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**SUBSTITUTE SENATE BILL 5701**

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**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 a joint  
28 labor-management cooperation committee. A joint labor-management  
29 cooperation committee may only use the information provided under  
30 this subsection for purposes of filing complaints under RCW 39.12.065  
31 and may not use the information for any other purpose, including  
32 union organizing or 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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