
SUBSTITUTE HOUSE BILL 1118

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Miloscia, Chase, Hasegawa, Cody, Moeller, Dunshee, Sells, McCoy, Darneille, Green, Pettigrew, Santos, Roberts, Appleton, Ormsby, Dickerson, Morrell, Conway, Kenney and Simpson)

READ FIRST TIME 02/27/07.

1 AN ACT Relating to providing living wages on public contracts;
2 amending RCW 49.48.082; adding a new section to chapter 43.19 RCW;
3 adding a new section to chapter 47.28 RCW; and adding a new chapter to
4 Title 39 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the state
7 annually awards contracts to private contractors and vendors, and that
8 such expenditures should be spent in a manner that promotes the
9 creation of jobs that allow residents to support themselves and their
10 families with dignity. The legislature further finds that the present
11 federal and state minimum wages generate income at a level below the
12 amount required to support a family at a basic level and that jobs that
13 do not pay living wages result in families who have greater need of
14 social services provided by the state and paid for by state taxpayers.
15 The payment of adequate wages to workers employed by private
16 contractors and vendors that contract with the state will promote
17 stability and reduced turnover, resulting in a higher quality of
18 service.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Contract" means public works contracts, personal services
4 contracts, and purchasing contracts for goods and services.

5 (2) "Contractor" means any person, firm, or corporation that, in
6 the pursuit of an independent business, undertakes a contract with a
7 state agency.

8 (3) "Department" means the department of labor and industries.

9 (4) "Director" means the director of the department of labor and
10 industries.

11 (5) "Employee" has the meaning set forth in RCW 49.46.010. In
12 addition to the individuals excluded under RCW 49.46.010, "employee"
13 does not include an individual:

14 (a) Seventeen years old or younger;

15 (b) In a position that is designated for a trainee, apprentice, or
16 is otherwise part of a training program; and

17 (c) In a work study position, internship, or who is in a position
18 that requires student status as a prerequisite to being employed in
19 that position.

20 (6) "Employer" means a contractor or a subcontractor that employs
21 an employee.

22 (7) "State agency" means the department of community, trade, and
23 economic development or the department of ecology.

24 (8) "Subcontractor" means any person, firm, or corporation that, in
25 the pursuit of an independent business, undertakes a contract with
26 another person, firm, or corporation who holds a contract with the
27 state.

28 NEW SECTION. **Sec. 3.** (1) All contractors and subcontractors
29 covered under this chapter shall pay employees performing work under
30 contracts or subcontracts a living wage no less than nine dollars and
31 twenty-five cents per hour if health benefits are paid for in whole or
32 in substantial part by the employer, or eleven dollars per hour if
33 health benefits are not so provided.

34 (2)(a) Beginning January 1, 2008, and each following January 1st as
35 set forth under (b) of this subsection, every contractor and
36 subcontractor shall pay each of his or her employees performing work

1 under contracts or subcontracts at a rate of not less than the amount
2 established under (b) of this subsection.

3 (b) Beginning September 30, 2007, and on each following September
4 30th, the department shall calculate an adjusted living wage rate as
5 specified under this subsection (2)(b). Each adjusted living wage rate
6 shall be calculated to the nearest cent, and shall take effect on the
7 following January 1st.

8 (i) If the per capita personal income for the prior calendar year
9 for Washington is equal to or greater than the per capita personal
10 income for the prior calendar year for the United States, the adjusted
11 living wage rate shall be calculated using the sum of:

12 (A) The percentage increase in the consumer price index for urban
13 wage earners and clerical workers, CPI-W, or a successor index, for the
14 twelve months prior to each September 1st as calculated by the United
15 States department of labor; and

16 (B) The average annual percentage increase in per capita personal
17 income for the prior two calendar years as calculated by the United
18 States department of commerce bureau of economic analysis.

19 (ii) If the per capita personal income for the prior calendar year
20 for Washington is less than the per capita personal income for the
21 prior calendar year for the United States, the adjusted living wage
22 rate shall be calculated to the nearest cent using the percentage
23 increase in the consumer price index for urban wage earners and
24 clerical workers, CPI-W, or a successor index, for the twelve months
25 prior to each September 1st as calculated by the United States
26 department of labor.

27 NEW SECTION. **Sec. 4.** (1) In circumstances where a contract also
28 requires the contractor or subcontractor to pay its employees
29 prevailing wages, the contractor or subcontractor shall pay its
30 employees at the contractually prescribed prevailing wage rate or the
31 minimum living wage payable under this chapter, whichever is higher.

32 (2) The contractor or subcontractor also shall pay its employees at
33 the minimum wage rate under chapter 49.46 RCW or the minimum living
34 wage payable under this chapter, whichever is higher.

35 NEW SECTION. **Sec. 5.** No contractor or subcontractor shall

1 retaliate or discriminate against an employee in his or her terms and
2 conditions of employment for:

- 3 (1) Reporting a possible violation of this chapter to the director;
- 4 (2) Participating in any legal or administrative proceeding in
5 respect to this chapter;
- 6 (3) Seeking civil remedies to enforce his or her rights conferred
7 by this chapter; or
- 8 (4) Otherwise asserting his or her rights under this chapter.

9 NEW SECTION. **Sec. 6.** If a contractor or subcontractor violates
10 section 3 of this act, the state agency may withhold payment, or
11 suspend or terminate the contract. If the contractor or subcontractor
12 willfully violates section 3 of this act, as evidenced by final orders
13 issued by the department under chapter 49.48 RCW, more than once in a
14 two-year period, the state agency may disqualify the contractor or
15 subcontractor from further contracts for a period of up to two years.

16 **Sec. 7.** RCW 49.48.082 and 2006 c 89 s 1 are each amended to read
17 as follows:

18 The definitions in this section apply throughout this section and
19 RCW 49.48.083 through 49.48.086:

- 20 (1) "Citation" means a written determination by the department that
21 a wage payment requirement has been violated.
- 22 (2) "Department" means the department of labor and industries.
- 23 (3) "Determination of compliance" means a written determination by
24 the department that wage payment requirements have not been violated.
- 25 (4) "Director" means the director of the department of labor and
26 industries, or the director's authorized representative.
- 27 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for
28 purposes of a wage payment requirement set forth in RCW 49.46.020 or
29 49.46.130; ~~((and))~~ (b) RCW 49.12.005 for purposes of a wage payment
30 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060; and
31 (c) section 2 of this act for purposes of a wage payment requirement
32 set forth in chapter 39.-- RCW (sections 1 through 6 and 8 through 10
33 of this act).

34 (6) "Employer" has the meaning provided in: (a) RCW 49.46.010 for
35 purposes of a wage payment requirement set forth in RCW 49.46.020,

1 49.46.130, 49.48.010, 49.52.050, or 49.52.060; and (b) section 2 of
2 this act for purposes of a wage payment requirement set forth in
3 chapter 39.-- RCW (sections 1 through 6 and 8 through 10 of this act).

4 (7) "Notice of assessment" means a written notice by the department
5 that, based on a citation, the employer shall pay the amounts assessed
6 under RCW 49.48.083.

7 (8) "Wage" has the meaning provided in RCW 49.46.010.

8 (9) "Wage complaint" means a complaint from an employee to the
9 department that asserts that an employer has violated one or more wage
10 payment requirements and that is reduced to writing.

11 (10) "Wage payment requirement" means a wage payment requirement
12 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, (~~(or)~~)
13 49.52.060, or section 3 of this act, and any related rules adopted by
14 the department.

15 (11) "Willful" means a knowing and intentional action that is
16 neither accidental nor the result of a bona fide dispute, as evaluated
17 under the standards applicable to wage payment violations under RCW
18 49.52.050(2).

19 NEW SECTION. Sec. 8. Nothing contained in this chapter may be
20 construed to limit in any way the remedies, legal or equitable, that
21 are available for violations of this chapter.

22 NEW SECTION. Sec. 9. If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. Sec. 10. (1) The living wage requirement imposed by
27 this chapter applies to all contracts and related subcontracts entered
28 into, renewed, or extended by either the department of community,
29 trade, and economic development or the department of ecology on or
30 after January 1, 2008.

31 (2) This act does not apply to any contracts entered into before
32 January 1, 2008.

33 NEW SECTION. Sec. 11. A new section is added to chapter 43.19 RCW
34 to read as follows:

1 All contracts entered into under this chapter by either the
2 department of community, trade, and economic development or the
3 department of ecology on or after January 1, 2008, are subject to the
4 requirements established under chapter 39.-- RCW (sections 1 through 6
5 and 8 through 10 of this act).

6 NEW SECTION. **Sec. 12.** A new section is added to chapter 47.28 RCW
7 to read as follows:

8 All contracts entered into under this chapter by either the
9 department of community, trade, and economic development or the
10 department of ecology on or after January 1, 2008, are subject to the
11 requirements established under chapter 39.-- RCW (sections 1 through 6
12 and 8 through 10 of this act).

13 NEW SECTION. **Sec. 13.** Sections 1 through 6 and 8 through 10 of
14 this act constitute a new chapter in Title 39 RCW.

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