

SB 493 A STAFF MEASURE SUMMARY

Carrier: Rep. Holvey

House Committee On Rules

Action Date: 05/07/21
Action: Do pass the A-Eng bill.
Vote: 4-3-0-0
Yeas: 4 - Fahey, Holvey, Salinas, Smith Warner
Nays: 3 - Bonham, Drazan, Zika
Fiscal: Fiscal impact issued
Revenue: No revenue impact
Prepared By: Jan Nordlund
Meeting Dates: 4/27, 5/4, 5/7

WHAT THE MEASURE DOES:

Provides that prevailing wage rate (PWR) for a trade or occupation in a locality is the wage set forth in the collective bargaining agreement (CBA) for the trade or occupation in the locality. Establishes that PWR for a trade or occupation in a locality with more than one CBA is the highest rate of wage among applicable CBAs. Requires Commissioner of the Bureau of Labor and Industries, if no CBA exists for a trade or occupation in a locality, to determine PWR by conducting an independent wage survey. Applies to public works procurements advertised and contracts entered into on or after operative date of January 1, 2022. Takes effect on 91st day following adjournment *sine die*.

ISSUES DISCUSSED:

- Resources required to complete construction industry survey
- Whether collection of data for four peak weeks accurately reflects work performed
- Impact to signatory contractors and their employees when prevailing wage rate is lower than collectively bargained rate
- Whether weighted average of collectively bargained rates should prevail
- Comparison to enacted legislation in Washington (Senate Bill 5493 (2018))
- Impact of prevailing wage rate on affordable housing construction costs
- Frequency with which collectively bargained rates prevail

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The prevailing wage rate (PWR) is the hourly wage, including all fringe benefits, that the Commissioner of the Bureau of Labor and Industries (BOLI) determines is paid in the locality to the majority of workers employed in a specified trade or occupation. Contractors and subcontractors must pay the PWR to workers on certain public works projects. Oregon is one of 26 states, along with the District of Columbia and the federal government, that adopt and administer PWR requirements for certain public projects. The purposes of the PWR requirements, as provided in ORS 279C.805, are to:

- Ensure that contractors compete on the ability to perform work competently and efficiently while maintaining community-established compensation standards.
- Recognize that local participation in publicly financed construction and family wage income and benefits are essential to the protection of community standards.
- Encourage training and education of workers to industry skills standards.
- Encourage employers to use funds allocated for employee fringe benefits for the actual purchase of those benefits.

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Current law requires BOLI to annually calculate the PWR for each trade or occupation in 14 localities using an independent wage survey. If the Commissioner determines that data from the survey is insufficient to determine the PWR, the Commissioner must consider additional information such as collective bargaining agreements (CBAs), other independent wage surveys, and the PWR determined by appropriate federal agencies or adjoining states. If there is not a majority of hours paid at the same rate, then the prevailing wage is the average paid to the workers in same trade or occupation in the locality.

The independent wage survey is conducted annually by the Oregon Employment Department under a contract with BOLI. All nonresidential contractors are required to respond to the survey regardless of whether they have performed work on public works projects; the information they provide is confidential and not available for inspection by the public. The wage and benefit information is collected for four selected weeks of the year. The cost of the survey is covered through a 0.1 percent assessment on the contract price of all public works projects, paid by the public contracting agency. The assessment on any project must not be less than \$250 or more than \$7,500. The assessment also supports the Commissioner's administration and enforcement of prevailing wage rate laws as well as education programs on public contracting law.

Legislation enacted in 1977 established the 14 localities for which a prevailing wage rate is to be determined for each trade or occupation. The number and configuration of localities have remained unchanged since 1977.

Public works projects are generally covered by the state's prevailing wage if the total project cost exceeds \$50,000 and the project is for construction, reconstruction, major renovation, or painting projects. Private projects for construction, reconstruction, major renovation, or painting that use at least \$750,000 in public funds are subject to prevailing wage rate requirements. Projects also subject to prevailing wage requirements are private projects in which one or more public agencies will occupy or use at least 25 percent of the project's square footage, projects on real property owned by a public university, and solar projects on property owned by a public body. Projects for residential construction that are privately owned and that predominantly provide affordable housing are exempt from PWR requirements; these projects include single-family houses and apartment buildings not exceeding four stories.

Senate Bill 493 A provides that the PWR for a trade or occupation is the wage established in a collective bargaining agreement (CBA) for that locality. If there is more than one CBA in a locality, then the highest wage rate among the CBAs prevails. If a CBA does not exist for a given trade or occupation in a locality, the Commissioner must determine the PWR using an independent wage survey. The measure applies to all public works procurements advertised and contracts entered into on or after January 1, 2022.