

SENATE BILL REPORT

SB 5621

As of February 14, 2013

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

Brief Description: Concerning certified payroll records on public works projects.

Sponsors: Senators Chase, Roach, Hobbs, Conway, Harper, Keiser, Hasegawa, Kohl-Welles, Kline and Murray.

Brief History:

Committee Activity: Commerce & Labor: 2/13/13.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Mac Nicholson (786-7445)

Background: Employers on public works projects must pay prevailing wages. The prevailing wage is the hourly wage, usual benefits, and overtime paid to the majority of workers in the largest city of the county where the work is being performed. The prevailing wage is determined by the industrial statistician at the Department of Labor and Industries (L&I). Contractors on a public works project must submit a statement of intent to pay prevailing wages after the contract is awarded but before work begins. After all of the work is complete, employers must submit an affidavit of wages paid (affidavit). The forms are filed with L&I and, when certified by the industrial statistician, are submitted by the employer to the agency administering the contract.

Contractors on public works projects are required to keep accurate payroll records for three years from the date of acceptance of the project. Contractors must file a certified copy of the payroll records with the public owner and with L&I within ten days of a written request for the records.

State law requires public agencies to withhold 5 percent of monies due to the contractor for a public improvement or work until completion and/or acceptance of the contract. This is known as retainage, and the public agency administering the contract may not release the retainage until all contractors have submitted an affidavit form that has been certified by the industrial statistician.

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.

Summary of Bill: Contractors must submit certified payroll records before payment is made by any public owner on a public works project. Following final acceptance, the public owner must require contractors to submit certified payroll records before final payment is made and the retainage is released.

The industrial statistician must develop forms for the submission of certified payroll records.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: There are problems with prevailing wage requirements that need to be fixed. Many of the contractors do a good job and there is no problem, but there are some who work on the fringes and do not comply with reporting requirements. This bill will help solve underground economy issues and will ensure all the subcontractors are paying the prevailing wages. This bill will help stop fraud and abuse. Getting certified payroll as quickly as possible is crucial to stopping bad contractors and stopping cheating. Employees are not getting the money they earned, and contractors are not paying the taxes they owe, which makes all the good contractors pay more.

CON: This bill still has unresolved questions. What happens if the contractor does not send certified payroll and the public owner does not pay them? If the certified payrolls are there except for one sub, does everybody get paid? What is the liability of the public agency if the certified payrolls are clearly wrong? This bill might not speed up the process to get copies of certified payrolls, as they would be public records and treated as such. This bill dissuades small contractors. Local government entities should decide if they want to collect payroll records. Some public agencies might not need the records on smaller projects, so there is no need to collect them.

Persons Testifying: PRO: Senator Chase, prime sponsor; Don DeMulling, Ironworkers Local 86; Billy Wallace, NW Laborers; Dave Myers, WA State Building Trades.

CON: Ginger Eagle, WA Public Ports Assn.; Patrick Connor, National Federation of Independent Business.