
ENGROSSED SUBSTITUTE SENATE BILL 5701

State of Washington

69th Legislature

2025 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Ramos, Hasegawa, Nobles, and Valdez)

READ FIRST TIME 02/21/25.

1 AN ACT Relating to expanding access to records for the purposes
2 of enforcing prevailing wage laws; amending RCW 39.12.010, 39.12.010,
3 and 39.12.120; providing an effective date; and providing an
4 expiration date.

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

6 **Sec. 1.** RCW 39.12.010 and 2019 c 242 s 2 are each amended to
7 read as follows:

8 (1) The "prevailing rate of wage" is the rate of hourly wage,
9 usual benefits, and overtime paid in the locality, as hereinafter
10 defined, to the majority of workers, laborers, or mechanics, in the
11 same trade or occupation. In the event that there is not a majority
12 in the same trade or occupation paid at the same rate, then the
13 average rate of hourly wage and overtime paid to such laborers,
14 workers, or mechanics in the same trade or occupation is the
15 prevailing rate. If the wage paid by any contractor or subcontractor
16 to laborers, workers, or mechanics on any public work is based on
17 some period of time other than an hour, the hourly wage is
18 mathematically determined by the number of hours worked in such
19 period of time.

20 (2) The "locality" is the largest city in the county wherein the
21 physical work is being performed.

1 (3) The "usual benefits" includes the amount of:

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

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

19 (4) An "interested party" includes a contractor, subcontractor,
20 an employee of a contractor or subcontractor, an organization whose
21 members' wages, benefits, and conditions of employment are affected
22 by this chapter, (~~and~~) the director of labor and industries or the
23 director's designee, a Taft-Hartley trust, and a joint labor-
24 management cooperation committee established pursuant to the federal
25 labor-management cooperation act of 1978.

26 (5) An "inadvertent filing or reporting error" is a mistake and
27 is made notwithstanding the use of due care by the contractor,
28 subcontractor, or employer. An inadvertent filing or reporting error
29 includes a contractor who, in good faith, relies on a written
30 determination provided by the department of labor and industries and
31 pays its workers, laborers, and mechanics accordingly, but is later
32 found to have not paid the proper prevailing wage rate.

33 (6) "Unpaid prevailing wages" or "unpaid wages" means the
34 employer fails to pay all of the prevailing rate of wages owed for
35 any workweek by the regularly established payday for the period in
36 which the workweek ends. Every employer must pay all wages, other
37 than usual benefits, owing to its employees not less than once a
38 month. Every employer must pay all usual benefits owing to its
39 employees by the regularly established deadline for those benefits.

1 (7) "Rate of contribution" means the effective annual rate of
2 usual benefit contributions for all hours, public and private, worked
3 during the year by an employee (commonly referred to as
4 "annualization" of benefits). The only exemption to the annualization
5 requirements is for defined contribution pension plans that have
6 immediate participation and vesting.

7 **Sec. 2.** RCW 39.12.010 and 2024 c 7 s 2 are each amended to read
8 as follows:

9 (1) The "prevailing rate of wage" is the rate of hourly wage,
10 usual benefits, and overtime paid in the locality, as hereinafter
11 defined, to the majority of workers, laborers, or mechanics, in the
12 same trade or occupation. In the event that there is not a majority
13 in the same trade or occupation paid at the same rate, then the
14 average rate of hourly wage and overtime paid to such laborers,
15 workers, or mechanics in the same trade or occupation is the
16 prevailing rate. If the wage paid by any contractor or subcontractor
17 to laborers, workers, or mechanics on any public work is based on
18 some period of time other than an hour, the hourly wage is
19 mathematically determined by the number of hours worked in such
20 period of time.

21 (2) The "locality" is the largest city in the county wherein the
22 physical work is being performed.

23 (3) The "usual benefits" includes the amount of:

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

27 (b) The rate of costs to the contractor or subcontractor, which
28 may be reasonably anticipated in providing benefits to workers,
29 laborers, and mechanics pursuant to an enforceable commitment to
30 carry out a financially responsible plan or program which was
31 communicated in writing to the workers, laborers, and mechanics
32 affected, for medical or hospital care, pensions on retirement or
33 death, compensation for injuries or illness resulting from
34 occupational activity, or insurance to provide any of the foregoing,
35 for unemployment benefits, life insurance, disability and sickness
36 insurance, or accident insurance, for vacation and holiday pay, for
37 defraying costs of apprenticeship or other similar programs, or for
38 other bona fide fringe benefits, but only where the contractor or

1 subcontractor is not required by other federal, state, or local law
2 to provide any of such benefits.

3 (4) An "interested party" includes a contractor, subcontractor,
4 an employee of a contractor or subcontractor, an organization whose
5 members' wages, benefits, and conditions of employment are affected
6 by this chapter, (~~and~~) the director of labor and industries or the
7 director's designee, a Taft-Hartley trust, and a joint labor-
8 management cooperation committee established pursuant to the federal
9 labor-management cooperation act of 1978.

10 (5) An "inadvertent filing or reporting error" is a mistake and
11 is made notwithstanding the use of due care by the contractor,
12 subcontractor, or employer. An inadvertent filing or reporting error
13 includes a contractor who, in good faith, relies on a written
14 determination provided by the department of labor and industries and
15 pays its workers, laborers, and mechanics accordingly, but is later
16 found to have not paid the proper prevailing wage rate.

17 (6) "Unpaid prevailing wages" or "unpaid wages" means the
18 employer fails to pay all of the prevailing rate of wages owed for
19 any workweek by the regularly established payday for the period in
20 which the workweek ends. Every employer must pay all wages, other
21 than usual benefits, owing to its employees not less than once a
22 month. Every employer must pay all usual benefits owing to its
23 employees by the regularly established deadline for those benefits.

24 (7) "Rate of contribution" means the effective annual rate of
25 usual benefit contributions for all hours, public and private, worked
26 during the year by an employee (commonly referred to as
27 "annualization" of benefits). The only exemption to the annualization
28 requirements is for defined contribution pension plans that have
29 immediate participation and vesting.

30 (8) "Contractor" means any prime contractor, subcontractor, or
31 other employer as defined by rules adopted by the department of labor
32 and industries. "Contractor" includes an entity, however organized,
33 with substantially identical operations, corporate, or management
34 structure to an entity that has been found in violation under RCW
35 39.12.050, 39.12.055, or 39.12.065, or any associated rules. The
36 nonexclusive factors used to determine substantial identity include
37 an assessment of whether there is: Substantial continuity of the same
38 business operation; use of the same machinery, equipment, or both
39 tangible and intangible real or personal property; similarity of jobs
40 and types of working conditions; continuity of supervisors; and

1 similarity of product or services. An entity with operational,
2 corporate, and management structures distinct from an entity that has
3 been found in violation under RCW 39.12.050, 39.12.055, or 39.12.065,
4 or any associated rules, shall not be deemed a substantially
5 identical entity.

6 **Sec. 3.** RCW 39.12.120 and 2019 c 242 s 5 are each amended to
7 read as follows:

8 (1) Each contractor, subcontractor, or employer shall keep
9 accurate payroll records for three years from the date of acceptance
10 of the public works project by the contract awarding agency, showing
11 the employee's full name, address, social security number, trade or
12 occupation, classification, straight and overtime rates, hourly rate
13 of usual benefits, and hours worked each day and week, including any
14 employee authorizations executed pursuant to RCW 49.28.065, and the
15 actual gross wages, itemized deductions, withholdings, and net wages
16 paid, for each laborer, worker, and mechanic employed by the
17 contractor for work performed on a public works project.

18 (2) A contractor, subcontractor, or employer shall file a copy of
19 its certified payroll records using the department of labor and
20 industries' online system at least once per month. If the department
21 of labor and industries' online system is not used, a contractor,
22 subcontractor, or employer shall file a copy of its certified payroll
23 records directly with the department of labor and industries in a
24 format approved by the department of labor and industries at least
25 once per month.

26 (3) The department of labor and industries shall provide, upon
27 request, a copy of an employer's certified payroll records to an
28 interested party. A joint labor-management cooperation committee may
29 only use the information provided under this subsection for purposes
30 of filing complaints under RCW 39.12.065 and may not use the
31 information for any other purpose, including union organizing or
32 commercial activity.

33 (4) A contractor, subcontractor, or employer's noncompliance with
34 this section constitutes a violation of RCW 39.12.050.

35 NEW SECTION. **Sec. 4.** Section 1 of this act expires January 1,
36 2026.

1 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect January
2 1, 2026.

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