

SENATE BILL REPORT

SB 5493

As Reported by Senate Committee On:
Labor & Commerce, January 22, 2018

Title: An act relating to establishing the prevailing rate of wage based on collective bargaining agreements or other methods if collective bargaining agreements are not available.

Brief Description: Establishing the prevailing rate of wage based on collective bargaining agreements or other methods if collective bargaining agreements are not available.

Sponsors: Senators Conway, Hasegawa, Keiser, Miloscia, Hobbs, Takko, Wellman, Chase, Darneille, Hunt and Saldaña.

Brief History:

Committee Activity: Labor & Commerce: 1/11/18, 1/22/18 [DPS, DNP].

Brief Summary of First Substitute Bill

- Requires the Department of Labor and Industries (L&I) industrial statistician to establish the prevailing rate of wage using collective bargaining agreements.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5493 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Hasegawa, Vice Chair; Conway, King, Kuderer and Saldaña.

Minority Report: Do not pass.

Signed by Senators Braun and Wilson.

Staff: Susan Jones (786-7404)

Background: State law requires that hourly wages paid to laborers, workers, or mechanics, on all public works and under all public building service maintenance contracts of the state or any county, municipality, or political subdivision, must not be less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where

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such labor is performed. Public work means all work, construction, alteration, repair, or improvement, other than ordinary maintenance, that is executed at the cost of the state or of any municipality.

The prevailing rate of wage is the rate of hourly wage, usual benefits, and overtime paid in the locality, the largest city in the county wherein the physical work is being performed, to the majority of workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, workers, or mechanics in the same trade or occupation must be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage must be mathematically determined by the number of hours worked in such period of time.

All determinations of the prevailing rate of wage are made by the L&I industrial statistician. An L&I rule provides that the industrial statistician must establish prevailing wage rates by:

- conducting wage and hour surveys for established trades and occupations;
- adopting the wage and benefit adjustments established in collective bargaining agreements for those trades or occupations where the most recently established prevailing wage rates were derived from a collective bargaining agreement; or
- employing other methods deemed appropriate by the industrial statistician in instances when those procedures are not feasible.

In establishing the prevailing rate of wage, all data collected by L&I may be used only in the county for which the work was performed. L&I must allow registered contractors to complete a wage survey electronically.

Summary of Bill (First Substitute): The industrial statistician must establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements for those trades and occupations that have collective bargaining agreements. For trades and occupations with more than one collective bargaining agreement in the county, the higher rate will prevail.

For trades and occupations in which there are no collective bargaining agreements in the county, the industrial statistician must establish the prevailing rate of wage by conducting wage and hour surveys. When there are no applicable collective bargaining agreements and conducting wage and hour surveys is not feasible, the industrial statistician may employ other appropriate methods to establish the prevailing rate of wage.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Provides that for trades and occupations with more than one collective bargaining agreement in the county, the higher rate will prevail.
- Makes technical changes.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Surveys have always been a problem. This simplifies the process and makes it less complicated than dealing with surveys. The bill is silent on where there are multiple collective bargaining units and may require L&I rule making. This bill has been around a while and is not a new idea. Eight other states use this method. This is a matter of cost efficiencies. Setting a rate to the CBA rate does not mean it will be done by union workers. It imbeds the true cost of the work. We will work on clarifying the issue of CBAs in multiple jurisdictions. This would reduce costs to the state and for the contractors. It is an effort for contractors to fill out the surveys. The bill helps working class people. A DOT study says using CBAs is the most accurate way to determine wages.

CON: The primary concern is related to rural areas. The way the department makes the calculation, there may not be enough people to make it statistical significant so they move to the next county or another county. It is not clear if the language clarifies that you use the CBS for the county where the work is being done. How do you manage more than one CBs?

OTHER: In more urban counties, the CBs are the prevailing wage but it may make a difference in rural areas. The project may cost more than it should.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Neil Hartman, Washington State Building & Construction Trades Council; Chris McClain, Business Manager/Iron Workers; Michael Transue, Mechanical Contractors Association of Western Washington.

CON: Eric Johnson, Washington Public Ports Association.

OTHER: Jerry VanderWood, AGC of Washington; Tammy Fellin, L&I.

Persons Signed In To Testify But Not Testifying: No one.