

SENATE BILL REPORT

SB 5685

As Reported by Senate Committee On:
Commerce & Labor, February 20, 2013

Title: An act relating to ensuring transparency with prevailing wage rate determinations.

Brief Description: Concerning transparency with prevailing wage rate determinations.

Sponsors: Senator King.

Brief History:

Committee Activity: Commerce & Labor: 2/13/13, 2/20/13 [DP, DNP].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Hewitt and King.

Minority Report: Do not pass.

Signed by Senators Conway, Ranking Member; Hasegawa and Keiser.

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 same trade or occupation 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). Prevailing wage requirements apply to all public works and public building service maintenance contracts of the state or any county, municipality, or political subdivision.

Contractors and subcontractors on public works projects must submit a statement of intent to pay prevailing wages (intent) after the contract is awarded but before work begins. After all of the work is complete, contractors and subcontractors must submit an affidavit of wages paid. The forms are filed with L&I and, when approved, are submitted by the contractor or subcontractor to the agency administering the contract.

Public owners, contractors, and others can request a determination from L&I as to whether the work being performed is public work subject to prevailing wage requirements and the

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appropriate classification for the work. When making a determination, L&I will look at scope of work descriptions established in agency rule.

Summary of Bill: When a determination of prevailing wages for specific construction work is made, L&I must:

- place a notice of the determination in the state register;
- place an informational note on every listed prevailing wage classification that may be impacted by the determination and reference how to get a copy of the determination; and
- include a statement on every intent that uses a classification that may be impacted by a determination regarding the existence of determinations affecting the classification and how to get a copy of the determination;

Failure to place the informational note on every listed prevailing wage classification that may be impacted by the determination negates the application of that determination on a public works project otherwise subject to the determination.

L&I must maintain a list of all determinations and ensure that the list, and how to access the list, is made known on all approved statements of intent. Failure to include this notice on an approved statement of intent negates the application of any determination of the public works otherwise subject to that public works project.

L&I must make paper copies of specific determinations available upon the request of any contractor or construction worker. Unreasonable requests for an excessive number of copies may be rejected.

By December 1 of each year, L&I must issue a written report to the appropriate legislative committees with a copy of all determinations issued since the last report. Failure to issue this report negates all determinations issued by L&I since the last report was issued.

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: The underlying goal is to establish certainty and consistency for prevailing wage laws. Complying with prevailing wage laws can be a daunting task, particularly for small employers. Clarity and certainty will help small contractors be more competitive. Small contractors need a place to go for quick and correct prevailing wage information in order to complete intent statements correctly and pay employees the correct wage. This bill establishes a reliable source of information for contractors to use.

CON: Determinations are made on a job-specific basis. This bill may drive L&I to a process where they are hesitant to make any determinations. The bill will not bring transparency, it will cause problems, and it will slow down the whole process.

OTHER: L&I already posts determinations. Legislation may not be needed to achieve the intent and goals of the bill. There are process changes that can be made. It does not matter what laws are passed if information is not available to the public to see if the laws are being followed. If the public cannot get records, nobody will follow the law. The bill only grants copies to contractors, they should be given to everybody. People should be able to make as many copies as they want, it is not a burden.

Persons Testifying: PRO: Gary Smith, Independent Business Assn.; Patrick Connor, National Federation of Independent Businesses.

CON: David Myers, WA State Building Trades Council.

OTHER: Tamara Jones, L&I; Arthur West, citizen.