Attendees:

**Prevailing Wage Advisory Committee Members:** Kathleen Garrity (Associated Builders and Contractors), Ashley Probart (Association of Washington Cities), Rick Slunaker (Associated General Contractors of Washington), Bruce Chattn (Washington Aggregates & Concrete Association), Randy Loomans (Operating Engineers Union IUOE Local 302), Randy Dubigk (Washington State Dept of Transportation), Dave Johnson (WA State Building & Construction Trades Council), Ginger Eagle (Washington Public Ports Association)

**L&I Staff:** Steve McLain, José Rodriguez, Ann Selover, Dawn Gast, Deborah Loomis, Russ Hauss

**Others Present:** John Torkelson, Leiter Hockett, Larry Lovelady, Dave O’Meara, Veronica Shakotko, Billy Wallace, Earl Smith, Bob Abbott, Miriam Israel Moses, Josh Swanson, Jennie Kordenat, Gil Hulsman, Mark Beaufait, Lorna Drees, Aaron Bailey, Cody Arledge, Larry Boyd

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<th>Agenda Item</th>
<th>Discussion</th>
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<td>Opening Remarks</td>
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| Introductions        | **Steve McLain:**  
  - Opened the meeting at 9:30 a.m.  
  - Announced that David Soma left the agency and that Ann Selover has been, and will continue to be, the acting Industrial Statistician/Program Manager until the agency is able to recruit, interview, and fill the position permanently.  
  - Introduced José Rodriguez and explained that José will be taking over in place of Steve McLain starting July 1, 2011.  
  - Stated that the recruitment to fill David Soma’s position has not yet been published. José will run the recruitment process which, as in the past, will likely include PWAC representation.  
  At Mr. McLain’s request, committee members introduced themselves and José Rodriguez introduced himself and provided a brief background description. |
|                      | **Steve McLain:**  
  - Updated the committee on the new PWIA and Wage Update online systems:  
    - Both systems are complete, online, and that the project came in on time and under budget.  
    - Although there have been some hiccups with the new system, it provides more information than the old one, which allows L&I and the public to have a better idea of what is going on, on public works projects.  
  - Addressed changes with the new Contractor Compliance unit and provided members with draft language regarding the changes:  
    - Currently Factory Assembled Structures (FAS) and Contractor Compliance inspections are performed by the same people; L&I will be splitting the activities to have inspectors solely dedicated to perform FAS inspections. |
inspections and Contractor Compliance inspections.

- New duties will be added to these new positions such as, but not limited to, efforts to address the underground economy and its affect on businesses. The intent is to have more watchful eyes out there to foster better compliance and ultimately create a level playing field.
- New inspectors will be checking on compliance in the areas of Industrial Insurance, Apprenticeship, Contractor Registration, Electrical Licensing, and Prevailing Wage.
- Inspectors will make referrals to the appropriate unit if they feel the requirements of the unit are not being met.

Ann Selover stated that the new inspectors will refer to the appropriate units and the units will be able to refer issues to the inspectors as well.

Steve McLain:
- Explained that the funding to create these new positions and the detection tracking system will be coming from the general funds, the Prevailing Wage funds, and Workers Compensation funds, and changes will begin July 1, 2011.
- Noted that the department is currently training three supervisors who will each supervise two regions.
- Mentioned that the new inspectors will also check Craigslist to help identify possible underground economy.

Rick Slunaker:
- Commented that he likes the idea and would like the department to provide an organizational chart including phone numbers on information published to the public to show the relationships of the inspectors, the supervisors, and the regions.
- Expressed concern that the public would interpret the draft language provided as setting a quota system; the language be adjusted so it comes across better and provide more useful information.

Steve McLain explained that the handout provided was not the marketing document.

Rick Slunaker asked who these inspectors will report to and Steve McLain explained they will report to the regional supervisors, those supervisors will report to the regional administrators and that those administrators will report to Ernie LaPalm. When this information is published to the public it will have all the contact information and (800) numbers for L&I.

There was discussion from Rick Slunaker, Dave Johnson and Randy Loomans about how L&I was going to ensure uniformity across the state; that Carl Hammersburg should provide information to the committee on activities of the Fraud unit; and that Carl could tie everything together, including how the anticipated number of violations was extrapolated.
Steve McLain:
- Said the department will plan to have Carl Hammersburg and Rich Ervin come to the next PWAC meeting.
- Stated that the projected 6200 violations came from known numbers regarding contractors working without a contractor’s license or without an electrical or plumber’s license.

There was discussion from Rick Slunaker and Dave Johnson about catching those cheating, and what happens when the compliance inspectors find that proper wages aren’t being paid.

Steve McLain explained that:
- The focus on violators has been sharpened.
- The inspectors will not be doing the prevailing wage work but will spot issues and refer to the prevailing wage unit.
- This will be a new process; L&I will be learning along the way and would like feedback on the process.
- L&I’s goal is to be more interactive and use the information we have more effectively.

In response to a question from Rick Slunaker about when the information will be made public, and a comment that “we” need to do better at being proactive and not having people rely on the grapevine, Steve McLain stated that he hopes the information will be released next week during a press release.

Bob Abbott asked questions about how referrals will come in and be tracked.

Steve McLain explained that a central hub will receive information from the inspectors on what referrals have been made and to whom, and the amount of funds recovered.

In response to a question from Bob Abbott about whether Prevailing Wage will track referrals going back the other way, Steve McLain said that he would assume so but would double check.

Larry Lovelady suggested that L&I check and see how OSHA does their detection and tracking. He asked if there will be an online form available.

Steve McLain stated that it is L&I’s intention to have a referral form available online.

Randy Loomans asked:
- What happens when there is a fully federally funded project and a worker gets hurt and there is no Intent and/or Affidavit on file for this project and why there is no accountability in our Prevailing Wage system?
• With so many federal jobs (military bases), how can we protect those workers when L&I has no control over it?

Steve McLain responded that:
• He doesn’t know the answer to that since federally funded projects don’t require Intents and Affidavits. On Federal projects weekly certified payroll is required.
• The trick is to find the violator and send the information over to Fraud. He stated that the tool to use would be certified payroll but that L&I does not have the authority to issue violations.

In response to Randy Loomans’ comment that there seemed to be a disconnect regarding such projects, Ann Selover explained that L&I has no prevailing wage statutory authority on federally funded projects.

In response to a question from Larry Lovelady about whether a contractor would be debarred after so many violations, Steve McLain responded in the affirmative, stating that contractors can eventually be debarred for these violations found even if they file Intents and Affidavits correctly.

Rick Slunaker commented that the department needs to be proactive and let it be known that these are requirements that the department is serious about.

Ann Selover and Steve McLain responded, explaining that:
• Prevailing Wage has increased its outreach efforts.
• Laura Herman and others meet with Awarding Agencies and contractors across the state. Laura has already had over 700 participants, continues to be asked to speak with interested groups and the department allows Laura to conduct these seminars as often as we can.
• During the months of August and September there will be a major push in trainings with the State Auditor Office (SAO), and awarding agencies go to these training, which is good.

| Review and approve minutes from last meeting | Ann Selover presented the minutes of the past meeting for review and comment and aside from some spelling suggestions from Miriam Israel Moses the minutes appeared in order. |
| Dave Johnson motioned to approve the minutes. Ginger Eagle seconded the motion; the motion carried and the minutes were approved. |

| Personnel Update | Ann Selover: |
| Ann Selover: |
| • Provided an update on Prevailing Wage, concluding that the program will begin recruiting for a new CSS2 position July 1, 2011. The July 1st recruitment will be to fill the new CSS2 position and the 2805 project position. |
| • Informed the committee that the certified payroll process is currently undergoing the Lean process to improve |
efficiencies, and as part of that process she made phone calls to many requestors that had outstanding on-going certified payroll requests to see if they still need the payrolls or if we can close the request. The department is still awaiting responses from some of those phone calls.

**Rick Slunaker:**
- Inquired why the department is engaged in providing certified payroll records in response to such requests.
- Asked what role the Awarding Agency is playing in functions like this, since it should be their responsibility and would relieve the program of a “ton” of work.

**Ann Selover** explained that the department decided some time ago that L&I would help Interested Parties in obtaining certified payroll records.

**Steve McLain** stated:
- If there was anyone wanting certified payroll they first ask the Awarding Agency. If the Awarding Agency does not supply the payrolls the only other way an interested party can get the payrolls is through L&I.
- There is no penalty to Awarding Agencies for not providing certified payrolls.
- He would be happy to work with Rick on some new ideas.

**Rick Slunaker** said that he appreciates what Steve said, but would rather penalize the Awarding Agencies and that “we can help do that.” He commented that it wasn’t right to take up so much of the department’s time in this manner.

**Steve McLain** said that L&I would be happy to help on any proposed legislation.

**Miriam Israel Moses** stated any request that Rebound has for projects older than three years can be closed due to the three year statute of limitations and agreed with **Ann Selover’s** approach. **Ann Selover** responded that she appreciated that and would send the Rebound requestor a letter informing them that such requests would be closed.

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<th>Scope of Work Update</th>
<th><strong>Ann Selover:</strong></th>
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<td>Confirmed prior communication that the Scopes meeting generally held after this full meeting was cancelled, due in part to the Governor’s Executive Order imposing a moratorium on new rulemaking and the need to regroup and determine just what scopes need to be addressed once the moratorium is lifted.</td>
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<td>Noted that the committee needs to be ready so at the end of the year we can move forward, and for that reason it may be more appropriate for the scopes subcommittee to meet once a month. In any event the subcommittee should probably meet more frequently than quarterly to have rules ready to move forward after the first of the year.</td>
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In response to a question from **Dave Johnson** about how many scopes are left to write, **Ann Selover** stated that as a committee we can decide which scopes to address, dealing first with those where there is a trade with a wage and no scope.

**Steve McLain** told the committee that the department could provide a full list of needed scopes.

There was discussion by **Dave Johnson** and **Kathleen Garrity** about whether the original intent of the scopes committee was to only address trades without a scope, or to address those first, then consider editing others. **Dave Johnson** thought the task of the committee was to create scopes, not to edit them. **Kathleen Garrity** indicated her perception was that the committee would consider editing existing scopes after first adopting new scopes. Following further discussion about whether existing scopes should be “opened,” and whether past minutes could clarify the issue, **Ann Selover** stated that the department can look into the question and provide more information on the topic.

In response to a question from **Rick Slunaker** about whether there were now more trades with wages and no scopes, **Ann Selover** said she thought there were and **Steve McLain** said the department would provide a list.

Discussion followed about whether the department would pursue getting an exemption from the Governor’s Order and move forward with pending scopes.

**Rick Slunaker** commented that:

- He did not agree with the department not pursuing getting an exemption from the Governor’s order to move forward with the scopes because they are functional and needed.
- The department didn’t really ask for an exemption, but should push to have the scopes exempted, otherwise, how could the department do surveys without the scopes.

In response, **Steve McLain** said that the Governor gave specific exemption criteria, and the only one that would be applicable here is if the employers agreed/asked to move the changes forward. We did not meet those criteria because more discussion was needed. He stated that he would need something in writing in support of moving the scopes forward from the committee.

Responding to **Rick Slunaker**’s question about what scopes are ready to go once the Governor’s order is lifted, and questions from **Bruce Chattin** and **Dave Johnson** about the “precast” scope, **Ann Selover** said:

- The Dredge Worker, Ready Mix, and Truck Driver scopes were ready to go.
- The Fabricated Precast Concrete scope is close to being ready.

A significant number of housekeeping rules were also put on hold.
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<th><strong>Meeting Minutes</strong></th>
<th><strong>Prevailing Wage Advisory Committee</strong></th>
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<td>• The CR-101 was not filed for the “precast” scope because the language of the draft is not ready to move forward.</td>
<td><strong>Kathleen Garrity</strong> suggested that the committee first get a complete list then move forward.</td>
<td><strong>NOVs</strong></td>
<td><strong>Ann Selover</strong> explained and discussed with the committee the NOV handout. She stated that the numbers show there is room for improvement. However, the dollars collected did go up from $1.4 million in FY10 to $1.45 million collected to date in FY11. Ann stated if anyone in the public would like copies of the NOV handout to please contact her and she would provide the numbers.</td>
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<td><strong>Rule/Legislature/Legal Update</strong></td>
<td><strong>Ann Selover</strong></td>
<td><strong>Steve McLain</strong></td>
<td><strong>Dave Johnson</strong> commented that he worked the 1384 bill for almost a month to make sure that the bond was not released until all worker wages were paid.</td>
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<td><strong>Ann Selover:</strong></td>
<td>• Provided a legal update handout and explained that she would not be reviewing it in the usual detail since she is losing her voice.</td>
<td>• Provided an update on surveys, stating that it was decided not to pull survey group together until after the legislative session.</td>
<td>Regarding 5070, <strong>Steve McLain</strong> mentioned that this bill allows L&amp;I to require that all documentation be submitted within 60 days. Anything not provided within those 60 days cannot then later be used in court. Responding to a question from <strong>Rick Slunaker</strong> about whether the agency was putting out an informational piece to alert everyone to the changes, <strong>Ann Selover</strong> said it will go out on the Listserve. She also clarified that this bill does not adjust the standard timelines for responding to agency requests for information it just says anything not provided to the department within 60 days cannot be later used to challenge the agency’s findings.</td>
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<td>• In response to <strong>Rick Slunaker’s</strong> question about if there was a disposition for Dublin Painting, replied there was none yet.</td>
<td>• In response to <strong>Rick Slunaker’s</strong> question about whether she thought there were any problems for prevailing wage because of the passage of any of the bills, responded that she was disappointed with 1384 and the fact that the agency can no longer look to the retainage for worker wage protection for certain transportation projects where there is federal funding.</td>
<td>• Responded to comments from <strong>Bruce Chattin</strong> and <strong>Dave Johnson</strong> about the adequacy of the pre-survey list used in the process by stating that the agency needs to pull a group together to discuss what lists to use, and other aspects</td>
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<td>• Indicated that the committee members already have copies of all the bills that passed having an impact on prevailing wage, but that she has them all available in PDF if anyone would like them.</td>
<td>• Thanked the committee for their efforts in reviewing the bills during the legislative session and for providing prompt response to her requests for their input.</td>
<td>• Responded to comments from <strong>Bruce Chattin</strong> and <strong>Dave Johnson</strong> about the adequacy of the pre-survey list used in the process by stating that the agency needs to pull a group together to discuss what lists to use, and other aspects</td>
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of the process so that everyone has a clear understanding of why the surveys are done and what the process is. He also said that he has a list of people interested in being a part of the survey process group and they will be contacted.

- Addressed questions about the timeline for surveys by stating that there is no timeline at this point for the next survey, and that the concentration has been on updating wages. He added that some trades are hurting that need wages updated as soon as scopes are available.

- Addressed additional discussion from Larry Lovelady, Rick Slunaker, Josh Swanson, Dave Johnson and Miriam Israel Moses about moving scopes forward that had been placed on hold because of the Governor’s Order by stating that he would talk to the Director about the Truck Drivers and Ready-Mix Drivers scopes and the desires of some committee members to move those scopes forward.

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<th>Determinations</th>
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<td>• Provided three determination letters.</td>
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<td>• Responded to Rick Slunaker’s question about the difference between delivery of non-standard versus standard items, by referring him to WAC 296-127-020, and explaining that once an item is determined to be “non-standard,” and “prevailed,” the delivery of the item is also prevailed because that is work “contemplated by the contract.”</td>
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<th>Public Comment</th>
<th>A member of the public asked what the estimated timeframe on the Safespan appeal was.</th>
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<td>Steve McLain said the end of the month.</td>
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<td>Miriam Israel Moses thanked Ann Selover for her incredible job in dealing with the legislative proposals. She stated that Ann caught everything.</td>
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<td>Dave O’Meara stated that the new PWIA release has been mostly smooth with just a few hiccups. He asked if things were still being added like the name of the person who filed online forms. Ann Selover replied that she knew of some changes but if anyone had specific concerns to let her know. She said that easy fixes/changes will be made but no major re-writes. Steve McLain added that the changes are, and will be prioritized.</td>
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<td>Earl Smith said that he sent a letter addressing an issue with contractor’s addresses not showing up on the forms. Dawn Gast advised that this is a display issue and the development team is currently working on the issue.</td>
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<td>Giles Hulsman said that he had some concerns with exempt workers, who is and isn’t exempt. He provided a letter to the committee requesting a determination.</td>
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**Randy Loomans, Dave Johnson, and Giles Hulsman** engaged in discussion about when construction surveyors are subject to prevailing wage, when they are not, and questioning how the survey was conducted which established the construction site surveyor wage rates.

**Miriam Israel Moses** commented that there are letters from the Industrial Statistician that clearly make the distinction about what work is covered and that the department has a long standing practice on this.

**Budget**

**Steve McLain:**
- Advised that Prevailing Wage continues to have a high revenue stream and healthy fund balance.
- Reported that this biennium the balance will be reduced by $1.25 million to go toward the automated detection and tracking system for contractor compliance in Prevailing Wage; the department’s goal is to always have a six-month reserve. Stated that the department believes that the volume of Intents and Affidavits will stay about the same, but is interested to see what impact the compliance office will have and whether there is a need to hire additional staff.
- In response to a statement from **Rick Slunaker** that it would be useful to see what the department projects in revenue from the Intents and Affidavit, stated that he anticipates Intents and Affidavits will drop as federal stimulus money runs out.
- Stated that the department can provide a more detailed forecast, monthly revenue stream vs. expenditure stream, for the next meeting.
- In response to a comment from **Rick Slunaker** that the department needed more staff, stated that the field is pretty well staffed, but there is more turnover at central office because of more career advancement opportunities.
- In response to a question from **Rick Slunaker** about why the personal services contact number was “0,” noted that the figure changed because that was the I.T. project.

**Dates and Locations for upcoming meetings**

**Ann Selover** reminded all that the next PWAC meeting will be in Tumwater, September 8, 2011 at 9:00 a.m. and that there will be a scopes meeting.

**Randy Loomans** and **Kathleen Garrity** discussed the question of naming alternates and what process is required. **Randy Loomans** said she would send a letter to name Josh Swanson as her alternate, and **Kathleen Garrity** commented that she just wanted efficiencies. **Steve McLain** said committee members are asked to serve based on their personal experience and opinions and those chosen members are preferred to be in attendance as often as possible. **Ann Selover** is looking into the issue and will provide more information.

Following discussion about schedule conflicts, the committee agreed to move the meeting to September 15, 2011 pending
a room being available.

Ann Selover thanked everyone for coming and adjourned the meeting at 11:15 a.m.

After searching for an available room the next meeting will be:

September 29, 2011
Tumwater – Room S119
9:00 a.m. to 11:30 a.m.
Scopes
1:00 p.m. to 3:00 p.m.