

# SENATE BILL REPORT

## SB 5686

---

---

As of February 14, 2013

**Title:** An act relating to surveys used in prevailing wage determinations.

**Brief Description:** Requiring surveys to develop data for prevailing wage determinations.

**Sponsors:** Senator King.

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/13/13.

---

### SENATE COMMITTEE ON COMMERCE & LABOR

**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. Prevailing wage rates are established by the industrial statistician at the Department of Labor and Industries (L&I) for each trade and occupation employed in the performance of public work. To determine the prevailing wages, L&I conducts surveys, where employers, contractors, and labor unions are asked to submit wage and hour data. If the majority of workers in a trade or occupation in the largest city of the county are paid the same wage, that wage becomes the prevailing wage. If no single wage rate is paid to a majority of workers, an average wage is calculated and becomes the prevailing wage.

**Summary of Bill:** By December of each odd-numbered year, L&I must adopt and publish a schedule of the trades or job classifications for which a prevailing wage survey will be conducted in the upcoming two-year period. L&I must develop the survey based on that schedule, and ensure that each contractor registering or renewing a contractor registration has access to the survey.

Starting January 1, 2014, contractors who are registering or renewing their registration must complete a survey and return it to L&I within 60 days. Failure to submit a survey will prevent a contractor from bidding on any public works projects for a 22-month period.

Starting January 1, 2014, the industrial statistician may only use data collected from surveys provided to contractors to determine the prevailing wage.

---

*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.*

**Appropriation:** None.

**Fiscal Note:** Requested on February 4, 2013.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: There are a couple of unintended pieces in the bill that will be addressed. If a contractor wants to bid on a prevailing wage job, they should be required to submit prevailing wage surveys so that L&I has more wage information on a timely basis. If contractors want to bid a public works job, they should fill out the survey. The underlying goal is to establish certainty and consistency in regard to prevailing wage laws. Complying with prevailing wage laws can be a daunting task, particularly for small employers. Clarity and certainty will help small contractors be more competitive. Prevailing wages do not reflect the real world wages. The average rate of pay in an industry classification is different than the prevailing wage rate for the same classification. There is a problem in the survey methodology.

CON: The prevailing wage survey process and the determination process are separate. There are significant penalties for failure to respond to the survey and the contractor would be debarred from bidding on prevailing wage projects. Limiting survey information to contractors would leave out other employers that do not have to register as contractors and other interested parties, including workers, from providing survey data. Its unclear how new contractors would be able to meet the requirements of the bill. L&I is going through LEAN processes to make the survey system better, and that should address many issues.

OTHER: There are some implementation concerns that are being worked on with the sponsor.

**Persons Testifying:** PRO: Senator King, prime sponsor; Patrick Connor, National Federation of Independent Businesses, Gary Smith, Independent Business Assn.

CON: Josh Swanson, International Union of Operating Engineers; Nicole Grant, IBEW 46; David Myers, WA State Building Trades Council.

OTHER: Tamara Jones, L&I.