

SENATE BILL REPORT

SHB 2136

As Passed Senate, February 22, 2024

Title: An act relating to prevailing wage sanctions, penalties, and debarment.

Brief Description: Concerning prevailing wage sanctions, penalties, and debarment.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Ormsby, Schmidt, Doglio, Farivar, Berry, Simmons, Reed, Ramel, Mena, Goodman, Berg, Fosse, Reeves, Pollet and Kloba; by request of Attorney General).

Brief History: Passed House: 2/9/24, 93-4.

Committee Activity: Labor & Commerce: 2/15/24 [DP, DNP, w/oRec].

Floor Activity: Passed Senate: 2/22/24, 46-3.

Brief Summary of Bill

- Provides that a contractor is subject to the same sanctions or debarment from bidding on public works projects if it has substantially identical operations, corporate, or management structure to another entity that has been sanctioned or debarred under state prevailing wage laws.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Hansen and Stanford.

Minority Report: Do not pass.

Signed by Senators MacEwen and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Braun.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jarrett Sacks (786-7448)

Background: Employers must pay laborers, workers, and mechanics on public works contracts and public building service maintenance contracts at least the prevailing wage rate. The prevailing rate of 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 in the county where the work is performed. The Department of Labor and Industries (L&I) establishes prevailing wage rates based on collective bargaining agreements for a trade or occupation.

Failing to pay prevailing wage is subject to a civil penalty of at least \$5,000, or an amount equal to 50 percent of the total prevailing wage violation, whichever is greater, interest on all wages owed at 1 percent per month, and is not permitted to bid on any public works project (debarred) until the civil penalty is paid. If a contractor or subcontractor is found in violation a second time in a five-year period, the same penalties apply and the contractor or subcontractor is debarred for two years.

A contractor who files a false statement or fails to file any required statement or record is subject to a \$500 civil penalty and is debarred until the penalty is paid. For a second violation in a five-year period, the contractor is debarred for one year.

Summary of Bill: A definition of contractor is added to the prevailing wage statutes to mean any prime contractor any prime contractor, subcontractor, or other employer as defined by rules adopted by L&I.

A contractor also includes an entity, however organized, with substantially identical operations, corporate, or management structure to an entity that has been found to be in violation of state laws on prevailing wage, contractor registration, industrial insurance, or apprentices, or any associated rules. The nonexclusive factors used to determine substantial identity include an assessment of whether there is:

- substantial continuity of the same business operation;
- use of the same machinery, equipment, or both tangible and intangible real or personal property;
- similarity of jobs and types of working conditions;
- continuity of supervisors; and
- similarity of product or services.

A contractor with substantially identical operations, corporate, or management structure to an entity debarred or sanctioned under state prevailing wage laws, or associated rules, is subject to the same debarment or sanctions as that entity. L&I may take enforcement action against these contractors. L&I may issue a notice of violation, and a hearing must be held following a timely appeal of the notice of violation. L&I must issue a determination with written findings. If a timely appeal is not filed, a notice of violation is final and binding and is not subject to further appeal.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on January 1, 2026.

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: N/A

Persons Signed In To Testify But Not Testifying: N/A