

HOUSE BILL REPORT

HB 1146

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to public contracts.

Brief Description: Requiring compliance with chapter 39.12
RCW of public works.

Sponsors: Representatives Heavey, King, G. Cole, Veloria,
Orr, Quall, Dunshee, Franklin, Scott, Ludwig, Jones, Basich,
Springer and J. Kohl.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 2, 1993, DPA.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members:
Representatives Heavey, Chair; G. Cole, Vice Chair; Conway;
King; and Veloria.

Minority Report: Do not pass. Signed by 3 members:
Representatives Lisk, Ranking Minority Member; Chandler,
Assistant Ranking Minority Member; and Horn.

Staff: Chris Cordes (786-7117).

Background: All public works undertaken by the state or
local governments must comply with the state prevailing wage
law. The prevailing wage law does not apply to facilities
built by private contractors for the general market. But if
80 percent or more of a new facility will be occupied by a
state agency through a contract to rent, lease or purchase
the facility from the private owner, the state agency may
not cause the facility to be built unless the contractor
complies with the prevailing wage law.

Summary of Amended Bill: If a state agency or local
government causes any construction, repair, or improvements,
except ordinary maintenance, to be performed by a private
party through a contract to rent or purchase at least 50
percent of the project, the contractor must comply with the
prevailing wage law. This requirement applies only to
construction projects for which competitive bids have not
been requested prior to the bill's effective date.

Amended Bill Compared to Original Bill: Under the amendment, the prevailing wage law applies to construction or repair projects by a private party if at least 50 percent of the project, instead of any part of the project, is to be owned or leased by one or more government agencies. The prevailing wage does not apply to private projects that a government agency contracts to operate.

Fiscal Note: Requested January 25, 1993.

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

Testimony For: The prevailing wage law is frequently circumvented by public agencies that use developers to remodel or renovate buildings for public occupation. This becomes more of a problem in hard economic times when public agencies increasingly turn to leasing space. The current law only prevents the circumvention of prevailing wage by private developers when the project is new construction. One particularly bad example involved a building that was reconstructed to satisfy elaborate state specifications, but because the roof of an existing building was used, it was considered a remodeling project. It does not protect workers or protect local wages if public agencies are able to participate in the development of a project but not be required to comply with prevailing wage law. If public agencies cause a project to be undertaken, then prevailing wage should apply. Since the time that the law was amended to cover new construction, projects involving remodeling have become the problem.

Testimony Against: When a developer enters into a tenant improvement contract, he or she may not know when the contract is signed or that a government agency is involved. It is unclear what would happen to the contract if, after signing, a public agency becomes a tenant of any part of the facility. If all projects of this type become subject to the prevailing wage, the public agencies will not be able to absorb the higher costs of construction. By including projects that are to be operated by a public agency, the reach of the bill is unclear. Does this include nursing homes, for example? There is a concern about expanding a law that limits competition and subsidizes a sector of the labor market.

Witnesses: (In favor): Allan Darr, International Union of Operating Engineers; Mark Bean, District Council of Carpenters; Otto Herman, Rebound; Cindy Zehnder, Joint Council of Teamsters; and Bob Dilger, Washington Building and Construction Trades Council. (Opposed): Nancee Wildermuth and James Elder, Associated Builders &

Contractors; Duke Schaub, Associated General Contractors;
Dick Ducharme, Utility Contractors Association; and Mark
Triplett, Washington Aggregate and Concrete Association.