

# HOUSE BILL REPORT

## SHB 1254

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### As Passed Legislature

**Title:** An act relating to prevailing wage filings.

**Brief Description:** Prevailing wage filings.

**Sponsors:** House Committee on Labor & Workforce Development (originally sponsored by Representatives Manweller and Condotta).

**Brief History:**

**Committee Activity:**

Labor & Workforce Development: 1/30/13, 2/20/13 [DPS];

Appropriations Subcommittee on Health & Human Services: 2/25/13 [DPS(LWD)].

**Floor Activity:**

Passed House: 1/24/14, 96-0.

Passed Senate: 3/7/14, 49-0.

Passed Legislature.

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### Brief Summary of Substitute Bill

- Prohibits the Department of Labor and Industries from collecting an affidavit certification fee from individuals or entities that are exempt from the requirement to pay prevailing wage.

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## HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.

Signed by 9 members: Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Green, Holy, Moeller, Ormsby and Short.

**Staff:** Trudes Tango (786-7384).

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## HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

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*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.*

**Majority Report:** The substitute bill by Committee on Labor & Workforce Development be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morrell, Chair; Harris, Ranking Minority Member; Cody, Green, Jinkins, Kagi, Ormsby, Ross and Schmick.

**Staff:** Mary Mulholland (786-7391).

**Background:**

Prevailing wages must be paid to laborers, workers, and mechanics who work on public works projects in Washington. In addition, prevailing wages must be paid on public building service maintenance contracts of the state or of any county, municipality, or political subdivision.

Prevailing wage rates are the hourly wage, usual benefits, and overtime paid to laborers, workers, and mechanics in the same trade or occupation. These rates are established through analysis of survey data by the Industrial Statistician at the Department of Labor and Industries (Department). The rates are calculated to determine the majority rate paid in the locality.

Before the state or political subdivision pays a public works contract or public building service maintenance contract, the contractor is required to file a "Statement of Intent to Pay Prevailing Wages" (Intent) for approval by the Industrial Statistician. Approval is not required for public works projects of less than \$2,500.

The contract employer must file an "Affidavit of Wages Paid" (Affidavit) upon completion of the contracted work in order to receive final payment from the public entity. The Affidavit must list all subcontractors hired, the number of workers the employer used from each trade, and the total amount paid for the work. There is a statutorily required filing fee of \$40 for both the Intent and Affidavit.

Workers regularly employed by the state or any political subdivision are statutorily exempted from the prevailing wage requirements. Additionally, by rule the prevailing wage requirements do not apply to: sole owners and their spouses; any partner who owns at least 30 percent of a partnership; or the president, vice president, and treasurer of a corporation if each one owns at least 30 percent of the corporation.

**Summary of Substitute Bill:**

The Department may not collect the certification fee for the Affidavit from individuals or entities that are exempt from the prevailing wage rate requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Labor & Workforce Development):**

(In support) People can disagree about the merits of the prevailing wage laws, but the process and the paperwork associated with the prevailing wage filings can be streamlined. There is currently an exemption for the prevailing wage rate for sole owners, but that exemption does not apply to the filing and fee requirements. Recurring service contracts have similar problems with the filings and fees. This bill works to correct those problems by eliminating the filing and fee requirements for sole owners who are exempted from the prevailing wage rate requirements, and by allowing contractors with recurring service contracts to file the Intents and Affidavits quarterly rather than before and after each site visit. This will save small businesses a lot of time and money. The costs and the burdens imposed by the current paperwork and filing fees just do not make sense in the current prevailing wage system.

(With concerns) The Department uses the Intent and Affidavit filings to track what work is being done on public works projects in the state. Jobs can change after the initial filing of the Intent, and there may be misunderstandings about what work is covered by the prevailing wage statutes. Without the filing requirements, the Department would have no way to monitor and be sure that prevailing wage laws are being followed. Additionally, the Department is not the only agency that may require Intents and Affidavits. This sort of blanket change does not make sense in the current prevailing wage system.

(Opposed) The additional paperwork associated with the Intent and Affidavit filings may create some hardship, but it also means that there is transparency in the process. It is a good idea to provide some fee relief, but the filing requirements must stay the same for tracking purposes and for fraud detection.

**Staff Summary of Public Testimony (Appropriations Subcommittee on Health & Human Services):**

(In support) Washington has a prevailing wage law that requires business owners to file a form at the beginning and the end of each job. Due to some changes in the way the law has been interpreted, this has led to cumbersome paperwork. Under the law, a sole provider is exempt from the requirement to pay the prevailing wage. The Department of Labor & Industries (Department) requires that sole providers file the paperwork even though they are not bound by the law. The \$40 fees on Intents and Affidavits add up. The House Labor & Workforce Development (LWD) Committee initially heard a draft of this bill that would waive the Intent and Affidavit fees for those exempt from paying the prevailing wage. Many people testified and contacted legislators. One sole provider paid \$32,000 in prevailing wage fees for filing paperwork in one year. That could be equivalent to one job. The LWD Committee worked out a compromise in which individuals would pay the Intent fee to verify that he or she qualifies for the prevailing wage exemption, but the Affidavit fee is waived. Some legislators hope to expand the law to cover recurring contracts, but that is another story.

The fiscal impact would be to the Department budget and to revenue that the Department would no longer collect. There is no impact to the State General Fund. The Legislature needs to represent the taxpayers and business owners and not necessarily the Department. There should be a nexus between a fee paid and a service rendered.

(Opposed) None.

**Persons Testifying** (Labor & Workforce Development): (In support) Representative Manweller, prime sponsor; Kris Tefft, Association of Washington Business; and Gary Smith, Independent Business Association.

(With concerns) Tamara Jones and L. Ann Selover, Department of Labor and Industries.

(Opposed) David Meyers, Washington State Building and Construction Trades Council.

**Persons Testifying** (Appropriations Subcommittee on Health & Human Services): Representative Manweller, prime sponsor.

**Persons Signed In To Testify But Not Testifying** (Labor & Workforce Development): None.

**Persons Signed In To Testify But Not Testifying** (Appropriations Subcommittee on Health & Human Services): None.