

SENATE BILL REPORT

ESHB 2388

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, FEBRUARY 18, 1994

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

SPONSORS: 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

Majority Report: Do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Fraser, McAuliffe, Sutherland, Vognild and Wojahn.

Staff: Jonathan Seib (786-7427)

Hearing Dates: February 18, 1994

BACKGROUND:

State law requires employers to pay their workers no less than the prevailing wage on all public works projects. Certain statements must be filed by the employer with the Department of Labor and Industries in connection with the payment of these wages.

Employers who file false statements, or fail to file the required statements are subject to a civil penalty of \$500, and may not bid on another public works contract until the penalty is paid. An employer committing two such violations within a five-year period may not bid on another contract for a period of one year.

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, employers who fail to pay the prevailing wage are subject to a civil penalty of not less than \$1000 or 20 percent of the wage claim, whichever is greater, and may not bid on another public works contract until the penalty is paid. There is no additional penalty for repeat violators.

There is concern that existing penalties are insufficient to prevent 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 shall not be 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. 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.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

This is an agreed-upon bill which received substantial support in the House. It will lead to greater compliance with the state's prevailing wage law.

TESTIMONY AGAINST: None

TESTIFIED: Representative Conway, original prime sponsor; Joe Brewer, Department of Labor and Industries