
SUBSTITUTE SENATE BILL 5726

State of Washington

68th Legislature

2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senator King)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to the prevailing wages on public works; amending
2 RCW 39.12.015 and 39.12.030; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 39.12.015 and 2019 c 29 s 2 are each amended to read
5 as follows:

6 (1) All determinations of the prevailing rate of wage shall be
7 made by the industrial statistician of the department of labor and
8 industries.

9 (2) The time period for recovery of any wages owed to a worker
10 affected by the determination is tolled until the prevailing wage
11 determination is final.

12 (3) ~~((a) Except)~~ Until May 31, 2027, except as provided in RCW
13 39.12.017, and notwithstanding RCW 39.12.010(1), the industrial
14 statistician shall establish the prevailing rate of wage by adopting
15 the hourly wage, usual benefits, and overtime paid for the geographic
16 jurisdiction established in collective bargaining agreements for
17 those trades and occupations that have collective bargaining
18 agreements. For trades and occupations with more than one collective
19 bargaining agreement in the county, the higher rate will prevail.

20 ~~((b))~~ (4) For contracts bid or awarded on or after June 1,
21 2027, except as provided in RCW 39.12.017, and notwithstanding RCW

1 39.12.010(1), the industrial statistician shall establish the
2 prevailing rate of wage by adopting the hourly wage, usual benefits,
3 and overtime paid for the geographic jurisdiction established in
4 collective bargaining agreements for those trades and occupations
5 that have collective bargaining agreements. For trades and
6 occupations with more than one collective bargaining agreement in the
7 county other than ship building and ship repair rates:

8 (a) The industrial statistician shall determine and prevail the
9 rate that represents the majority of hours worked under collective
10 bargaining agreements for a trade or occupation in the county. When a
11 majority rate is not present, the industrial statistician shall
12 determine and prevail the rate representing the plurality of hours
13 worked under the collective bargaining agreements for a trade or
14 occupation in the county.

15 (b) An interested party may contest a determination by the
16 industrial statistician under this subsection. The interested party
17 must allege and prove by competent evidence that the actual rate used
18 in the determination is not the rate representing the majority number
19 or plurality of hours worked under collective bargaining agreements.
20 Until final determination thereof, the work in question shall proceed
21 under the rate established by the appropriate industrial
22 statistician. If a higher rate is upheld, back wages and interest are
23 owed.

24 (5) Notwithstanding RCW 39.12.010(1), for contracts bid or
25 awarded on or after June 1, 2027, for ship building and ship repair
26 the industrial statistician shall establish the prevailing rate of
27 wage by adopting the hourly wage, usual benefits, and overtime paid
28 for the geographic jurisdiction established in collective bargaining
29 agreements for those trades and occupations that have collective
30 bargaining agreements. For the ship building and ship repair trades
31 and occupations with more than one collective bargaining agreement in
32 the county, the higher rate will prevail.

33 (6) For trades and occupations in which there are no collective
34 bargaining agreements in the county, the industrial statistician
35 shall establish the prevailing rate of wage as defined in RCW
36 39.12.010 by conducting wage and hour surveys. In instances when
37 there are no applicable collective bargaining agreements and
38 conducting wage and hour surveys is not feasible, the industrial
39 statistician may employ other appropriate methods to establish the
40 prevailing rate of wage.

1 **Sec. 2.** RCW 39.12.030 and 2009 c 62 s 1 are each amended to read
2 as follows:

3 (1) The specifications for every contract for the construction,
4 reconstruction, maintenance or repair of any public work to which the
5 state or any county, municipality, or political subdivision created
6 by its laws is a party, shall contain a provision stating the hourly
7 minimum rate of wage, not less than the prevailing rate of wage,
8 which may be paid to laborers, workers, or mechanics in each trade or
9 occupation required for such public work employed in the performance
10 of the contract either by the contractor, subcontractor or other
11 person doing or contracting to do the whole or any part of the work
12 contemplated by the contract, and the contract shall (~~contain a~~
13 ~~stipulation~~) stipulate that such laborers, workers, or mechanics
14 shall be paid not less than such specified hourly minimum rate of
15 wage. If the awarding agency determines that the work contracted for
16 meets the definition of residential construction, the contract must
17 include that information.

18 (2) The contract shall stipulate that the hourly minimum rate of
19 wage for laborers, workers, or mechanics must be adjusted as
20 necessary to provide that such wage is not less than the latest
21 prevailing rate of wage in effect at the time the work is performed.

22 (3) Cost increases directly resulting from wage adjustments of
23 the prevailing rate of wage pursuant to subsection (2) of this
24 section shall be good cause justification for the contractor of any
25 level affected by said increase to request a financial adjustment to
26 the contractor's contract.

27 (4) Subsection (2) of this section does not apply to small works
28 roster work contemplated, defined, or authorized pursuant to RCW
29 39.04.155.

30 (5) Subsection (2) of this section does not apply to work for
31 housing projects where at least 50 percent of the residential units
32 are made available for low-income households, or to residential
33 construction as defined in RCW 39.12.017.

34 (6) If the hourly minimum rate of wage stated in the contract
35 specifies residential construction rates and it is later determined
36 that the work performed is commercial and subject to commercial
37 construction rates, the state, county, municipality, or political
38 subdivision that entered into the contract must pay the difference
39 between the residential rate stated and the actual commercial rate to

1 the contractor, subcontractor, or other person doing or contracting
2 to do the whole or any part of the work under the contract.

3 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2025.

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