

HOUSE BILL REPORT

HB 2864

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to filing certified payroll records on public works projects.

Brief Description: Requiring the filing of certified payroll records on public works projects.

Sponsors: Representatives Ormsby, Wood, Barlow, Hasegawa and Simpson.

Brief History:

Committee Activity:

Commerce & Labor: 1/29/08, 2/5/08 [DPS].

Brief Summary of Substitute Bill

- Requires contractors and subcontractors for any off-site prefabrication of nonstandard, project-specific items on public works projects to submit certified payroll records to the Department of Labor and Industries and to the awarding agency.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

Staff: Joan Elgee (786-7106).

Background:

Under Washington's prevailing wage law, wages paid to laborers, workers, or mechanics on all public works contracts of the state or political subdivisions must be not less than the prevailing rate of wage in the same trade or occupation in the locality within the state where the labor is performed. The "locality" is the largest city in the county where the physical work

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is being performed. If project-specific nonstandard items are produced off-site, the "locality" has been interpreted to be the place where the prefabrication takes place.

The specifications for every public work contract must contain the minimum wage rate, not less than the prevailing wage, and the contract must contain a stipulation that the laborers, workers, and mechanics shall not be paid less than the specified rate.

Before payment is made under a public works contract, the responsible officer must require the contractor and subcontractors to submit a "Statement of Intent to Pay Prevailing Wages." After final acceptance of the project, the responsible officer must require the contractor and subcontractors to submit an "Affidavit of Wages Paid" before the retainage is released. The industrial statistician with the Department of Labor and Industries (Department) approves the "Intents" and certifies the "Affidavits." Each claim submitted by a contractor must state that the prevailing wages have been paid.

By rule, the Department requires contractors to keep accurate payroll records. Within 10 days after a contractor receives a written request from an interested party or the Department, the contractor must file a certified copy of the payroll records with the awarding agency and with the Department.

Contractors or subcontractors who file false statements or records or who fail to file required statements or records are subject to civil penalty and may not bid on any public works contracts until the penalty is paid. A second violation within a five-year period bars the contractor or subcontractor from bidding on public works contracts for one year.

Summary of Substitute Bill:

On public works projects involving the off-site prefabrication of a nonstandard, project-specific item, before final acceptance of the project, the awarding agency must require the contractor and any subcontractor of the item to submit a certified copy of the payroll records to the Department and to the awarding agency. The records must be on a form approved by the Department.

All public works contracts must contain a provision that contractors and subcontractors for any off-site prefabrication of nonstandard, project-specific items must submit certified payroll records.

Substitute Bill Compared to Original Bill:

The substitute bill removes the requirement that the certified payroll records for the specified items include a statement that no persons have been paid less than prevailing wage.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will give us data to know what Washington dollars are paying for with off-site prefabricated items such as HVAC and welding. Washington contractors are at an extreme disadvantage because the work is being done across the border at lower wages.

(In support with amendment) This bill addresses border raiding. In a survey of six employers in the Spokane area, \$11 million was lost to bidders from out of state. A baseline is needed to know what the disparity is. The amendment removing the reference to prevailing wages is needed.

(Concerns) It will be hard to get the information because there may be multiple tiers of contractors. The bill should address where the problem is.

(Opposed) Getting the data is fine, but the method in the bill is cumbersome and expensive and exposes contractors to risks and costs. There is less concern with the bill with the amendment removing the reference to prevailing wages.

Persons Testifying: (In support) Representative Ormsby, prime sponsor.

(In support with amendments) Dave Johnson, Washington State Building and Construction Trades Council; and Mark Ricker, Sheet Metal Workers Local 66.

(Concerns) Robert Bourg, Washington Department of General Administration.

(Opposed) Rick Slunaker, Associated General Contractors.

Persons Signed In To Testify But Not Testifying: None.