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SENATE BILL 6317

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State of Washington                      63rd Legislature                      2014 Regular Session

By Senators Angel, Becker, Braun, and Sheldon

Read first time 01/20/14. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to improving the accuracy of the prevailing rate of  
2 wage; and amending RCW 39.12.026, 39.12.070, 39.12.080, and 42.56.270.

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

4            **Sec. 1.** RCW 39.12.026 and 2003 c 363 s 206 are each amended to  
5 read as follows:

6            ~~((1))~~ In establishing the prevailing rate of wage under RCW  
7 39.12.010, 39.12.015, and 39.12.020~~((7))~~;

8            (1) The department shall use a stratified random sampling  
9 methodology; and

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

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

14            **Sec. 2.** RCW 39.12.070 and 2008 c 285 s 2 are each amended to read  
15 as follows:

16            The department of labor and industries may charge fees to awarding  
17 agencies on public works for the approval of statements of intent to  
18 pay prevailing wages and the certification of affidavits of wages paid.

1 The department may also charge fees to persons or organizations  
2 requesting the arbitration of disputes under RCW 39.12.060. The amount  
3 of the fees shall be established by rules adopted by the department  
4 under the procedures in the administrative procedure act, chapter 34.05  
5 RCW. The fees shall apply to all approvals, certifications, and  
6 arbitration requests made after the effective date of the rules. All  
7 fees shall be deposited in the public works administration account.  
8 The department may refuse to arbitrate for contractors, subcontractors,  
9 persons, or organizations which have not paid the proper fees. The  
10 department may, if necessary, request the attorney general to take  
11 legal action to collect delinquent fees.

12 The department shall set the fees permitted by this section at a  
13 level that generates revenue that is as near as practicable to the  
14 amount of the appropriation to administer this chapter, including, but  
15 not limited to, (~~the performance of adequate wage surveys~~) collecting  
16 data to establish the prevailing rate of wage, and to investigate and  
17 enforce all alleged violations of this chapter, including, but not  
18 limited to, incorrect statements of intent to pay prevailing wage,  
19 incorrect certificates of affidavits of wages paid, and wage claims, as  
20 provided for in this chapter and chapters 49.48 and 49.52 RCW.  
21 However, the fees charged for the approval of statements of intent to  
22 pay prevailing wages and the certification of affidavits of wages paid  
23 shall be forty dollars.

24 **Sec. 3.** RCW 39.12.080 and 2006 c 230 s 2 are each amended to read  
25 as follows:

26 The public works administration account is created in the state  
27 treasury. The department of labor and industries shall deposit in the  
28 account all moneys received from fees or civil penalties collected  
29 under RCW 39.12.050, 39.12.065, and 39.12.070. Appropriations from the  
30 account may be made only for the purposes of administration of this  
31 chapter, including, but not limited to, (~~the performance of adequate~~  
32 ~~wage surveys~~) collecting data to establish the prevailing rate of  
33 wage, and for the investigation and enforcement of all alleged  
34 violations of this chapter as provided for in this chapter and chapters  
35 49.48 and 49.52 RCW.

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

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

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

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

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

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

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

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

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

33       (8) Financial, commercial, operations, and technical and research  
34 information and data submitted to or obtained by the clean Washington  
35 center in applications for, or delivery of, program services under  
36 chapter 70.95H RCW;

37       (9) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses  
2 the stadium and exhibition center as defined in RCW 36.102.010;

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

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

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

21 (12)(a) When supplied to and in the records of the department of  
22 commerce:

23 (i) Financial and proprietary information collected from any person  
24 and provided to the department of commerce pursuant to RCW  
25 43.330.050(8); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14           (22) Market share data submitted by a manufacturer under RCW  
15 70.95N.190(4); and

16           (23) Data collected by the department of labor and industries in  
17 establishing the prevailing rate of wage under chapter 39.12 RCW.

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