
Commerce & Labor Committee

HB 2539

Brief Description: Revising provision for private right of action for unpaid prevailing wages.

Sponsors: Representatives Conway, Cairnes, Kirby, Campbell, Lysen, Dunshee, Sullivan, Upthegrove, Hunt, Wood, Chase, Simpson and Haigh.

Brief Summary of Bill

- Allows an "interested party" to pursue a private right of action against a contractor or subcontractor for unpaid prevailing wages on public works projects.

Hearing Date: 1/31/02

Staff: Siovhana Sheridan-Ayala (786-7119), Chris Cordes (786-7103).

Background:

The courts have stated that the purpose of the prevailing wage statute is to protect employees working on public projects from substandard wages and to preserve local wages. Under the state Prevailing Wage Act, contractors must pay workers on public contracts at least the prevailing wage. To ensure that workers receive the prevailing wage, contractors must include in their contract the minimum hourly wage that they will pay workers. This wage must meet or exceed the prevailing wage. The contractor must also submit a statement of intent to pay the prevailing wage to the government agency that is seeking the contract.

The Department of Labor and Industries administers and enforces the state Prevailing Wage Act. In addition to a civil penalty that the department may impose for violations, an affected party has a private right of action. The law allows an interested party to file a complaint in court, even if the party has not filed a complaint with the department.

The act defines "interested party" as "a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of the department or the director's designee." RCW 39.12.010.

In Ironworkers Dist. Council of Pacific Northwest v. University of Washington, Bd. of

Regents, a Washington Appellate Court ruled that only affected workers or organizations representing affected workers could bring suits for nonpayment of wages to court without first completing an administrative complaint with the department.

Summary of Bill:

An interested party may bring a private right of action for unpaid prevailing wages without having to first file or exhaust a claim with the department. This includes a contractor, subcontractor, employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of the department or the director's designee.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.