

STAFF MEASURE SUMMARY

Senate Committee On Rules

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 06/18/15

Action: Do Pass.

Meeting Dates: 06/18

Vote:

Yeas: 5 - Beyer, Boquist, Burdick, Ferrioli, Rosenbaum

Prepared By: Erin Seiler, Committee Administrator

WHAT THE MEASURE DOES:

Prohibits contractor or subcontractor, or contractor's or subcontractor's agent, from intentionally failing to pay prevailing rate of wage, reducing rate of wage for work that is not subject to prevailing wage in order to recoup prevailing wages that contractor, subcontractor or agent paid, withholding, deducting or diverting employee's wages other than as provided by law, entering into agreement under terms of which employee receives less than prevailing rate of wage for work that is subject to prevailing rate of wage, or otherwise permanently or indefinitely depriving employee of 25 percent or more of prevailing wages employee is due. Punishes violation by maximum of five years' imprisonment, \$125,000 fine, or both. Becomes operative January 1, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Premeditated efforts to steal wages of employees on Prevailing Wage projects
- Employees most vulnerable to wage theft
- Difficulty detecting wage theft, hesitancy of affected employees to complain
- Financial impact of wage theft

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

Under Oregon law, the hourly wage for the workers of any contractor performing a public works contract must be equal to or greater than the prevailing wage rate. The Bureau of Labor and Industries (BOLI) sets the prevailing wage rate based upon the specific trade and region where the workers perform the labor.

Though there are exemptions, public works projects are generally covered by the state's prevailing wage rate law under the following conditions: the total project cost exceeds \$50,000; the project is for construction, reconstruction, major renovation or painting; and the project directly or indirectly uses public agency funds. Projects on privately owned roads, highways, buildings, structures and improvements of any type are subject to prevailing wage law if the project is for construction, reconstruction, major renovation or painting and uses private funds and at least \$750,000 in public funds. Also subject to prevailing wage laws are construction projects in which one or more public agencies will occupy or use at least 25 percent of the project's square footage.

To ensure that wages are properly paid, the contractor and every subcontractor on a public works contract must file certified statements with the public contracting agency. The BOLI Commissioner may inspect the contractor's records at any time to determine if the prevailing wage is actually being paid. A contractor or subcontractor found

to be in violation of prevailing wage laws is barred from receiving a public works contract or subcontract for three years. In addition, the BOLI Commissioner can assess a civil penalty of up to \$5,000 for each violation.

Senate Bill 963 makes it a Class C felony with a maximum of five years' imprisonment, \$125,000 fine, or both, for certain violations of prevailing wage laws.