

WSR 22-10-066
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed May 3, 2022, 8:59 a.m.]

Title of Rule and Other Identifying Information: Repeal rules regarding subprevailing wage certificates, WAC 296-127-400 through 296-127-470.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During the 2022 legislative session, the Washington state legislature passed SB 5763, which repealed RCW 39.12.022, which required individuals with disabilities to be paid a prevailing wage lower than applicable prevailing wage rates set by the department of labor and industries (L&I) by issuing subprevailing wage certificates. This rule making will repeal WAC 296-127-400 through 296-127-470 to align with the removal of the subject matter from the statute.

Reasons Supporting Proposal: The rule making is needed to implement SB 5763, which repealed RCW 39.12.022. RCW 39.12.022 gave authority for the rules established under WAC 296-127-400 through 296-127-470 originally adopted in 2019. L&I had not been issuing any subprevailing wage certificates and the underlying statutory authority for the rules has been repealed. The rules need to also be repealed to ensure rules on prevailing wage are up-to-date and align with prevailing wage statutes.

Statutory Authority for Adoption: Chapter 55, Laws of 2022.

Statute Being Implemented: SB 5763.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Reasa L. Pearson, Tumwater, Washington, 360-902-5331; Implementation and Enforcement: Jim Christensen, Tumwater, Washington, 360-902-5330.

This notice meets the following criteria to use the expedited repeal process for these rules:

The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited rule making is appropriate because the underlying statute that gave authority for the existing rules was repealed and not replaced by another statute, nor is the subject matter covered by any other rules. SB 5763 becomes effective June 9, 2022, making the rules void on the same date. Using expedited rule making will allow for the rules on prevailing wage to be up-to-date faster to reflect the change made to the statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Reasa L. Pearson, L&I, Fraud Prevention and Labor Standards, Prevailing Wage, P.O. Box 44540, Olympia, WA 98504-4540, phone 360-902-5331, email

PrevailingWageRules@Lni.wa.gov, AND RECEIVED BY July 5, 2022, by 5:00 p.m.

May 3, 2022
Joel Sacks
Director

OTS-3763.1

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-127-400 Applicability.
- WAC 296-127-410 Definitions.
- WAC 296-127-420 Application for a subprevailing wage certificate.
- WAC 296-127-430 Conditions for granting a subprevailing wage certificate.
- WAC 296-127-440 Issuance of a subprevailing wage certificate.
- WAC 296-127-450 Terms of subprevailing wage certificate.
- WAC 296-127-460 Renewal of subprevailing wage certificate.
- WAC 296-127-470 Review.