

SENATE BILL REPORT

SB 5686

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

Title: An act relating to surveys used in prevailing wage determinations.

Brief Description: Requiring surveys to develop data for prevailing wage determinations.

Sponsors: Senator King.

Brief History:

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

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 5686 be substituted therefor, and the substitute bill 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. Prevailing wage rates are established by the industrial statistician at the Department of Labor and Industries (L&I) for each trade and occupation employed in the performance of public work. To determine the prevailing wages, L&I conducts surveys, where employers, contractors, and labor unions are asked to submit wage and hour data. If the majority of workers in a trade or occupation in the largest city of the county are paid the same wage, that wage becomes the prevailing wage. If no single wage rate is paid to a majority of workers, an average wage is calculated and becomes the prevailing wage.

Summary of Bill (Recommended Substitute): L&I must provide any current prevailing wage survey to each contractor renewing a registration and to each electrical contractor renewing a license. For specialty and electrical contractors, L&I may provide only those surveys with trades or occupations customarily associated with the specialty indicated on the registration.

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.

A contractor cannot bid on any public works subject to prevailing wage requirements unless the contractor has submitted all applicable surveys to L&I within 60 days of registration or license renewal. A contractor that fails to submit the survey within 60 days cannot bid on a public works project until the applicable surveys have been submitted.

EFFECT OF CHANGES MADE BY COMMERCE & LABOR COMMITTEE (Recommended Substitute): The substitute removes language in the original bill that altered the way prevailing wage surveys were distributed, language that required the industrial statistician to use only data collected from contractors when determining the prevailing wage, and the two-year debarment for a contractor that failed to submit a survey. Instead, the substitute requires L&I to provide surveys to contractors renewing their registration or license and prevents the contractor from bidding on a public works project unless the surveys are submitted to L&I within 60 days. If the contractor fails to submit a survey, the contractor cannot bid on a project until the survey has been submitted.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: PRO: There are a couple of unintended pieces in the bill that will be addressed. If a contractor wants to bid on a prevailing wage job, they should be required to submit prevailing wage surveys so that L&I has more wage information on a timely basis. If contractors want to bid a public works job, they should fill out the survey. The underlying goal is to establish certainty and consistency in regard to 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. Prevailing wages do not reflect the real world wages. The average rate of pay in an industry classification is different than the prevailing wage rate for the same classification. There is a problem in the survey methodology.

CON: The prevailing wage survey process and the determination process are separate. There are significant penalties for failure to respond to the survey and the contractor would be debarred from bidding on prevailing wage projects. Limiting survey information to contractors would leave out other employers that do not have to register as contractors and other interested parties, including workers, from providing survey data. It's unclear how new contractors would be able to meet the requirements of the bill. L&I is going through LEAN processes to make the survey system better, and that should address many issues.

OTHER: There are some implementation concerns that are being worked on with the sponsor.

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

CON: Josh Swanson, International Union of Operating Engineers; Nicole Grant, IBEW 46;
David Myers, WA State Building Trades Council.

OTHER: Tamara Jones, L&I.