

FINAL BILL REPORT

ESHB 2388

C 88 L 94

Synopsis as Enacted

Brief Description: Providing penalties for multiple failures by a contractor or subcontractor to pay the prevailing rate of wage.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Heavey, H. Myers, Campbell, King and Anderson; by request of Department of Labor & Industries).

House Committee on Commerce & Labor
Senate Committee on Labor & Commerce

Background: Contractors on public works contracts must pay wages at least equal to prevailing wages to their employees who work on the projects. Any interested party may bring a complaint to the director of the Department of Labor and Industries who will investigate the complaint to determine whether prevailing wages have been paid. If the director determines that a violation may have occurred, a hearing will be conducted.

If prevailing wages have not been paid, the public agency which awarded the contract must withhold the amount of the unpaid wages from the retainage or any contract progress payments allocable to the contractor, and the director may proceed against the contractor's bonds. In addition, the director may assess a civil penalty of \$1,000, or 20 percent of the total prevailing wage violation, whichever is greater. The civil penalty does not apply to inadvertent filing or reporting errors.

Contractors that violate the requirement to file certain records regarding prevailing wage payments are prohibited from bidding on public works projects for one year when the contractor is found to have committed two violations of the filing requirements within a five-year period. That penalty does not extend to violations of the requirement to pay prevailing wages.

Summary: If a contractor or subcontractor is found to have participated in violating the requirement to pay prevailing wages for a second time within a five-year period, the contractor or subcontractor is subject to the statutory civil penalties and is not allowed to bid on any public

works contract for two years. This sanction also applies when one of the violations was a violation of the requirement to pay the prevailing wage under federal or other state law. The bidding sanction does not apply to a contractor who failed to pay the prevailing wage because he or she relied on incorrect written information from the Department of Labor and Industries.

In the case of a failure to pay the prevailing wage, the department may only proceed against the contractor's or subcontractor's bond if the contractor or subcontractor was the claimant's employer.

Votes on Final Passage:

House	90	4
Senate	33	15

Effective: June 9, 1994