
SENATE BILL 5686

State of Washington

63rd Legislature

2013 Regular Session

By Senator King

Read first time 02/08/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to surveys used in prevailing wage determinations;
2 amending RCW 39.12.015 and 39.04.350; adding new sections to chapter
3 39.12 RCW; creating a new section; and providing an effective date.

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

5 **Sec. 1.** RCW 39.12.015 and 1965 ex.s. c 133 s 2 are each amended to
6 read as follows:

7 All determinations of the prevailing rate of wage shall be made by
8 the industrial statistician of the department of labor and industries.
9 Starting January 1, 2014, the industrial statistician may only use data
10 collected from prevailing wage surveys provided to contractors pursuant
11 to section 2 of this act when making prevailing wage determinations.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.12 RCW
13 to read as follows:

14 By December of each odd-numbered year, the department of labor and
15 industries must adopt and publish a schedule showing the trades or job
16 classifications for which the department will be conducting a new
17 prevailing wage survey during the upcoming two-year period. The
18 department shall prepare a prevailing wage survey listing each trade or

1 job classification listed on the schedule for that two-year period and
2 ensure that each contractor registering or renewing a contractor
3 registration under chapter 18.27 RCW has access to the prevailing wage
4 survey.

5 Starting January 1, 2014, each contractor registering or renewing
6 a contractor registration must complete a prevailing wage survey and
7 return it to the department within sixty days of registration.
8 Submission of a completed survey is not a condition of registration or
9 renewal. Failure to submit a completed survey will subject a
10 contractor to section 3 of this act.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.12 RCW
12 to read as follows:

13 A contractor that has failed to return a completed prevailing wage
14 survey to the department of labor and industries within sixty days of
15 registration shall not be allowed to bid on any public works starting
16 sixty days after the date of registration or renewal and ending upon
17 the expiration date of the certificate of registration issued under
18 chapter 18.27 RCW.

19 **Sec. 4.** RCW 39.04.350 and 2010 c 276 s 2 are each amended to read
20 as follows:

21 (1) Before award of a public works contract, a bidder must meet the
22 following responsibility criteria to be considered a responsible bidder
23 and qualified to be awarded a public works project. The bidder must:

24 (a) At the time of bid submittal, have a certificate of
25 registration in compliance with chapter 18.27 RCW;

26 (b) Have a current state unified business identifier number;

27 (c) If applicable, have industrial insurance coverage for the
28 bidder's employees working in Washington as required in Title 51 RCW;
29 an employment security department number as required in Title 50 RCW;
30 and a state excise tax registration number as required in Title 82 RCW;

31 (d) Not be disqualified from bidding on any public works contract
32 under RCW 39.06.010 (~~(e)~~), 39.12.065(3), or section 3 of this act;

33 (e) If bidding on a public works project subject to the
34 apprenticeship utilization requirements in RCW 39.04.320, not have been
35 found out of compliance by the Washington state apprenticeship and
36 training council for working apprentices out of ratio, without

1 appropriate supervision, or outside their approved work processes as
2 outlined in their standards of apprenticeship under chapter 49.04 RCW
3 for the one-year period immediately preceding the date of the bid
4 solicitation; and

5 (f) Until December 31, 2013, not have violated RCW 39.04.370 more
6 than one time as determined by the department of labor and industries.

7 (2) In addition to the bidder responsibility criteria in subsection
8 (1) of this section, the state or municipality may adopt relevant
9 supplemental criteria for determining bidder responsibility applicable
10 to a particular project which the bidder must meet.

11 (a) Supplemental criteria for determining bidder responsibility,
12 including the basis for evaluation and the deadline for appealing a
13 determination that a bidder is not responsible, must be provided in the
14 invitation to bid or bidding documents.

15 (b) In a timely manner before the bid submittal deadline, a
16 potential bidder may request that the state or municipality modify the
17 supplemental criteria. The state or municipality must evaluate the
18 information submitted by the potential bidder and respond before the
19 bid submittal deadline. If the evaluation results in a change of the
20 criteria, the state or municipality must issue an addendum to the
21 bidding documents identifying the new criteria.

22 (c) If the bidder fails to supply information requested concerning
23 responsibility within the time and manner specified in the bid
24 documents, the state or municipality may base its determination of
25 responsibility upon any available information related to the
26 supplemental criteria or may find the bidder not responsible.

27 (d) If the state or municipality determines a bidder to be not
28 responsible, the state or municipality must provide, in writing, the
29 reasons for the determination. The bidder may appeal the determination
30 within the time period specified in the bidding documents by presenting
31 additional information to the state or municipality. The state or
32 municipality must consider the additional information before issuing
33 its final determination. If the final determination affirms that the
34 bidder is not responsible, the state or municipality may not execute a
35 contract with any other bidder until two business days after the bidder
36 determined to be not responsible has received the final determination.

37 (3) The capital projects advisory review board created in RCW

1 39.10.220 shall develop suggested guidelines to assist the state and
2 municipalities in developing supplemental bidder responsibility
3 criteria. The guidelines must be posted on the board's web site.

4 NEW SECTION. **Sec. 5.** The department of labor and industries may
5 adopt rules to implement this act.

6 NEW SECTION. **Sec. 6.** Sections 3 and 4 of this act take effect
7 January 1, 2014.

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