
SUBSTITUTE SENATE BILL 6317

State of Washington

63rd Legislature

2014 Regular Session

By Senate Commerce & Labor (originally sponsored by Senators Angel, Becker, Braun, and Sheldon)

READ FIRST TIME 02/06/14.

1 AN ACT Relating to improving the accuracy of the prevailing rate of
2 wage; amending RCW 39.12.026, 39.12.070, 39.12.080, and 42.56.270; and
3 adding a new section to chapter 39.12 RCW.

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

5 **Sec. 1.** RCW 39.12.026 and 2003 c 363 s 206 are each amended to
6 read as follows:

7 ~~((1))~~ In establishing the prevailing rate of wage under RCW
8 39.12.010, 39.12.015, and 39.12.020~~((7))~~;

9 (1) The department of labor and industries shall use a stratified
10 random sampling methodology; and

11 (2) All data collected by the department may be used only in the
12 county for which the work was performed.

13 ~~((2) This section applies only to prevailing wage surveys~~
14 ~~initiated on or after August 1, 2003.)~~

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.12 RCW
16 to read as follows:

17 (1)(a) To conduct the stratified random sampling methodology as
18 required under RCW 39.12.026, the department of labor and industries

1 shall identify the contractors, employers, and labor unions eligible to
2 receive wage surveys in specific trades or occupations. The department
3 shall send wage surveys to thirty percent of those eligible survey
4 recipients in each trade or occupation. The department shall use a
5 random method to select the recipients of the survey in each trade or
6 occupation.

7 (b) The prevailing rate of wage for a trade or occupation may be
8 established using a stratified random sampling methodology when the
9 department has received survey responses from twenty-five percent of
10 the recipients in that particular trade or occupation.

11 (2)(a) A recipient of a wage survey is required to respond to the
12 survey within ninety days of receiving the survey.

13 (b) If a recipient has not responded within ninety days, the
14 department shall contact the recipient by telephone. If after thirty
15 days of the first telephone call the recipient has still not responded,
16 the department shall contact the recipient by telephone and notify the
17 recipient that it must respond to the survey.

18 **Sec. 3.** RCW 39.12.070 and 2008 c 285 s 2 are each amended to read
19 as follows:

20 The department of labor and industries may charge fees to awarding
21 agencies on public works for the approval of statements of intent to
22 pay prevailing wages and the certification of affidavits of wages paid.
23 The department may also charge fees to persons or organizations
24 requesting the arbitration of disputes under RCW 39.12.060. The amount
25 of the fees shall be established by rules adopted by the department
26 under the procedures in the administrative procedure act, chapter 34.05
27 RCW. The fees shall apply to all approvals, certifications, and
28 arbitration requests made after the effective date of the rules. All
29 fees shall be deposited in the public works administration account.
30 The department may refuse to arbitrate for contractors, subcontractors,
31 persons, or organizations which have not paid the proper fees. The
32 department may, if necessary, request the attorney general to take
33 legal action to collect delinquent fees.

34 The department shall set the fees permitted by this section at a
35 level that generates revenue that is as near as practicable to the
36 amount of the appropriation to administer this chapter, including, but
37 not limited to, (~~the performance of adequate wage surveys~~) collecting

1 data to establish the prevailing rate of wage, and to investigate and
2 enforce all alleged violations of this chapter, including, but not
3 limited to, incorrect statements of intent to pay prevailing wage,
4 incorrect certificates of affidavits of wages paid, and wage claims, as
5 provided for in this chapter and chapters 49.48 and 49.52 RCW.
6 However, the fees charged for the approval of statements of intent to
7 pay prevailing wages and the certification of affidavits of wages paid
8 shall be forty dollars.

9 **Sec. 4.** RCW 39.12.080 and 2006 c 230 s 2 are each amended to read
10 as follows:

11 The public works administration account is created in the state
12 treasury. The department of labor and industries shall deposit in the
13 account all moneys received from fees or civil penalties collected
14 under RCW 39.12.050, 39.12.065, and 39.12.070. Appropriations from the
15 account may be made only for the purposes of administration of this
16 chapter, including, but not limited to, (~~the performance of adequate~~
17 ~~wage surveys~~) collecting data to establish the prevailing rate of
18 wage, and for the investigation and enforcement of all alleged
19 violations of this chapter as provided for in this chapter and chapters
20 49.48 and 49.52 RCW.

21 **Sec. 5.** RCW 42.56.270 and 2013 c 305 s 14 are each amended to read
22 as follows:

23 The following financial, commercial, and proprietary information is
24 exempt from disclosure under this chapter:

25 (1) Valuable formulae, designs, drawings, computer source code or
26 object code, and research data obtained by any agency within five years
27 of the request for disclosure when disclosure would produce private
28 gain and public loss;

29 (2) Financial information supplied by or on behalf of a person,
30 firm, or corporation for the purpose of qualifying to submit a bid or
31 proposal for (a) a ferry system construction or repair contract as
32 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
33 or improvement as required by RCW 47.28.070;

34 (3) Financial and commercial information and records supplied by
35 private persons pertaining to export services provided under chapters

1 43.163 and 53.31 RCW, and by persons pertaining to export projects
2 under RCW 43.23.035;

3 (4) Financial and commercial information and records supplied by
4 businesses or individuals during application for loans or program
5 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
6 43.168 RCW, or during application for economic development loans or
7 program services provided by any local agency;

8 (5) Financial information, business plans, examination reports, and
9 any information produced or obtained in evaluating or examining a
10 business and industrial development corporation organized or seeking
11 certification under chapter 31.24 RCW;

12 (6) Financial and commercial information supplied to the state
13 investment board by any person when the information relates to the
14 investment of public trust or retirement funds and when disclosure
15 would result in loss to such funds or in private loss to the providers
16 of this information;

17 (7) Financial and valuable trade information under RCW 51.36.120;

18 (8) Financial, commercial, operations, and technical and research
19 information and data submitted to or obtained by the clean Washington
20 center in applications for, or delivery of, program services under
21 chapter 70.95H RCW;

22 (9) Financial and commercial information requested by the public
23 stadium authority from any person or organization that leases or uses
24 the stadium and exhibition center as defined in RCW 36.102.010;

25 (10)(a) Financial information, including but not limited to account
26 numbers and values, and other identification numbers supplied by or on
27 behalf of a person, firm, corporation, limited liability company,
28 partnership, or other entity related to an application for a horse
29 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
30 license, gambling license, or lottery retail license;

31 (b) Internal control documents, independent auditors' reports and
32 financial statements, and supporting documents: (i) Of house-banked
33 social card game licensees required by the gambling commission pursuant
34 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
35 with an approved tribal/state compact for class III gaming;

36 (11) Proprietary data, trade secrets, or other information that
37 relates to: (a) A vendor's unique methods of conducting business; (b)
38 data unique to the product or services of the vendor; or (c)

1 determining prices or rates to be charged for services, submitted by
2 any vendor to the department of social and health services for purposes
3 of the development, acquisition, or implementation of state purchased
4 health care as defined in RCW 41.05.011;

5 (12)(a) When supplied to and in the records of the department of
6 commerce:

7 (i) Financial and proprietary information collected from any person
8 and provided to the department of commerce pursuant to RCW
9 43.330.050(8); and

10 (ii) Financial or proprietary information collected from any person
11 and provided to the department of commerce or the office of the
12 governor in connection with the siting, recruitment, expansion,
13 retention, or relocation of that person's business and until a siting
14 decision is made, identifying information of any person supplying
15 information under this subsection and the locations being considered
16 for siting, relocation, or expansion of a business;

17 (b) When developed by the department of commerce based on
18 information as described in (a)(i) of this subsection, any work product
19 is not exempt from disclosure;

20 (c) For the purposes of this subsection, "siting decision" means
21 the decision to acquire or not to acquire a site;

22 (d) If there is no written contact for a period of sixty days to
23 the department of commerce from a person connected with siting,
24 recruitment, expansion, retention, or relocation of that person's
25 business, information described in (a)(ii) of this subsection will be
26 available to the public under this chapter;

27 (13) Financial and proprietary information submitted to or obtained
28 by the department of ecology or the authority created under chapter
29 70.95N RCW to implement chapter 70.95N RCW;

30 (14) Financial, commercial, operations, and technical and research
31 information and data submitted to or obtained by the life sciences
32 discovery fund authority in applications for, or delivery of, grants
33 under chapter 43.350 RCW, to the extent that such information, if
34 revealed, would reasonably be expected to result in private loss to the
35 providers of this information;

36 (15) Financial and commercial information provided as evidence to
37 the department of licensing as required by RCW 19.112.110 or

1 19.112.120, except information disclosed in aggregate form that does
2 not permit the identification of information related to individual fuel
3 licensees;

4 (16) Any production records, mineral assessments, and trade secrets
5 submitted by a permit holder, mine operator, or landowner to the
6 department of natural resources under RCW 78.44.085;

7 (17)(a) Farm plans developed by conservation districts, unless
8 permission to release the farm plan is granted by the landowner or
9 operator who requested the plan, or the farm plan is used for the
10 application or issuance of a permit;

11 (b) Farm plans developed under chapter 90.48 RCW and not under the
12 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
13 RCW 42.56.610 and 90.64.190;

14 (18) Financial, commercial, operations, and technical and research
15 information and data submitted to or obtained by a health sciences and
16 services authority in applications for, or delivery of, grants under
17 RCW 35.104.010 through 35.104.060, to the extent that such information,
18 if revealed, would reasonably be expected to result in private loss to
19 providers of this information;

20 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
21 that can be identified to a particular business;

22 (20) Financial and commercial information submitted to or obtained
23 by the University of Washington, other than information the university
24 is required to disclose under RCW 28B.20.150, when the information
25 relates to investments in private funds, to the extent that such
26 information, if revealed, would reasonably be expected to result in
27 loss to the University of Washington consolidated endowment fund or to
28 result in private loss to the providers of this information;

29 (21) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by innovate Washington in
31 applications for, or delivery of, grants and loans under chapter 43.333
32 RCW, to the extent that such information, if revealed, would reasonably
33 be expected to result in private loss to the providers of this
34 information; (~~and~~)

35 (22) Market share data submitted by a manufacturer under RCW
36 70.95N.190(4); and

1 (23) Data collected by the department of labor and industries in
2 establishing the prevailing rate of wage under chapter 39.12 RCW.

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