

# SENATE BILL REPORT

## ESSB 5684

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As Passed Senate, March 12, 2013

**Title:** An act relating to the prevailing rate of wage paid on public works.

**Brief Description:** Addressing the prevailing rate of wage paid on public works.

**Sponsors:** Senate Committee on Commerce & Labor (originally sponsored by Senator King).

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/13/13, 2/20/13 [DPS, DNP].

Passed Senate: 3/12/13, 26-23.

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** That Substitute Senate Bill No. 5684 be substituted therefor, and the substitute bill do pass.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Hewitt and King.

**Minority Report:** Do not pass.

Signed by Senators Conway, Ranking Member; Hasegawa and Keiser.

**Staff:** Mac Nicholson (786-7445)

**Background:** Employers on public works projects must pay prevailing wages. The prevailing wage is the hourly wage, usual benefits, and overtime paid to the majority of workers in the same trade or occupation in the largest city of the county where the work is being performed. The prevailing wage is determined by the industrial statistician at the Department of Labor and Industries (L&I). Prevailing wage requirements apply to all public works and public building service maintenance contracts of the state or any county, municipality, or political subdivision. The fabrication and manufacture of nonstandard items produced by contract specifically for a public works project is considered public work.

Any person or firm who undertakes, or offers to undertake any of the following activities must register as a contractor with L&I: construct, alter, repair, add to, subtract from, improve, develop, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure. Failure to register as a contractor will subject the person to criminal liability. State law provides a number of exemptions to the contractor registration requirements, including for persons who only furnish materials, supplies, or equipment

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without fabricating them into, or consuming them in the performance of, the work of the contractor.

Any person or firm seeking to advertise, work, submit a bid, or conduct the business of installing or maintaining wires or electrical equipment must obtain an electrical contractor license. State law provides exemptions to electrical licensing requirements.

**Summary of Engrossed Substitute Bill:** Prevailing wage requirements do not apply to workers or other persons who only deliver and unload standard materials, supplies, or equipment to a staging or stockpiling area without installing, fabricating, incorporating, or consuming the materials or supplies on or at the job site, or using the equipment to perform work on or at the public work site.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: The underlying goal of prevailing wage reform is to bring certainty and consistency to prevailing wage laws. Complying with prevailing wage rules can be a daunting task, particularly for small employers. Clarity and certainty will help small contractors be more competitive. This is meant to be a simple bill. People who are only delivering materials should not be subject to prevailing wages because they are not doing any work on the actual project. This bill provides a clear definition. The system is broken, and a new approach is needed. Wages need to reflect actual private market wages.

CON: There is concern about the reach of the bill. Not all employers on public works jobs subject to prevailing wage are contractors, and they would be excluded under this bill. There is a negative impact to prevailing wage requirements with this legislation.

OTHER: There are technical concerns that can be addressed.

**Persons Testifying:** PRO: Senator King, prime sponsor; Kathleen Garrity, Associated Builders and Contractors; Patrick Connor, National Federation of Independent Businesses.

CON: David Myers, WA State Building Trades Council.

OTHER: Tamara Jones, L&I.