
ENGROSSED SUBSTITUTE SENATE BILL 5726

State of Washington 68th Legislature 2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senator King)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to the prevailing wages on public works; amending
2 RCW 39.12.015 and 39.12.030; and providing an effective date.

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

4 **Sec. 1.** RCW 39.12.015 and 2019 c 29 s 2 are each amended to read
5 as follows:

6 (1) All determinations of the prevailing rate of wage shall be
7 made by the industrial statistician of the department of labor and
8 industries.

9 (2) The time period for recovery of any wages owed to a worker
10 affected by the determination is tolled until the prevailing wage
11 determination is final.

12 (3) ~~((a) Except)~~ Until May 31, 2027, except as provided in RCW
13 39.12.017, and notwithstanding RCW 39.12.010(1), the industrial
14 statistician shall establish the prevailing rate of wage by adopting
15 the hourly wage, usual benefits, and overtime paid for the geographic
16 jurisdiction established in collective bargaining agreements for
17 those trades and occupations that have collective bargaining
18 agreements. For trades and occupations with more than one collective
19 bargaining agreement in the county, the higher rate will prevail.

20 ~~((b))~~ (4) For contracts bid or awarded on or after June 1,
21 2027, except as provided in RCW 39.12.017, and notwithstanding RCW

1 39.12.010(1), the industrial statistician shall establish the
2 prevailing rate of wage by adopting the hourly wage, usual benefits,
3 and overtime paid for the geographic jurisdiction established in
4 collective bargaining agreements for those trades and occupations
5 that have collective bargaining agreements. For trades and
6 occupations with more than one collective bargaining agreement in the
7 county other than ship building and ship repair rates:

8 (a) The industrial statistician shall determine and prevail the
9 rate that represents the majority of workers, laborers, or mechanics
10 in the same trade or occupation under the collective bargaining
11 agreements. In the event there is not a majority of workers,
12 laborers, or mechanics in the same trade or occupation paid at the
13 same rate, then the rate representing the most workers, laborers, or
14 mechanics in the same trade or occupation shall prevail. The
15 industrial statistician shall consider the applicable collective
16 bargaining agreements and may seek input from the labor and
17 management signatory parties and their multiemployer bargaining unit
18 representatives, if applicable, regarding which rate is the majority
19 rate, or the rate representing the most workers, laborers, or
20 mechanics in the same trade or occupation in the event there is no
21 majority. In no case where there is a collective bargaining agreement
22 within a county, shall the industrial statistician conduct wage
23 surveys or otherwise apply hours worked data to set the prevailing
24 rate of wage, except that it may apply hours worked data to resolve
25 an appeal under (b) of this subsection.

26 (b) An interested party may appeal a determination by the
27 industrial statistician under this subsection. The interested party
28 must allege and prove by competent evidence that the actual rate used
29 in the determination is not the rate representing the majority number
30 or plurality of workers, laborers, or mechanics in the same trade or
31 occupation under the collective bargaining agreements. Until final
32 determination thereof, the work in question shall proceed under the
33 rate established by the industrial statistician.

34 (5) Notwithstanding RCW 39.12.010(1), for contracts bid or
35 awarded on or after June 1, 2027, for ship building and ship repair
36 the industrial statistician shall establish the prevailing rate of
37 wage by adopting the hourly wage, usual benefits, and overtime paid
38 for the geographic jurisdiction established in collective bargaining
39 agreements for those trades and occupations that have collective
40 bargaining agreements. For the ship building and ship repair trades

1 and occupations with more than one collective bargaining agreement in
2 the county, the higher rate will prevail.

3 (6) For trades and occupations in which there are no collective
4 bargaining agreements in the county, the industrial statistician
5 shall establish the prevailing rate of wage as defined in RCW
6 39.12.010 by conducting wage and hour surveys. In instances when
7 there are no applicable collective bargaining agreements and
8 conducting wage and hour surveys is not feasible, the industrial
9 statistician may employ other appropriate methods to establish the
10 prevailing rate of wage.

11 **Sec. 2.** RCW 39.12.030 and 2009 c 62 s 1 are each amended to read
12 as follows:

13 (1) The specifications for every contract for the construction,
14 reconstruction, maintenance or repair of any public work to which the
15 state or any county, municipality, or political subdivision created
16 by its laws is a party, shall contain a provision stating the hourly
17 minimum rate of wage, not less than the prevailing rate of wage,
18 which may be paid to laborers, workers, or mechanics in each trade or
19 occupation required for such public work employed in the performance
20 of the contract either by the contractor, subcontractor or other
21 person doing or contracting to do the whole or any part of the work
22 contemplated by the contract, and the contract shall ~~((contain a~~
23 ~~stipulation))~~ stipulate that such laborers, workers, or mechanics
24 shall be paid not less than such specified hourly minimum rate of
25 wage. If the awarding agency determines that the work contracted for
26 meets the definition of residential construction, the contract must
27 include that information.

28 (2) The contract shall stipulate that the hourly minimum rate of
29 wage for laborers, workers, or mechanics must be adjusted as
30 necessary to provide that such wage is not less than the latest
31 prevailing rate of wage in effect at the time the work is performed.

32 (3) Until December 31, 2029, cost increases directly resulting
33 from wage adjustments of the prevailing rate of wage pursuant to
34 subsection (2) of this section shall be good cause justification for
35 the contractor of any level affected by said increase to require a
36 financial adjustment to the contractor's contract for the following
37 scopes of work established pursuant to this chapter:

38 (a) Carpenters;

39 (b) Cement masons;

1 (c) Laborers;

2 (d) Power equipment operators; and

3 (e) Teamsters.

4 (4) Nothing in subsection (2) of this section shall supersede the
5 wage adjustment provisions provided for in RCW 39.04.155,
6 35.22.620(11)(e), 53.08.120(3)(e), 39.10.380(1), 35.23.352(13),
7 36.32.235(9), 39.04.235, 54.04.070(7), 39.10.420, 39.10.340,
8 39.10.300, and 57.08.050(6).

9 (5) Subsection (2) of this section does not apply to work for
10 housing projects where at least 50 percent of the residential units
11 are made available for low-income households, or to residential
12 construction as defined in RCW 39.12.017.

13 (6) If the hourly minimum rate of wage stated in the contract
14 specifies residential construction rates and it is later determined
15 that the work performed is commercial and subject to commercial
16 construction rates, the state, county, municipality, or political
17 subdivision that entered into the contract must pay the difference
18 between the residential rate stated and the actual commercial rate to
19 the contractor, subcontractor, or other person doing or contracting
20 to do the whole or any part of the work under the contract.

21 NEW SECTION. Sec. 3. This act takes effect January 1, 2025.

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