
SENATE BILL 6480

State of Washington

62nd Legislature

2012 Regular Session

By Senators King, Schoesler, and Holmquist Newbry

Read first time 01/25/12. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to employers who pay the prevailing wage on public
2 works; and amending RCW 39.12.015 and 39.12.040.

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

4 **Sec. 1.** RCW 39.12.015 and 1965 ex.s. c 133 s 2 are each amended to
5 read as follows:

6 All determinations of the prevailing rate of wage shall be made by
7 the industrial statistician of the department of labor and industries.
8 An employer who pays an employee a prevailing rate of wage based on a
9 previous written determination by the industrial statistician is not
10 subject to a wage complaint under chapter 49.48 RCW from that employee
11 claiming the employer paid an incorrect rate of wage.

12 **Sec. 2.** RCW 39.12.040 and 2009 c 219 s 2 are each amended to read
13 as follows:

14 (1) Except as provided in subsection (2) of this section, before
15 payment is made by or on behalf of the state, or any county,
16 municipality, or political subdivision created by its laws, of any sum
17 or sums due on account of a public works contract, it shall be the duty
18 of the officer or person charged with the custody and disbursement of

1 public funds to require the contractor and each and every subcontractor
2 from the contractor or a subcontractor to submit to such officer a
3 "Statement of Intent to Pay Prevailing Wages". For a contract in
4 excess of ten thousand dollars, the statement of intent to pay
5 prevailing wages shall include:

6 (a) The contractor's registration certificate number; and

7 (b) The prevailing rate of wage for each classification of workers
8 entitled to prevailing wages under RCW 39.12.020 and the estimated
9 number of workers in each classification.

10 Each statement of intent to pay prevailing wages must be approved
11 by the industrial statistician of the department of labor and
12 industries before it is submitted to said officer. Unless otherwise
13 authorized by the department of labor and industries, each voucher
14 claim submitted by a contractor for payment on a project estimate shall
15 state that the prevailing wages have been paid in accordance with the
16 prefiled statement or statements of intent to pay prevailing wages on
17 file with the public agency. Following the final acceptance of a
18 public works project, it shall be the duty of the officer charged with
19 the disbursement of public funds, to require the contractor and each
20 and every subcontractor from the contractor or a subcontractor to
21 submit to such officer an "Affidavit of Wages Paid" before the funds
22 retained according to the provisions of RCW 60.28.011 are released to
23 the contractor. Each affidavit of wages paid must be certified by the
24 industrial statistician of the department of labor and industries
25 before it is submitted to said officer.

26 (2) As an alternate to the procedures provided for in subsection
27 (1) of this section, for public works projects of two thousand five
28 hundred dollars or less and for projects where the limited public works
29 process under RCW 39.04.155(3) is followed:

30 (a) An awarding agency may authorize the contractor or
31 subcontractor to submit the statement of intent to pay prevailing wages
32 directly to the officer or person charged with the custody or
33 disbursement of public funds in the awarding agency without approval by
34 the industrial statistician of the department of labor and industries.
35 The awarding agency shall retain such statement of intent to pay
36 prevailing wages for a period of not less than three years.

37 (b) Upon final acceptance of the public works project, the awarding
38 agency shall require the contractor or subcontractor to submit an

1 affidavit of wages paid. Upon receipt of the affidavit of wages paid,
2 the awarding agency may pay the contractor or subcontractor in full,
3 including funds that would otherwise be retained according to the
4 provisions of RCW 60.28.011. Within thirty days of receipt of the
5 affidavit of wages paid, the awarding agency shall submit the affidavit
6 of wages paid to the industrial statistician of the department of labor
7 and industries for approval.

8 (c) A statement of intent to pay prevailing wages and an affidavit
9 of wages paid shall be on forms approved by the department of labor and
10 industries.

11 (d) In the event of a wage claim and a finding for the claimant by
12 the department of labor and industries where the awarding agency has
13 used the alternative process provided for in subsection (2) of this
14 section, the awarding agency shall pay the wages due directly to the
15 claimant. If the contractor or subcontractor did not pay the wages
16 stated in the affidavit of wages paid, the awarding agency may take
17 action at law to seek reimbursement from the contractor or
18 subcontractor of wages paid to the claimant, and may prohibit the
19 contractor or subcontractor from bidding on any public works contract
20 of the awarding agency for up to one year.

21 (e) Nothing in this section shall be interpreted to allow an
22 awarding agency to subdivide any public works project of more than two
23 thousand five hundred dollars for the purpose of circumventing the
24 procedures required by ((RCW 39.12.040(1))) subsection (1) of this
25 section.

26 (3) A contractor who has paid prevailing wages pursuant to a
27 certified "affidavit of wages paid" form is not subject to any
28 department action for allegedly paying an incorrect rate of wage; and
29 is not subject to a wage complaint made pursuant to chapter 49.48 RCW
30 from an employee claiming the contractor paid an incorrect rate of
31 wage.

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