	Sun
12-003	ELEC	\$29.27	19	10	9	19			
Shop	ms	\$18.00					8		

hourly rate. This is especially important in the prevailing wage context, where it must be shown that an overtime premium is applied to the correct hour.

### An Example

John H. Employee works for Samples Contracting Company. Samples Contracting recently began work on Job 12-003, a prevailing wage project subject to Kentucky prevailing wage laws. Samples has a written agreement in effect with its employees prior to work commencing on Job 12-003 to authorize work up to 10 hours a day without being subject to daily overtime requirements.

John works Monday through Thursday at Job 12-003 as an electrician. The required prevailing wage base rate for electricians on this project is \$29.27 per hour. On Friday, John works eight hours in the shop. John’s base wage is \$18 per hour.

A portion of the time card John submits is shown above.

Samples Contracting must answer the following questions for John, and for every employee, every week:

- Which hours worked this week (if any) are overtime?
- What is the regular rate?
- What is the overtime premium?
- What is the correct hourly rate of pay?
- What are the total wages due?

*Which hours worked this week (if any) are overtime?*

Since John worked on a Kentucky prevailing wage project, daily overtime requirements are in effect. Because John’s work days did not exceed 10 hours, these are not applicable in this case. Also, since John did not work all seven days of the work week, the seven-consecutive-day requirement is also not applicable. John did,

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however, exceed 40 work hours this week. He reached 40 hours as of the end of the day Thursday, making all eight hours worked on Friday overtime hours.

*What is the regular rate?*

John worked at more than one hourly rate for the week, so his regular rate must be calculated.

$$\begin{aligned} \text{"Regular Rate"} &= \text{Total straight wages paid} / \\ &\text{Total hours worked} \\ &= ((\$29.27/\text{hour} \times 40 \text{ hours}) + (\$18.00/\text{hour} \times \\ &\quad 8 \text{ hours})) / 48 \text{ hours} \\ &= \$1,314.80 / 48 \text{ hours} \\ &= \$27.391/\text{hour} \end{aligned}$$

*What is the overtime premium?*

The overtime premium due is one-half (1/2) the blended, or "regular," rate.

$$\begin{aligned} \text{OT Premium} &= 0.5 \times \text{"Regular Rate"} \\ &= 0.5 \times \$27.391/\text{hour} \\ &= \$13.6958/\text{hour} \\ &= \$13.70/\text{hour} \end{aligned}$$

*What is the correct hourly rate of pay?*

The overtime premium is added to the straight-time rate for the applicable hour(s) to calculate the appropriate hourly rate. In this example, the overtime hours were all worked on Friday, where the straight-time rate was \$18/hour.

$$\begin{aligned} \text{Hourly rate of pay (\$/hour)} &= \text{Straight-time} \\ &\text{base rate} + \text{OT premium} \\ &= \$18.00/\text{hour} + \$13.70/\text{hour} \\ &= \$31.70/\text{hour} \end{aligned}$$

*What are the total wages due?*

Total wages due are the total sum of the hourly pay rates multiplied by the total hours at the pay rate, for all hours worked.

$$\begin{aligned} \text{Total wages} &= (\$29.27/\text{hour} \times 40 \text{ hours}) + \\ &(\$31.70/\text{hour} \times 8 \text{ hours}) \\ &= \$1,170.80 + \$253.60 \\ &= \$1,424.40 \end{aligned}$$

**An Additional Example**

James K. Welder also works for Samples Contracting Company. Samples Contracting recently began work on Job 12-018, a prevailing wage project subject to Kentucky prevailing wage laws. Samples has a written agreement in effect with its employees prior to work commencing on Job 12-018 to authorize work up to 10 hours a day without being subject to daily overtime requirements.

James works a portion of the week at Job 12-018 as an electrician. The required prevailing wage base rate for electricians on this project is \$26.11 per hour. James also works during the week at Job 12-018 as a sheet metal worker, where the required prevailing wage base rate is \$27.26 per hour. Additionally, James works at Job 11-216, a non-prevailing wage project, at his normal base pay wage. James' base wage is \$23.00 per hour.

A portion of the time card James submits is shown below.

Samples Contracting must answer the same questions for James as it did for John:

- Which hours worked this week (if any) are overtime?
- What is the regular rate?
- What is the overtime premium?
- What is the correct hourly rate of pay?
- What are the total wages due?

*Which hours worked this week (if any) are overtime?*

Since James worked on a Kentucky prevailing wage project, daily overtime requirements are in effect. On Tuesday, James exceeds 10 hours on a Kentucky prevailing wage project, making two of the hours worked overtime. James did not work all seven days of the work week, so the seven-consecutive-day requirement is not applicable. James did, however, exceed 40 work hours this week, reaching 40 non-overtime hours during the work day on Friday. As such, in this case, four of the hours worked on Friday are overtime hours.

A time sample identifying the hours breakout is shown on page 13:

*What is the regular rate?*

James worked at more than one hourly rate for the week, so his regular rate must be calculated.

$$\begin{aligned} \text{"Regular Rate"} &= \text{Total straight wages paid} / \\ &\text{Total hours worked} \\ &= ((\$26.11/\text{hour} \times 18 \text{ hours}) + (\$27.26/\text{hour} \times 4 \\ &\quad \text{hours}) + (\$23.00/\text{hour} \times 24 \text{ hours})) / 46 \text{ hours} \end{aligned}$$

$$\begin{aligned} &= \$1131.02 / 46 \text{ hours} \\ &= \$24.587/\text{hour} \end{aligned}$$

*What is the overtime premium?*

The overtime premium due is one-half the blended, or "regular," rate.

$$\begin{aligned} \text{OT Premium} &= 0.5 \times \text{"regular rate"} \\ &= 0.5 \times \$24.587/\text{hour} \\ &= \$12.2935/\text{hour} \\ &= \$12.30/\text{hour} \end{aligned}$$

*What is the correct hourly rate of pay?*

The overtime premium is added to the straight-time rate for the applicable hour(s) to calculate the appropriate hourly rate. In this example, James worked overtime hours with two different base hourly rates, so the correct total hourly rate will differ.

At Job 12-018:

$$\begin{aligned} \text{Hourly rate of pay (\$/hour)} &= \text{straight-time base} \\ &\text{rate} + \text{OT premium} \\ &= \$26.11/\text{hour} + \$12.30/\text{hour} \\ &= \$38.41/\text{hour} \end{aligned}$$

At Job 11-216:

$$\begin{aligned} \text{Hourly rate of pay (\$/hour)} &= \text{straight-time base} \\ &\text{rate} + \text{OT premium} \\ &= \$23.00/\text{hour} + \$12.30/\text{hour} \\ &= \$35.30/\text{hour} \end{aligned}$$

*What are the total wages due?*

Total wages due are the total sum of the hourly pay rates multiplied by the total hours at the pay rate, for all hours worked.

$$\begin{aligned} \text{Total wages} &= (\$26.11/\text{hour} \times 16 \text{ hours}) + \\ &(\$38.41/\text{hour} \times 2 \text{ hours}) + (\$27.26/\text{hour} \times 4 \\ &\quad \text{hours}) + (\$23.00/\text{hour} \times 20 \text{ hours}) + (\$35.30/ \\ &\quad \text{hour} \times 4 \text{ hrs}) \\ &= \$417.76 + \$76.82 + \$109.04 + \$460.00 + \$141.20 \\ &= \$1,204.82 \end{aligned}$$

**In Conclusion**

The most critical step when calculating overtime premiums is the correct identification of hours. Due to the differences

**James' Time Card**

Job	Class	Wage	Mon	Tue	Wed	Thur	Fri	Sat	Sun
12-018	ELC	\$26.11	6	12					
12-018	SM	\$27.26	4						
11-216	WB	\$23.00			8	8	8		



## James' Hourly Breakdown

Job	Class	Pay	Wage	Mon	Tue	Wed	Thur	Fri	Sat	Sun
12-018	ELEC	Reg	\$29.11	6	10					
		OT			2					
12-018	SM	Reg	\$27.06	4						
		OT								
11-216	na	Reg	\$23.00			8	8	4		
		OT						4		

between federal requirements and those of each state, be mindful of potential issues that accounting programs or overtime calculators may cause if they automatically

identify overtime hours or calculate overtime premiums. This is especially true in the prevailing wage context, where states or localities may have additional prevailing

wage overtime requirements that differ from federal requirements. As with everything, it is the responsibility of the employer to seek assistance as necessary to know the laws and correctly abide by them.

*Philip Ely is a project manager for Advantage Resource Inc. Based in Lexington, Kentucky, Advantage Resource provides fringe benefits administration and compliance assistance to prevailing wage contractors. More information can be found by visiting [www.advantageresource.com](http://www.advantageresource.com) or by contacting Philip directly at [pely@advantageresource.com](mailto:pely@advantageresource.com).*

### References

1. KRS 337.285; 803 KAR 1:060
2. KRS 337.050
3. KRS 337.540
4. 803 KAR 1:060



# SAFETY DAY CONFERENCE



AGC of Kentucky's Safety Committee held another successful Safety Conference. The Fourth Annual Conference consisted of 16 workshops with 21 professional speakers. More than 200 attendees participated in workshops related to the latest updates from OSHA. Opening remarks were provided by Commissioner Michael Dixon with the Kentucky Labor Cabinet, Department of Workplace Standards. Dixon discussed the key components of a safe working environment. "You must plan, provide and train" to ensure all employees are protected while working.

After the morning sessions were completed, Finley Lyons, Safety Committee chair, introduced luncheon speaker Mike McCarroll, CSP, with PROSAFE Solutions, Inc. McCarroll's "Good to Great Moving to Safety Excellence" presentation provided the attendees with an insight on safety culture. "Safety climate,

behaviors, leadership, systems and structures are all compositions of a safety culture that helps shape safety in organizations."

AGC would like to thank the generous sponsors, the eight construction supply vendors as well as the 2012 Safety Committee for their time and support of the Safety Day Conference. For further information regarding safety, please contact Safety and Education Director Ronnie Perkins 502.223.8845.

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