
Labor & Workplace Standards Committee

ESSB 6302

Brief Description: Concerning misclassification in the finishing trades on public works projects.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Conway, Saldaña, Hasegawa, Orwall and Valdez).

Brief Summary of Engrossed Substitute Bill

- Requires the Department of Labor and Industries to investigate when there are three or more independent contractors performing finishing work on a public works project to determine whether those workers are being misclassified as independent contractors under the Prevailing Wages on Public Works Act.

Hearing Date: 2/18/26

Staff: Kelly Leonard (786-7147).

Background:

The Prevailing Wages on Public Works Act requires employers to pay laborers, workers, and mechanics on public works contracts and public building service maintenance contracts at least the prevailing wage rate. Public works include all work, construction, alterations, repairs, or improvements, other than ordinary maintenance, done at the cost of the state or any municipality. The industrial statistician of the Department of Labor and Industries (L&I) 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.

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

For trades and occupations for which there are no CBAs in a county, L&I will conduct wage surveys.

An independent contractor is a worker who enters into a contractual agreement with a business to provide specific services on a project or on an as-needed basis. An independent contractor working on a public works project is not considered a laborer, worker, or mechanic, effectively exempting the independent contractor from the prevailing wage requirements. To qualify as an independent contractor, the person must meet certain statutory criteria. These include, for example: the person is free from the control or direction over the performance of the service; the service is outside the usual course of business for the contractor for whom the person performs services; the person is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the contract of service; and the person has an active and valid business license.

A person's status as an independent contractor impacts other labor and employment requirements. However, the standard for treating a person as an independent contractor varies depending on the context. Misclassifying a worker as an independent contractor may violate other federal or state laws.

Summary of Bill:

If L&I receives a referral to investigate a contractor or subcontractor who is engaging three or more independent contractors to perform the same type of covered finishing work at the same time on a public works project, L&I must investigate to determine whether the persons performing the work have been misclassified as independent contractors. Covered finishing work includes work on drywall, flooring, tiling, painting, and glazier and glasswork.

A referral for an investigation may be made by:

- the state, county, municipality, or political subdivision awarding the public works contract;
- a contractor or subcontractor on the public works project;
- a labor organization that represents persons performing covered finishing work on the public works project; or
- a person performing covered finishing work on the project.

Following an investigation, if L&I finds that a person performing covered finishing work has been misclassified as an independent contractor, the contractor or subcontractor that engaged the person is subject to all applicable requirements for paying prevailing wage. L&I must also make appropriate referrals for investigations for possible violations of workers' compensation and unemployment insurance requirements.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 14, 2026.

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