

# Prevailing Wage Determinations

*2019 Annual Report*

December 2019

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# Introduction

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The Department of Labor & Industries (L&I) provides this report annually as requested by members of the prevailing wage community. The report summarizes the department's review of and response to requests for prevailing wage determinations and modifications, or requests for reconsideration of previous determinations, during Fiscal Year (FY) 2019. The goal of the report is to provide interested parties one place to review determinations made during the course of the year.

Washington's prevailing wage law (Chapter 39.12 RCW) was passed by the legislature in 1945. The law is partly modeled after the federal Davis-Bacon Act, passed by Congress in 1931 to preserve the local wages of workers hired for federal public works projects. It protects workers' wages and benefits by setting a minimum hourly rate of wages, benefits, and overtime that contractors must pay workers on public projects. This ensures workers receive a standard rate of wages and benefits established for the same work in their locality. The law also ensures all contractors competing for public works projects pay their workers the established local wage rate.

When a question arises about the appropriate wage rate, any interested party can request a determination. A prevailing wage determination is a formal decision by L&I's industrial statistician. A determination decides the classification, called a "scope of work," that applies to particular job tasks, and the wage that workers in the classification earn. Should the industrial statistician decide to make a formal determination, determinations are appealable agency orders. After an initial determination is issued, a party may seek a modification. A party may also make a request for reconsideration of a determination or modification.

# 2019 Actions

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Requests for determinations or modifications regarding prevailing wage often require significant research and input gathering from various sources to assist in making decisions. The Department of Labor & Industries (L&I) considers information about impacts and Prevailing Wage Program operations when making these decisions.

In Fiscal Year (FY) 2019, L&I's Prevailing Wage Program received six formal requests for determinations or modifications regarding prevailing wage. L&I provided responses to two of these requests, along with two requests from FY 2018. Currently, L&I has not yet responded to four of the requests received in FY 2019. Information about L&I's response to the four pending requests received in FY 2019 will be provided in the agency's 2020 report.

## PREVAILING WAGE DETERMINATION OR MODIFICATION REQUESTS L&I RESPONDED TO IN FY 2019

### **Determination: Northwest Ironworkers Employers Paid Time Off Plan**

The Ironworkers District Council of the Pacific Northwest requested a determination on May 4, 2019 regarding whether employer contributions made under their Paid Time Off (PTO) plan can be credited as a usual benefit under prevailing wage law. L&I's industrial statistician determined that a PTO plan that irrevocably pays benefits into a fund, and that a worker may choose to use for vacation leave, is a usual benefit for prevailing wage purposes.

### **Determination: Landscape Laborer Determination**

On behalf of the city of Bellevue, on August 21, 2018, sixteen municipalities contended that L&I erred in implementing Substitute Senate Bill (SSB) 5493 when it used certain collective bargaining agreements to establish prevailing wage for landscape construction. SSB 5493 was passed by the legislature in 2018, and requires L&I to establish the prevailing rate of wage using collective bargaining agreements. The industrial statistician determined that the rates were established according to the new law, and that any amendments would need to be considered by the legislature.

### **Determination: Northshore Sheet Metal, Inc.**

Northshore Sheet Metal requested a determination on October 11, 2017 regarding the applicability of Metal Fabricator (in-shop) prevailing wage for prefabrication of architectural sheet metal for building exteriors. The industrial statistician declined to apply the metal fabricator prevailing wage and determined that the sheet metal prevailing wage is appropriate for this work.

### **Determination: Cedar Hills Landfill**

The Association of Plumbers, Pipefitters, and Steamfitters requested a determination on January 31, 2018 regarding the applicable prevailing wage for installation of leachate and methane gas collection, piping system, and controls at the Cedar Hills regional landfill. In a letter dated August 22, 2019, the industrial statistician declined to reverse his determination. The Association has appealed the determination.

## **PREVAILING WAGE DETERMINATION REQUESTS L&I RECEIVED IN FY 2019, BUT HAS NOT YET COMPLETED**

### **Determination Request: East Columbia Basin Irrigation District**

The East Columbia Basin Irrigation District requested a determination on August 28, 2018 regarding whether prevailing wage is required for constructing improvements within an existing canal and constructing new water distribution systems to serve additional acres for agriculture and other purposes.

### **Determination Request: Seattle Iron & Metals Corporation (SIMCO)**

Seattle Iron & Metals Corporation (SIMCO) requested a determination on May 4, 2019 on whether prevailing wages apply to truck drivers who transport scrap metal (purchased by SIMCO) from a public works project to a SIMCO facility.

### **Determination Request: Prevailing Wage for Third-Party Vendors**

An attorney representing a construction equipment rental company requested a determination on January 30, 2019 regarding whether prevailing wage is required for repair work performed on leased equipment at the construction site.

### **Determination Request: Sound Transit 3 Off-Site Pre-Cast/Fabrication Work**

The Operating Engineers Local 302 requested a determination on November 15, 2018 regarding the appropriate prevailing wage rate for offsite pre-cast/fabrication work scheduled to be performed in conjunction with the Sound Transit 3 project.

Visit [L&I's website](http://www.lni.wa.gov/TradesLicensing/PrevWage/Policies/default.asp) at <http://www.lni.wa.gov/TradesLicensing/PrevWage/Policies/default.asp> for more detailed information about published prevailing wage determinations and policies.