
Labor & Workforce Development Committee

HB 2669

Brief Description: Concerning the definitions of "contractor" and "subcontractor" for the purposes of prevailing wages on public works.

Sponsors: Representatives Ormsby and Moscoso.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Defines a "contractor" or "subcontractor" to include a successor entity for purposes of the prevailing wage law.
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Hearing Date: 1/25/12

Staff: Alexa Silver (786-7190).

Background:

Washington's prevailing wage law requires that contractors and subcontractors on public works projects and public building service maintenance contracts pay their workers prevailing wages when employed on such projects and contracts. The prevailing wage is the hourly wage, usual benefits, and overtime paid in the largest city in each county to the majority of workers in a particular trade or occupation. The Department of Labor and Industries (Department) establishes prevailing wage rates for each trade and occupation and is otherwise responsible for administering and enforcing the prevailing wage law.

Failure to File Intents and Affidavits

Contractors and subcontractors on public works projects must submit to the awarding agency an "intent" to pay prevailing wage and an "affidavit" that prevailing wages have been paid before certain payments are made. Contractors and subcontractors who fail to file intents and affidavits are subject to a civil penalty of \$500 and may not bid on any public works contracts until the penalty is paid. A second violation within a five-year period bars the contractor or subcontractor

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from bidding on public works contracts for one year. For purposes of enforcing these filing requirements, the Department defines "contractor" and "subcontractor" to include an entity with substantially identical corporate or operational structure to an entity that has previously been found to violate the filing requirements. The factors the Department uses to determine substantial identity are specified in rule.

Failure to Pay the Prevailing Wage

Contractors and subcontractors who fail to pay the prevailing wage are subject to a penalty of \$1,000 or an amount equal to 20 percent of the violation, whichever is greater, and may not bid on any public works contracts until the penalty is paid. A second violation within a five-year period bars the contractor or subcontractor from bidding on public works contracts for two years.

Summary of Bill:

For purposes of the prevailing wage law, the terms "contractor" and "subcontractor" include a successor entity with a substantially identical business or operational structure to an entity that has violated the prevailing wage law if the successor entity had actual or constructive notice of the violation.

The Department may consider the following factors in determining whether a contractor or subcontractor is a successor entity:

- substantial continuity of the same business operation;
- use of the same machinery or equipment;
- similarity of jobs and types of working conditions;
- continuity of ownership or personnel; and
- similarity of products or services.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.