

House Bill 2604

Sponsored by Representative SCHAUFLEER (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits worker with claim to unpaid wages and fringe benefits under prevailing wage law to commence and maintain independent action to recover wages and fringe benefits in circuit court of state and to obtain award of attorney fees and costs if worker prevails in action.

A BILL FOR AN ACT

1
2 Relating to the prevailing rate of wage; amending ORS 279C.855.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 279C.855 is amended to read:

5 279C.855. (1) [*Any*] **A contractor or subcontractor or contractor's or subcontractor's surety that**
6 **violates the provisions of ORS 279C.840 is liable to the workers affected in the amount of [*their*] **the****
7 **workers' unpaid minimum wages, including all fringe benefits, and in an additional amount equal**
8 **to the unpaid wages as liquidated damages. **A worker that has a claim to unpaid wages or fringe****
9 **benefits under this subsection may commence and maintain an action independent of an**
10 **action under subsection (5) of this section to recover the unpaid wages or fringe benefits in**
11 **a circuit court of this state and, if the worker prevails in the action, may recover attorney**
12 **fees and costs from the defendant in the action.**

13 (2) Actions to enforce liability to workers under subsection (1) of this section may be brought
14 as actions on contractors' bonds as provided for in ORS 279C.610.

15 (3) If a public agency fails to include a provision that the contractor and any subcontractor shall
16 comply with ORS 279C.840 in the advertisement for bids, the request for bids, the contract specifi-
17 cations, the accepted bid or elsewhere in the contract documents, the liability of the public agency
18 for unpaid minimum wages, as described in subsection (1) of this section, is joint and several with
19 [*any*] **a contractor or subcontractor that had notice of the requirement to comply with ORS**
20 **279C.840.**

21 (4) [*When*] **If a public works project is subject to the Davis-Bacon Act (40 U.S.C. 3141 et seq.)**
22 **and a public agency fails to include the state and federal prevailing rates of wage in the specifica-**
23 **tions for the contract for public works as required under ORS 279C.830 (1)(a), or fails to include in**
24 **the specifications information [*showing*] **that shows** which prevailing rate of wage is higher for**
25 **workers in each trade or occupation in each locality as required under ORS 279C.830 (1)(b), the**
26 **public agency is liable to each affected worker for:**

27 (a) The worker's unpaid minimum wages, including fringe benefits, in an amount that equals, for
28 each hour worked, the difference between the applicable higher rate of wage and the lower rate of
29 wage; and

30 (b) An additional amount, equal to the amount of unpaid minimum wages due under paragraph
31 (a) of this subsection, as liquidated damages.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (5) The Commissioner of the Bureau of Labor and Industries may enforce the provisions of sub-
2 sections (3) and (4) of this section by a civil action under ORS 279C.850 (4), by a civil action on an
3 assigned wage claim under ORS 652.330, or by an administrative proceeding on an assigned wage
4 claim under ORS 652.332.

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