

# HOUSE BILL REPORT

## SB 5903

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### As Passed House:

April 1, 2009

**Title:** An act relating to public works contracts for residential construction.

**Brief Description:** Regarding public works contracts for residential construction.

**Sponsors:** Senators Keiser, McAuliffe and Hatfield; by request of Lieutenant Governor.

### Brief History:

#### Committee Activity:

Commerce & Labor: 3/17/09, 3/20/09 [DP].

#### Floor Activity

Passed House: 4/1/09, 97-0.

### Brief Summary of Bill

- Requires an awarding agency to specify in a public works contract whether the work contracted for meets the definition of "residential construction."
- Requires an awarding agency to pay the difference between the residential rate stated and the actual commercial rate, if it is later determined that the work performed is commercial.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

**Staff:** Alison Hellberg (786-7152)

### Background:

Public works contracts for construction, reconstruction, maintenance, or repair must state the hourly minimum rate of wage to be paid to laborers, workers, or mechanics. Employers must pay workers on all public works contracts and public building service maintenance contracts at least the prevailing wage rate. The prevailing wage rate is the rate of hourly wage, usual

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benefits, and overtime paid to the majority of workers in the same trade or occupation in the largest city in the county where the work is performed. The Department of Labor and Industries (Department) determines the prevailing wage by periodically surveying the trades.

A public work is defined as all work, construction, alteration, repair, or improvement that is executed at the cost of the state or any other local public agency. This includes demolition, remodeling, renovation, road construction, building construction, ferry construction, and utilities construction.

**Summary of Bill:**

If an awarding agency determines the work contracted for meets the definition of residential construction, the public works contract must include that information. "Residential construction" is defined in rules adopted by the Department as construction, alteration, repair, improvement, or maintenance of single-family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, when used solely as permanent residences. It does not include the utilities construction (water and sewer lines), work on streets, or work on other structures (e.g., for recreation and business).

If the hourly minimum rate of wage stated in the public works contract specifies residential construction rates and it is later determined that the work performed is commercial and subject to commercial construction rates, the awarding agency must pay the difference between the residential rate stated and the actual commercial rate. The difference must be paid to the contractor, subcontractor, or other person doing or contracting to do the work.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill helps to eliminate a problem before it happens. A small contractor had a situation where a public works project was initially contracted for as a residential project, but was ultimately used for commercial purposes. It cost him over \$50,000 of attorney's fees and other costs. This bill fixes that issue and prevents it from happening in the future.

(Information only) The agency does not see any problems with this and views it as a clarification.

(Opposed) None.

**Persons Testifying:** (In support) Lieutenant Governor Brad Owen.

(Information only) David Soma, Department of Labor and Industries.

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