

# HOUSE BILL REPORT

## ESHB 2864

---

**As Passed House:**  
February 18, 2008

**Title:** An act relating to filing certified payroll records on public works projects.

**Brief Description:** Requiring the filing of certified payroll records on public works projects.

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by Representatives Ormsby, Wood, Barlow, Hasegawa and Simpson).

**Brief History:**

**Committee Activity:**

Commerce & Labor: 1/29/08, 2/5/08 [DPS].

**Floor Activity:**

Passed House: 2/18/08, 63-32.

**Brief Summary of Engrossed Substitute Bill**

- Requires contractors of any off-site products on public works projects to submit specified information to the awarding agency and to the Department of Labor and Industries for purposes of identifying requests for certified payroll records.

---

### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Crouse.

**Staff:** Joan Elgee (786-7106).

**Background:**

Under Washington's prevailing wage law, wages paid to laborers, workers, or mechanics on all public works contracts of the state or political subdivisions must be not less than the prevailing rate of wage in the same trade or occupation in the locality within the state where

---

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

the labor is performed. The "locality" is the largest city in the county where the physical work is being performed. For project-specific nonstandard items produced off-site, the "locality" has been interpreted to be the place where the prefabrication takes place.

The specifications for every public work contract must contain the minimum wage rate, not less than the prevailing wage, and the contract must contain a stipulation that the laborers, workers, and mechanics shall not be paid less than the specified rate.

By rule, the Department of Labor and Industries (Department) requires contractors to keep accurate payroll records. Within 10 days after a contractor receives a written request from an interested party or the Department, the contractor must file a certified copy of the payroll records with the awarding agency and with the Department. An interested party includes employees, contractors, and organizations whose members' wages, benefits, and conditions of employment are affected by the prevailing wage laws.

Contractors or subcontractors who file false statements or records or who fail to file required statements or records are subject to a civil penalty and may not bid on any public works contracts until the penalty is paid. A second violation within a five-year period bars the contractor or subcontractor from bidding on public works contracts for one year.

---

**Summary of Engrossed Substitute Bill:**

For purposes of identifying certifying payroll records to be requested from public works contractors, requirements are placed on public works contractors regarding off-site prefabricated, nonstandard, project-specific products (off-site products). Public works contracts must require the general contractor to submit a list of subcontractors supplying off-site products. The list must identify all products supplied, the name of each subcontractor, the employer identification number of each subcontractor, and each product's anticipated cost.

Before final acceptance of a project involving off-site products, the awarding agency must require contractors and subcontractors of all off-site products to submit a list to the awarding agency and to the Department. The list must be certified and must identify: (1) the contractor or subcontractor's name; (2) the employer identification number; (3) the contract amount; (4) the labor hours expended producing the off-site product; and (5) the hourly minimum rate of wages paid in each trade or occupation producing the off-site product.

If an interested party makes a request for certified payroll records under rules adopted by the Department and the records are for off-site products, the payroll records must be filed only with the awarding agency.

---

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill will give us data to know what Washington dollars are paying for with off-site prefabricated items such as HVAC and welding. Washington contractors are at an extreme disadvantage because the work is being done across the border at lower wages.

(In support with amendment) This bill addresses border raiding. In a survey of six employers in the Spokane area, \$11 million was lost to bidders from out of state. A baseline is needed to know what the disparity is. The amendment removing the reference to prevailing wages is needed.

(Concerns) It will be hard to get the information because there may be multiple tiers of contractors. The bill should address where the problem is.

(Opposed) Getting the data is fine, but the method in the bill is cumbersome and expensive and exposes contractors to risks and costs. There is less concern with the bill with the amendment removing the reference to prevailing wages.

**Persons Testifying:** (In support) Representative Ormsby, prime sponsor.

(In support with amendments) Dave Johnson, Washington State Building and Construction Trades Council; and Mark Ricker, Sheet Metal Workers Local 66.

(Concerns) Robert Bourg, Washington Department of General Administration.

(Opposed) Rick Slunaker, Associated General Contractors.

**Persons Signed In To Testify But Not Testifying:** None.