

# SENATE BILL REPORT

## SB 5759

---

---

As of February 18, 2015

**Title:** An act relating to prevailing wages for workers employed in residential construction.

**Brief Description:** Concerning prevailing wages for workers employed in residential construction.

**Sponsors:** Senators Padden and Baumgartner.

**Brief History:**

**Committee Activity:** Commerce & Labor: 2/16/15.

---

### SENATE COMMITTEE ON COMMERCE & LABOR

**Staff:** Richard Rodger (786-7461)

**Background:** Employers on public works projects must pay prevailing wages. The prevailing wage is the hourly wage, usual benefits, and overtime paid to the majority of workers in the same trade or occupation in the largest city of the county where the work is being performed. The prevailing wage is determined by the industrial statistician at the Department of Labor and Industries. Residential prevailing wage rates exist for a number of trades and occupations, and are generally lower than the corresponding commercial rate. Residential prevailing wage rates only apply on residential construction. To be considered residential, the building must not exceed four stories including the basement, and must be used solely as a permanent residence. The definition of residential construction does not include utilities construction, work on streets, or work on other structures. A building that houses any commercial activity will not be considered residential, and all work performed must be paid at the commercial prevailing wage rate.

The Davis-Bacon Act (DBA) is the federal law applying prevailing wage requirements to projects using federal funds. DBA recognizes different prevailing wage rates for building construction and residential construction. Residential construction is defined to include all incidental items, such as site work, parking areas, utilities, streets, and sidewalks. The U.S. Department of Labor (U.S. DOL) has issued an agency memorandum providing advice on projects that include different categories of construction. According to the memo, only one schedule of rates is used if construction items are incidental in function to the overall character of a project and if there is not a substantial amount of construction in a second category. The memo further advises that due to the complexities in application of multiple

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

schedules, contracting agencies should consult with U.S. DOL whenever it appears more than one schedule of rates is appropriate.

**Summary of Bill:** Distinct prevailing wage rates must be calculated and paid to workers employed in residential construction.

The definition of residential construction is changed to include incidental items such as site work, parking areas, utilities, and streets and sidewalks, pursuant to the U.S. DOL memorandum on application of DBA.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: If there was ever a prevailing wage bill that labor should be able to support it should be this bill that helps provide more low-income housing. There was recently a case in Spokane where a low-income public housing project that was 90 percent residential, but was required to pay higher commercial construction rates for the entire project even though the commercial aspect of the project was only 10 percent of the project. A contractor should be able to pay both residential rates and commercial rates on a multi-use project that has a minor commercial aspect. The Spokane project ended up costing about \$500,000 more.

CON: We already have residential construction rates for prevailing wages and are often times lower than commercial rates. We pride ourselves in training our workers well and keep costs down by embracing the existing apprenticeship programs. These residential buildings may not even be feasible without the commercial component.

**Persons Testifying:** PRO: Senator Padden, prime sponsor.

CON: Josh Swanson, International Union of the Operating Engineers; Larry Stevens, National Electrical Contractors Assn, Mechanical Contractors Assn.