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HOUSE BILL 2669

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Ormsby and Moscoso

Read first time 01/23/12. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to enforcing the payment of prevailing wages; and  
2 amending RCW 39.12.010.

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

4 **Sec. 1.** RCW 39.12.010 and 1989 c 12 s 6 are each amended to read  
5 as follows:

6 (1) The "prevailing rate of wage", for the intents and purposes of  
7 this chapter, shall be the rate of hourly wage, usual benefits, and  
8 overtime paid in the locality, as hereinafter defined, to the majority  
9 of workers, laborers, or mechanics, in the same trade or occupation.  
10 In the event that there is not a majority in the same trade or  
11 occupation paid at the same rate, then the average rate of hourly wage  
12 and overtime paid to such laborers, workers, or mechanics in the same  
13 trade or occupation shall be the prevailing rate. If the wage paid by  
14 any contractor or subcontractor to laborers, workers, or mechanics on  
15 any public work is based on some period of time other than an hour, the  
16 hourly wage for the purposes of this chapter shall be mathematically  
17 determined by the number of hours worked in such period of time.

18 (2) The "locality" for the purposes of this chapter shall be the

1 largest city in the county wherein the physical work is being  
2 performed.

3 (3) The "usual benefits" for the purposes of this chapter shall  
4 include the amount of:

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

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

21 (4) An "interested party" for the purposes of this chapter shall  
22 include a contractor, subcontractor, an employee of a contractor or  
23 subcontractor, an organization whose members' wages, benefits, and  
24 conditions of employment are affected by this chapter, and the director  
25 of labor and industries or the director's designee.

26 (5) A "contractor" or "subcontractor" includes a successor entity,  
27 however organized, that has a substantially identical business or  
28 operational structure to an entity that has violated the provisions of  
29 this chapter if the successor entity had actual or constructive notice  
30 of the violation. The department may consider the following factors in  
31 determining whether a contractor or subcontractor is a successor  
32 entity: Substantial continuity of the same business operation, use of  
33 the same machinery or equipment, similarity of jobs and types of  
34 working conditions, continuity of ownership or personnel, and  
35 similarity of products or services.

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