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**SENATE BILL 5775**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Braun and Baumgartner

AN ACT Relating to improving the accuracy of the prevailing rate of wage; amending RCW 39.12.026, 39.12.070, and 39.12.080; adding a new section to chapter 39.12 RCW; and prescribing penalties.

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

**Sec.**  RCW 39.12.026 and 2003 c 363 s 206 are each amended to read as follows:

((~~(1)~~)) In establishing the prevailing rate of wage under RCW 39.12.010, 39.12.015, and 39.12.020((~~,~~)):

(1) The department of labor and industries shall use a stratified random sampling methodology; and

(2) All data collected by the department may be used only in the county for which the work was performed.

((~~(2) This section applies only to prevailing wage surveys initiated on or after August 1, 2003.~~))

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

(1)(a) To conduct the stratified random sampling methodology as required under RCW 39.12.026, the department of labor and industries shall identify the contractors, employers, and labor unions eligible to receive wage surveys in specific trades or occupations. The department shall send wage surveys to thirty percent of those eligible survey recipients in each trade or occupation. The department shall use a random method to select the recipients of the survey in each trade or occupation.

(b) The prevailing rate of wage for a trade or occupation may be established using a stratified random sampling methodology when the department has received survey responses from twenty-five percent of the recipients in that particular trade or occupation.

(2)(a) A recipient of a wage survey is required to respond to the survey within ninety days of receiving the survey.

(b) If a recipient has not responded within ninety days, the department shall contact the recipient by telephone. If after thirty days of the first telephone call the recipient has still not responded, the department shall contact the recipient by telephone and notify the recipient that it must respond to the survey and will be subject to civil penalties if the recipient fails to respond.

(c) If the recipient fails to respond within fourteen business days of the department's second telephone call to the recipient, the department shall assess a civil penalty of five hundred dollars against the recipient.

(d) Civil penalties collected under this section are deposited in the public works administration account.

**Sec.**  RCW 39.12.070 and 2014 c 148 s 1 are each amended to read as follows:

(1) The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. Except as provided in subsection (3) of this section, the fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

(2) The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter((~~,~~)) including, but not limited to, ((~~the performance of adequate wage surveys~~))collecting data to establish the prevailing rate of wage, and to investigate and enforce all alleged violations of this chapter((~~,~~)) including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be forty dollars.

(3) If, at the time an individual or entity files an affidavit of wages paid, the individual or entity is exempt from the requirement to pay the prevailing rate of wage under RCW 39.12.020, the department of labor and industries may not charge a fee to certify the affidavit of wages paid.

**Sec.**  RCW 39.12.080 and 2006 c 230 s 2 are each amended to read as follows:

The public works administration account is created in the state treasury. The department of labor and industries shall deposit in the account all moneys received from fees or civil penalties collected under RCW 39.12.050, 39.12.065, and 39.12.070. Appropriations from the account may be made only for the purposes of administration of this chapter, including, but not limited to, ((~~the performance of adequate wage surveys~~)) collecting data to establish the prevailing rate of wage, and for the investigation and enforcement of all alleged violations of this chapter as provided for in this chapter and chapters 49.48 and 49.52 RCW.

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