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**SUBSTITUTE SENATE BILL 5766**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Conway, King, Keiser, and Kuderer)

AN ACT Relating to the methodology for establishing the prevailing rate of wages for the construction of affordable housing, homeless and domestic violence shelters, and low-income weatherization and home rehabilitation public works; reenacting and amending RCW 39.12.015; adding a new section to chapter 39.12 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature intends that the methodology for establishing the prevailing rates of wages under this act applies only to affordable housing, homeless and domestic violence shelters, and low-income weatherization and home rehabilitation programs.

**Sec.**  RCW 39.12.015 and 2018 c 248 s 1 and 2018 c 242 s 1 are each reenacted and amended to read as follows:

(1) All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries.

(2) The time period for recovery of any wages owed to a worker affected by the determination is tolled until the prevailing wage determination is final.

(3)(a) Except as provided in section 3 of this act, and notwithstanding RCW 39.12.010(1), the industrial statistician shall establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements for those trades and occupations that have collective bargaining agreements. For trades and occupations with more than one collective bargaining agreement in the county, the higher rate will prevail.

((~~(4)~~)) (b) For trades and occupations in which there are no collective bargaining agreements in the county, the industrial statistician shall establish the prevailing rate of wage as defined in RCW 39.12.010 by conducting wage and hour surveys. In instances when there are no applicable collective bargaining agreements and conducting wage and hour surveys is not feasible, the industrial statistician may employ other appropriate methods to establish the prevailing rate of wage.

NEW SECTION. **Sec.**  A new section is added to chapter 39.12 RCW to read as follows:

(1) For residential construction, the industrial statistician shall establish the prevailing rate of wage by conducting wage and hour surveys. If the industrial statistician determines that information received from a survey is insufficient to determine the prevailing rate of wage for a trade under this subsection, the industrial statistician shall employ other appropriate methods to establish the prevailing rate of wage.

(a) The industrial statistician shall conduct the initial surveys required by this subsection (1) as soon as feasible after the effective date of this section. These surveys shall cover fiscal year 2018.

(b) The industrial statistician shall conduct a wage and hour survey following the initial survey or otherwise reestablish a prevailing rate of wage for each trade covered by this section at least every five years, and after the initial survey may stagger the surveys for workload purposes.

(2)(a) Until the industrial statistician has established a prevailing wage rate under subsection (1)(a) of this section and except as provided in (b) of this subsection, the industrial statistician shall establish the wage rate by:

(i) Identifying the residential prevailing wage rate in effect on August 30, 2018, for that trade (rate A);

(ii) Determining the year most recent to 2018, but not earlier than 2007, in which the wage rate for that trade was adjusted (year A);

(iii) Determining the percentage change in the annual average hourly wages reported for construction workers in Washington state, as calculated by the United States bureau of labor statistics' state and area employment, hours, and earnings estimates, from year A to 2019;

(iv) Adding the percentage change from (a)(iii) of this subsection to one hundred percent (percentage A); and

(v) Multiplying rate A by percentage A.

(b) If the residential construction wage rate in effect for a trade on August 31, 2018, is the same as the wage rate in effect on August 30, 2018, the industrial statistician must adopt the wage rate in effect for the trade on August 31, 2018, until a wage rate is established under subsection (1)(a) of this section.

(3) For purposes of this section:

(a) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single-family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including the basement, in the following categories:

(i) Affordable housing, including permanent supportive housing and transitional housing, which may include common spaces, community rooms, recreational spaces, a management office, or offices for the purposes of service delivery;

(ii) Weatherization and home rehabilitation programs for low-income households; and

(iii) Homeless shelters and domestic violence shelters.

(b) "Residential construction" does not include the utilities construction, such as water and sewer lines, or work on streets, or work on other structures unrelated to the housing.

NEW SECTION. **Sec.**  The industrial statistician must establish and publish wage rates under section 3(2) of this act within thirty days after the effective date of this section. The wage rates take effect thirty days after publication.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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