
Labor & Workforce Development Committee

HB 1025

Brief Description: Extending the application of prevailing wage requirements.

Sponsors: Representatives Moeller, Appleton, Ormsby and Pollet.

Brief Summary of Bill

- Requires payment of prevailing wage on publicly subsidized work.
- Assigns to subsidy recipients the responsibilities and liabilities of awarding agencies, and subjects subsidy recipients to a civil penalty if the contractor or subcontractor fails to pay prevailing wage.
- Requires a contractor or subcontractor on publicly subsidized work to maintain a surety bond.
- Provides that entities qualify for certain construction-related tax incentive programs only if they comply with the prevailing wage law.

Hearing Date: 1/23/13

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. A public work is defined as all work, construction, alteration, repair, or improvement that is executed at the cost of the state or a local public agency.

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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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.

A contract for public work must specify the prevailing rate of wage, and if the awarding agency determines that the residential rate applies, the contract must include that information. If it is later determined that the commercial rate applies, the awarding agency must pay the difference between the residential and commercial rates to the contractor.

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. An awarding agency may not release the contract retainage until an affidavit is submitted. If an awarding agency knowingly fails to comply with the requirements related to intents and affidavits, it is liable to workers for the amount of wages due.

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. Unpaid wages are a lien on the retainage and the contractor bond.

Summary of Bill:

Public work is defined to include publicly subsidized work. Work is subsidized by the public if:

- a party to the contract received or will receive a qualifying tax preference;
- a party to the contract received or will receive a public loan;
- the work takes place on land that a party to the contract leases from the state or a county, municipality, or political subdivision; or
- the work takes place on land that a party to the contract purchased from the state or a county, municipality, or political subdivision for less than fair market value, as determined at the time of the sale.

The construction-related sales and use tax incentive programs that require payment of prevailing wage are those for: (1) construction of warehouses, distribution centers, grain elevators, and cold storage; (2) purchases to construct structures used for retail sales of biofuels; (3) installing and constructing anaerobic digesters; (4) construction and equipment purchases for manufacturing facilities in high unemployment counties; (5) construction and equipment purchases for high technology; (6) construction and equipment purchases for biotechnology and medical device manufacturing; and (7) construction of a corporate headquarters facility in a community empowerment zone. An entity is qualified for one of these tax incentive programs only if it complies with the prevailing wage law.

The responsibilities and liabilities of awarding agencies apply to subsidy recipients. For example, a subsidy recipient may be liable for the difference between the residential and commercial rate, may not make final payment until an affidavit is submitted, and may be liable to workers for wages due. In addition, if the contractor or subcontractor is subject to a civil penalty for failure to pay prevailing wage, the subsidy recipient is also subject to a civil penalty in the amount of the unpaid wages or the value of the tax preference, whichever is greater.

Contractors and subcontractors on publicly subsidized works must file a surety bond or deposit funds in an account that the Department may access in case of violation of the law. The value of the surety bond or deposit must be 5 percent of the amount due on the contract.

Appropriation: None.

Fiscal Note: Requested on 1/17/13.

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