
Labor & Workplace Standards Committee

ESSB 5726

Brief Description: Concerning the prevailing wages on public works.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senator King).

Brief Summary of Engrossed Substitute Bill

- Requires prevailing wage rates to be determined by the rate paid to the majority of laborers, workers, and mechanics in trades or occupations that have collective bargaining agreements.
- Requires public works contracts to provide for the payment of prevailing wages at the time the work is performed.
- Provides that, for a limited time and for certain scopes of work, cost increases caused by adjustments of the prevailing wage shall be good cause justification for the contractor to require a financial adjustment to the contract.

Hearing Date: 3/28/23

Staff: Trudes Tango (786-7384).

Background:

Public works contracts for construction, reconstruction, maintenance, or repair must state the hourly minimum wage rate to be paid to laborers, workers, or mechanics. Employers must pay laborers, workers, and mechanics on public works contracts and public building service maintenance contracts at least the prevailing wage rate. Public work is all work, construction, alteration, repair, or improvement other than ordinary maintenance, that is done at the cost of the

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state or any municipality.

The industrial statistician of the Department of Labor and Industries (Department) establishes the prevailing wage by adopting the hourly wage, usual benefits, and overtime established in collective bargaining agreements (CBAs) for trades and occupations that have CBAs. For a trade or occupation with more than one CBA in a county, the higher rate is used. For trades and occupations for which there are no CBAs in a county, the Department will conduct wage surveys.

The prevailing wage rate for workers is determined at the time of the prime contractor's bid due date, or the date the contract is awarded if the contract is not awarded within six months of the bid due date. The prevailing wage rate determined at that time remains the same for the life of the project.

The Department publishes prevailing wage rates the first business day in August and February and any updated rates take effect 30 days after publication.

An interested party may file a complaint with the Department alleging noncompliance with the prevailing wage requirements. "Interested party" includes a contractor, subcontractor, employee, an organization whose members' wages are subject to the prevailing wage laws, and the Director of the Department.

Summary of Bill:

For contracts bid or awarded on or after June 1, 2027, when there is more than one CBA in a county for a trade or occupation, the industrial statistician must determine and prevail the rate that represents the majority of workers, laborers, or mechanics in the same trade or occupation under the CBA, rather than the higher rate prevailing. If there is not a majority, then the rate representing the most workers, laborers, or mechanics in the same trade or occupation must prevail. These provisions do not apply to residential construction or to ship building and ship repair.

The industrial statistician may seek input from the labor and management signatory parties and their multiemployer bargaining unit representatives regarding which rate is the majority rate or the rate representing the most workers, laborers, or mechanics. Where there is a CBA within a county, the industrial statistician may not conduct wage surveys or apply hours worked data to set the prevailing rate of wage, except hours worked data may apply to resolve an appeal.

An interested party may appeal the industrial statistician's determination. The interested party must prove by competent evidence that the actual rate used in the determination is not the rate representing the majority number or plurality of workers, laborers, or mechanics in the same trade or occupation under the CBA. Until final determination, the work must proceed under the rate established by the industrial statistician.

A public works contract must stipulate that the hourly minimum rate of wage for laborers, workers, or mechanics must be adjusted to provide that the wage is not less than the latest prevailing rate of wage in effect at the time the work is performed. This requirement does not supersede wage adjustment provisions for certain contracts on small works rosters and unit priced contracts for certain public entities. In addition, this requirement does not apply to residential construction or to work for housing projects where at least 50 percent of the residential units are made available for low-income households.

Until December 31, 2029, cost increases directly resulting from wage adjustments of the prevailing rate of wage shall be good cause justification for the contractor of any level to require a financial adjustment to the contract for the following scopes of work:

- carpenters;
- cement masons;
- laborers;
- power equipment operators; and
- teamsters.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2025.