CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1821

Chapter 99, Laws of 2025

69th Legislature
2025 Regular Session

PREVAILING WAGE—INTERESTED PARTIES—JOINT LABOR-MANAGEMENT COOPERATION COMMITTEES

EFFECTIVE DATE: July 27, 2025—Except for section 2, which takes effect January 1, 2026.

Passed by the House March 7, 2025
Yeas 59 Nays 38

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate April 9, 2025
Yeas 28 Nays 21

DENNY HECK

President of the Senate

Approved April 21, 2025 10:10 AM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1821** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 21, 2025

Secretary of State
State of Washington

SUBSTITUTE HOUSE BILL 1821

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Cortes, Stonier, Doglio, Berry, Parshley, Street, Obras, Ormsby, Macri, Fosse, Scott, and Pollet)

READ FIRST TIME 02/21/25.

AN ACT Relating to expanding the definition of "interested party" for the purposes of prevailing wage laws; amending RCW 39.12.010, 39.12.010, and 39.12.120; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 39.12.010 and 2019 c 242 s 2 are each amended to read as follows:

(1) The "prevailing rate of wage" is the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation is the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage is mathematically determined by the number of hours worked in such period of time.

(2) The "locality" is the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" includes the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor, which may be reasonably anticipated in providing benefits to workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" includes a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, a joint labor-management cooperation committee established pursuant to the federal labor management cooperation act of 1978, a Taft-Hartley trust, and the director of labor and industries or the director's designee.

(5) An "inadvertent filing or reporting error" is a mistake and is made notwithstanding the use of due care by the contractor, subcontractor, or employer. An inadvertent filing or reporting error includes a contractor who, in good faith, relies on a written determination provided by the department of labor and industries and pays its workers, laborers, and mechanics accordingly, but is later found to have not paid the proper prevailing wage rate.

(6) "Unpaid prevailing wages" or "unpaid wages" means the employer fails to pay all of the prevailing rate of wages owed for any workweek by the regularly established payday for the period in which the workweek ends. Every employer must pay all wages, other than usual benefits, owing to its employees not less than once a month. Every employer must pay all usual benefits owing to its employees by the regularly established deadline for those benefits.

(7) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

Sec. 2. RCW 39.12.010 and 2024 c 7 s 2 are each amended to read as follows:

(1) The "prevailing rate of wage" is the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation is the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage is mathematically determined by the number of hours worked in such period of time.

(2) The "locality" is the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" includes the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor, which may be reasonably anticipated in providing benefits to workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or

subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" includes a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, a joint labor-management cooperation committee established pursuant to the federal labor management cooperation act of 1978, a Taft-Hartley trust, and the director of labor and industries or the director's designee.

(5) An "inadvertent filing or reporting error" is a mistake and is made notwithstanding the use of due care by the contractor, subcontractor, or employer. An inadvertent filing or reporting error includes a contractor who, in good faith, relies on a written determination provided by the department of labor and industries and pays its workers, laborers, and mechanics accordingly, but is later found to have not paid the proper prevailing wage rate.

(6) "Unpaid prevailing wages" or "unpaid wages" means the employer fails to pay all of the prevailing rate of wages owed for any workweek by the regularly established payday for the period in which the workweek ends. Every employer must pay all wages, other than usual benefits, owing to its employees not less than once a month. Every employer must pay all usual benefits owing to its employees by the regularly established deadline for those benefits.

(7) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

(8) "Contractor" means any prime contractor, subcontractor, or other employer as defined by rules adopted by the department of labor and industries. "Contractor" includes an entity, however organized, with substantially identical operations, corporate, or management structure to an entity that has been found in violation under RCW 39.12.050, 39.12.055, or 39.12.065, or any associated rules. The nonexclusive factors used to determine substantial identity include an assessment of whether there is: Substantial continuity of the same business operation; use of the same machinery, equipment, or both tangible and intangible real or personal property; similarity of jobs and types of working conditions; continuity of supervisors; and

similarity of product or services. An entity with operational, corporate, and management structures distinct from an entity that has been found in violation under RCW 39.12.050, 39.12.055, or 39.12.065, or any associated rules, shall not be deemed a substantially identical entity.

Sec. 3. RCW 39.12.120 and 2019 c 242 s 5 are each amended to read as follows:

(1) Each contractor, subcontractor, or employer shall keep accurate payroll records for three years from the date of acceptance of the public works project by the contract awarding agency, showing the employee's full name, address, social security number, trade or occupation, classification, straight and overtime rates, hourly rate of usual benefits, and hours worked each day and week, including any employee authorizations executed pursuant to RCW 49.28.065, and the actual gross wages, itemized deductions, withholdings, and net wages paid, for each laborer, worker, and mechanic employed by the contractor for work performed on a public works project.

(2) A contractor, subcontractor, or employer shall file a copy of its certified payroll records using the department of labor and industries' online system at least once per month. If the department of labor and industries' online system is not used, a contractor, subcontractor, or employer shall file a copy of its certified payroll records directly with the department of labor and industries in a format approved by the department of labor and industries at least once per month.

(3) The department of labor and industries shall provide, upon request, a copy of an employer's certified payroll records to an interested party. A joint labor-management cooperation committee may only use the information provided under this subsection for purposes of filing complaints under RCW 39.12.065 and may not use the information for any other purpose, including union organizing or commercial activity.

(4) A contractor, subcontractor, or employer's noncompliance with this section constitutes a violation of RCW 39.12.050.

NEW SECTION. **Sec. 4.** Section 1 of this act expires January 1, 2026.

NEW SECTION. **Sec. 5.** Section 2 of this act takes effect January 1, 2026.

Passed by the House March 7, 2025.
Passed by the Senate April 9, 2025.
Approved by the Governor April 21, 2025.
Filed in Office of Secretary of State April 21, 2025.

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