
HOUSE BILL 2209

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Manweller and Vick

Read first time 01/14/14. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to improving the accuracy of the prevailing rate of
2 wage; and amending RCW 39.12.010, 39.12.026, and 42.56.270.

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
9 majority of workers, laborers, or mechanics, in the same trade or
10 occupation on nonpublic works. In the event that there is not a
11 majority in the same trade or occupation paid at the same rate, then
12 the average rate of hourly wage and overtime paid to such laborers,
13 workers, or mechanics in the same trade or occupation shall be the
14 prevailing rate. If the wage paid by any contractor or subcontractor
15 to laborers, workers, or mechanics on any public work is based on some
16 period of time other than an hour, the hourly wage for the purposes of
17 this chapter shall be mathematically determined by the number of hours
18 worked in such period of time.

1 (2) The "locality" for the purposes of this chapter shall be the
2 largest city in the county wherein the physical work is being
3 performed.

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

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

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

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

27 (5) "Nonpublic work" means all work, construction, alteration,
28 repair, or improvement other than ordinary maintenance, that is not
29 "public work" as defined in RCW 39.04.010.

30 **Sec. 2.** RCW 39.12.026 and 2003 c 363 s 206 are each amended to
31 read as follows:

32 ~~((+1+))~~ In establishing the prevailing rate of wage under RCW
33 39.12.010, 39.12.015, and 39.12.020~~((+))~~;

34 (1) The department may use only data from nonpublic works; and

35 (2) All data collected by the department may be used only in the
36 county for which the work was performed.

1 ~~((2) This section applies only to prevailing wage surveys~~
2 ~~initiated on or after August 1, 2003.))~~

3 **Sec. 3.** RCW 42.56.270 and 2013 c 305 s 14 are each amended to read
4 as follows:

5 The following financial, commercial, and proprietary information is
6 exempt from disclosure under this chapter:

7 (1) Valuable formulae, designs, drawings, computer source code or
8 object code, and research data obtained by any agency within five years
9 of the request for disclosure when disclosure would produce private
10 gain and public loss;

11 (2) Financial information supplied by or on behalf of a person,
12 firm, or corporation for the purpose of qualifying to submit a bid or
13 proposal for (a) a ferry system construction or repair contract as
14 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
15 or improvement as required by RCW 47.28.070;

16 (3) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided under chapters
18 43.163 and 53.31 RCW, and by persons pertaining to export projects
19 under RCW 43.23.035;

20 (4) Financial and commercial information and records supplied by
21 businesses or individuals during application for loans or program
22 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
23 43.168 RCW, or during application for economic development loans or
24 program services provided by any local agency;

25 (5) Financial information, business plans, examination reports, and
26 any information produced or obtained in evaluating or examining a
27 business and industrial development corporation organized or seeking
28 certification under chapter 31.24 RCW;

29 (6) Financial and commercial information supplied to the state
30 investment board by any person when the information relates to the
31 investment of public trust or retirement funds and when disclosure
32 would result in loss to such funds or in private loss to the providers
33 of this information;

34 (7) Financial and valuable trade information under RCW 51.36.120;

35 (8) Financial, commercial, operations, and technical and research
36 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under
2 chapter 70.95H RCW;

3 (9) Financial and commercial information requested by the public
4 stadium authority from any person or organization that leases or uses
5 the stadium and exhibition center as defined in RCW 36.102.010;

6 (10)(a) Financial information, including but not limited to account
7 numbers and values, and other identification numbers supplied by or on
8 behalf of a person, firm, corporation, limited liability company,
9 partnership, or other entity related to an application for a horse
10 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
11 license, gambling license, or lottery retail license;

12 (b) Internal control documents, independent auditors' reports and
13 financial statements, and supporting documents: (i) Of house-banked
14 social card game licensees required by the gambling commission pursuant
15 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
16 with an approved tribal/state compact for class III gaming;

17 (11) Proprietary data, trade secrets, or other information that
18 relates to: (a) A vendor's unique methods of conducting business; (b)
19 data unique to the product or services of the vendor; or (c)
20 determining prices or rates to be charged for services, submitted by
21 any vendor to the department of social and health services for purposes
22 of the development, acquisition, or implementation of state purchased
23 health care as defined in RCW 41.05.011;

24 (12)(a) When supplied to and in the records of the department of
25 commerce:

26 (i) Financial and proprietary information collected from any person
27 and provided to the department of commerce pursuant to RCW
28 43.330.050(8); and

29 (ii) Financial or proprietary information collected from any person
30 and provided to the department of commerce or the office of the
31 governor in connection with the siting, recruitment, expansion,
32 retention, or relocation of that person's business and until a siting
33 decision is made, identifying information of any person supplying
34 information under this subsection and the locations being considered
35 for siting, relocation, or expansion of a business;

36 (b) When developed by the department of commerce based on
37 information as described in (a)(i) of this subsection, any work product
38 is not exempt from disclosure;

1 (c) For the purposes of this subsection, "siting decision" means
2 the decision to acquire or not to acquire a site;

3 (d) If there is no written contact for a period of sixty days to
4 the department of commerce from a person connected with siting,
5 recruitment, expansion, retention, or relocation of that person's
6 business, information described in (a)(ii) of this subsection will be
7 available to the public under this chapter;

8 (13) Financial and proprietary information submitted to or obtained
9 by the department of ecology or the authority created under chapter
10 70.95N RCW to implement chapter 70.95N RCW;

11 (14) Financial, commercial, operations, and technical and research
12 information and data submitted to or obtained by the life sciences
13 discovery fund authority in applications for, or delivery of, grants
14 under chapter 43.350 RCW, to the extent that such information, if
15 revealed, would reasonably be expected to result in private loss to the
16 providers of this information;

17 (15) Financial and commercial information provided as evidence to
18 the department of licensing as required by RCW 19.112.110 or
19 19.112.120, except information disclosed in aggregate form that does
20 not permit the identification of information related to individual fuel
21 licensees;

22 (16) Any production records, mineral assessments, and trade secrets
23 submitted by a permit holder, mine operator, or landowner to the
24 department of natural resources under RCW 78.44.085;

25 (17)(a) Farm plans developed by conservation districts, unless
26 permission to release the farm plan is granted by the landowner or
27 operator who requested the plan, or the farm plan is used for the
28 application or issuance of a permit;

29 (b) Farm plans developed under chapter 90.48 RCW and not under the
30 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
31 RCW 42.56.610 and 90.64.190;

32 (18) Financial, commercial, operations, and technical and research
33 information and data submitted to or obtained by a health sciences and
34 services authority in applications for, or delivery of, grants under
35 RCW 35.104.010 through 35.104.060, to the extent that such information,
36 if revealed, would reasonably be expected to result in private loss to
37 providers of this information;

1 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
2 that can be identified to a particular business;

3 (20) Financial and commercial information submitted to or obtained
4 by the University of Washington, other than information the university
5 is required to disclose under RCW 28B.20.150, when the information
6 relates to investments in private funds, to the extent that such
7 information, if revealed, would reasonably be expected to result in
8 loss to the University of Washington consolidated endowment fund or to
9 result in private loss to the providers of this information;

10 (21) Financial, commercial, operations, and technical and research
11 information and data submitted to or obtained by innovate Washington in
12 applications for, or delivery of, grants and loans under chapter 43.333
13 RCW, to the extent that such information, if revealed, would reasonably
14 be expected to result in private loss to the providers of this
15 information; (~~and~~)

16 (22) Market share data submitted by a manufacturer under RCW
17 70.95N.190(4); and

18 (23) Responses to wage and hour surveys used by the department of
19 labor and industries to establish the prevailing rate of wage under
20 chapter 39.12 RCW.

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