

An Analysis of Whatcom County Pre-hire Agreements for Major Projects



Impacts of Proposed Whatcom County
Pre-hire Agreements Ordinance
on Local Contractors & workforce



AGC

THE CONSTRUCTION
ASSOCIATION

Established in 1918

Oldest & Largest Construction Trade Organization

Union & Open Shop

Actively oppose government mandated & negotiated PLAs



AGC

WASHINGTON CHAPTER

THE CONSTRUCTION ASSOCIATION

Established 1922

Oldest & Largest Construction Association in WA

Represents over 680 Member Firms

50 / 50 Union & Open Shop

AGC is committed to ensuring an equitable and fair bidding environment for public works contracting

Whatcom County's Proposed draft

ESTABLISHING WHATCOM COUNTY CODE CHAPTER 3.73 CONSTRUCTION 8 PROJECTS - PRE-HIRE AGREEMENTS

“For local workforce development and living wage job opportunities in Whatcom County”

Construction's two affiliations: Union & Open Shop Contractors

**BOTH NEEDED
FOR HEALTHY
ENVIRONMENT**

**UNIONS RAISED
THE STANDARDS
FOR THE INDUSTRY**

**DIFFERENCES IN
PUBLIC AND
PRIVATE SECTOR
WORK**

Quick Overview of US Construction Labor Unions



1947

87% of US Construction Workers
are Union Members



2024 United States

10.3 % of US Construction Workers
are Union Members
10.7% in 2023



2024 Washington State

16.0 % of Construction Workers
are Union Members
16.5% in 2023

87% Open Shop



TIMELINE: CBA -> Pre-Hire Agreement Introduced to Whatcom Contractors



Meeting held with
contractors on 12/18



Drafted Community
Benefit Agreement
ordinance presented



CBA
highlights:

- Prioritize local hire
- State labor standards
- Ensure prevailed wages paid
- Workforce development
- Workplace safety
- Prompt payment to contractors
- Ensure community benefits from projects i.e.: workforce development, childcare assistance, sustainable construction practices
- **PLA / Pre-hire agreement language included**



dawson
CONSTRUCTION

FABER



Daniel Villao, CEO of Intelligent Partnerships presented to Council Feb 25 the definition of a pre-hire agreement:

What Is A Pre-Hire Agreement?



- ***A pre-hire agreement is a contract between an employer and a labor union made before hiring any employees.***

Outlines employment terms: Wages, working hours, and safety protocols.

Legal Basis: Section 8(f) of the National Labor Relations Act allows these agreements in the construction industry.

Example: A construction firm signs a pre-hire agreement ensuring all workers receive union-level wages and benefits.

Project Labor Agreements / Pre-hire Agreements

Project Labor Agreement (PLA) is a *pre-hire collective bargaining agreement* with one or more labor unions that sets the terms and conditions of employment for a specific construction project.

Here are some key points:

Terms and Conditions: PLAs establish wage rates, benefits, and other employment conditions for all workers on the project.

Union Involvement: Typically, PLAs require that workers are hired through union hiring halls and that non-union workers pay union dues for the duration of the project.

Scope: These agreements apply to all contractors and subcontractors who successfully bid on the project.

Stability: PLAs often include provisions to prevent strikes, lockouts, or other work stoppages during the project.

PLAs can be used on both public and private projects and are authorized under the National Labor Relations Act.

Daniel Villao, CEO of Intelligent Partnerships presented to Council Feb 25 shared details of union requirements under pre-hire agreements.

What Is the difference CBA, PLA, CWA?



Agreement Type	Impact	Primary Focus	Legally Binding	Union Requirement
CBA	Community	Community Benefits	Yes	No
PLA	Workers (Through Unions)	Standardized Work Conditions	Yes	Yes (Private Construction) No (public Construction)
CWA	Community & Workers	Local Hiring & Fair Wages	Yes	Yes (Private Construction) No (public Construction)

- *CBA's are contractual agreements that include construction Deliverables.*
- *PLAs/CWAs are pre-hire agreements under the NLRB Section 8(f).*

Clarifying Union Requirements:

- **Stated:** Not all open shop employees required to join union for the pre-hire agreement
- **Actuality:** All but **CORE WORKERS** (typically 3-4 workers) required to join the local union trade hall to be dispatched to the pre-hire project

Daniel Villao, CEO of Intelligent Partnerships presented to Council Feb 25 the definition of a pre-hire agreement:

Pre-Hire Agreements Ensure Work Is Not Disrupted



They maintain project continuity by preventing employee strikes and employer lockouts. They also include a dispute resolution process to ensure all partners can address concerns uniformly.



Clarifying Impact Workforce Disruption:

- **Stated: Pre-hire agreement /PLA administrative avoid strikes/lockouts**
- **Actuality: In Whatcom County it is extremely rare for strikes or lockouts on public works projects. What few strikes have take place have been from union workers.**

Daniel Villao, CEO of Intelligent Partnerships presented to Council Feb 25 the definition of a pre-hire agreement:

Create Opportunities For Small And Local Contractors



- Multiple construction contractors or private construction companies bid on a contract.
- Agreements often prioritizes small and minority business contractors.
- It can dedicate resources to create workshops and training programs to help these businesses compete.



Clarifying Impact on for Small and Disadvantaged Businesses:

- **Stated: Pre-hire agreement /PLA assist small and minority owned businesses and their workforce**
- **Actuality: 97% of WMBE / DBE are open shop and struggle significantly with pre-hire agreement requirements and many chose not to participate under pre-hire agreements.**

Daniel Villao, CEO of Intelligent Partnerships presented to Council Feb 25 the definition of a pre-hire agreement:

Pre-Hire Agreements Provide Skilled Workers



- Provide skilled workers and deliver projects on time and on budget.
- Project owners benefit from having access to a stable and skilled workforce that helps the project finish on time and on budget.



Clarifying Skilled Workforce & Development:

- **Stated: Provide skilled workers**
- **Actuality: Local open shop contractors are skilled craftspeople and state apprenticeship requirements of 15% on larger public works projects, ensure development of workforce**

Daniel Villao, CEO of Intelligent Partnerships presented to Council Feb 25 the definition of a pre-hire agreement:

Do These Agreements Add Cost To The Owner?



- The Pre-Hire Model is an administrative process, NOT a construction deliverable.
- Organizations can manage these processes internally or externally based on capacity and experience.
- Studies demonstrate that costs are minimal when compared to similar construction management.
- Using a Third-Party Administrator can limit the cost to the identified project landscape and create efficiencies.
- IP programming shows that about 1% of the cost is typically aligned with existing reporting compliance costs.
- Cost management is typically available in the construction budget or consulting budget in the procurement.
- Local wage revenue, community goodwill, and efficiencies demonstrate significant value in using these types of Agreements.

Clarifying Impact on Costs:

- **Stated: Pre-hire agreement /PLA administrative cost and only 1% increase**
- **Actuality: It may be a small administrative cost (1% of project cost) however the cost the agreements add are in reduced bidder pool as anti-competitive, resulting in increased pricing of 10-20%.**



Recent Court Rulings on Project Labor Agreements / Pre-hire Agreements

- **Judge rules against federal PLA mandate:** (Construction Dive: 1/27/25) Judge Ryan Holte of the U.S. Court of Federal Claims said the implementation of the mandate on seven contract procedures last year **ignored federal agencies' own research indicating PLAs would be anti-competitive and relied on "arbitrary and capricious" presidential policy.**
- **The Oregon Supreme Court Rejects ODOT's 2022 Union Labor Rules** (Willamette Week: 4/10/25) Judge Jennifer Gardiner issued a statement *"Employing a tool that has never been utilized before in Oregon, a tool that is premised on prioritizing utilization of union labor to the expense of open-shop labor, is prejudicial,"* Gardiner wrote. *"It is an irreparable prejudice to exclude 70% of our contractors."*



OFFICE OF THE GOVERNOR

SEP 29 2024

To the Members of the California Senate

I am returning Senate Bill 984 without my signature.

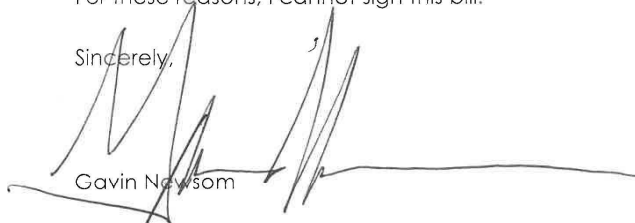
This bill would require, beginning January 1, 2027, the Judicial Council and the California State University (CSU) to each identify and select a minimum of three major construction projects and subject those projects to a Project Labor Agreement (PLA).

While I am generally supportive of PLAs as an option for public works projects, the new requirements proposed in this bill could result in additional cost pressures that were not accounted for in this year's budget.

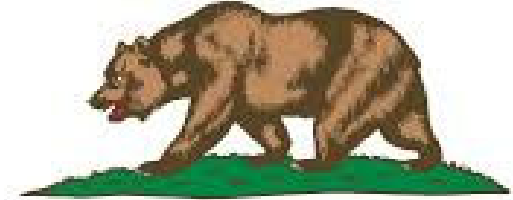
In partnership with the Legislature this year, my Administration has enacted a balanced budget that avoids deep program cuts to vital services and protected investments in education, health care, climate, public safety, housing, and social service programs that millions of Californians rely on. It is important to remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure.

For these reasons, I cannot sign this bill.

Sincerely,


Gavin Newsom

GOVERNOR GAVIN NEWSOM • SACRAMENTO, CA 95814 • (916) 445-2841



CALIFORNIA REPUBLIC

Sept 29, 2024
CA Gov. Newsome
Veto's PLA Bill as it:
“results in additional cost pressures that were not accounted for in this year's budget”

Whatcom County Workers Forum

March 19th | Mount Baker Theater



- Three Whatcom Co. & Two Bellingham Councilmembers
 - 138 rank and file workers
 - 16 construction firms represented
-
- Chose not to be unionize, many attendees were previous union members
 - Workers said they have less travel as open shop workers than when they were in the union
 - Don't limit competition
 - Workers are receiving their full prevailed wages
 - Worksites are safe, as open shops as do union shops, strongly emphasize safety

Construction Safety- EMR

Construction Firm's Safety in WA evaluated by their EMR

Experience Modification Rate: This rate is calculated by WA L&I and is used to calculate workers' compensation insurance premiums. It reflects a company's historical cost of injuries and future risk changes

The baseline for the Experience Modification Rate (EMR) in Washington State is 1.0. This value represents the average risk level for a company in a specific industry.

EMR < 1.0: Indicates a better-than-average safety record, leading to lower workers' compensation insurance premiums.

EMR > 1.0: Indicates a higher-than-average risk, resulting in higher premiums 1

SAFETY FIRST



SAFETY IS EVERYBODY'S JOB

2024 EMRs of AGC Member
EMR's For
Prime and Sub Contractors



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General Contractors Average EMRs

Open Shop Average 2024 EMR | **0.8484**

Avg of 103 open shop general contractors

Union Shop Average 2024 EMR | **0.8472**

Avg of 93 open shop general contractors

Sub - Contractors Average EMRs

Open Shop Average 2024 EMR **0.8146**

Avg of 127 open shop sub-contractors

Union Shop Average 2024 EMR **0.8342**

Avg of 136 open shop sub-contractors

Perspectives of Pre-hire Agreements by Whatcom County on

Women Owned Businesses



Tiera Nipges
CEO
Certified WBE

Perspectives of Pre-hire Agreements by Whatcom County on
Minority Owned Businesses

ROCKWELL ELECTRIC, INC.



Tim Rockwell

CEO

Certified MBE

Perspectives of Pre-hire Agreements by Whatcom County on
Sub contractors



Megan Kalma
General Manager

Perspectives of Pre-hire Agreements by Whatcom County on
Sub contractors



Matt Shaver
Owner

Perspectives of Pre-hire Agreements by Whatcom County on
General Contractors



Darren Leyenhorst
Vice President

Perspectives of Pre-hire Agreements by Whatcom County on
Native American Community



Terrance Adams
Vice Chair

Community Response Opposed to proposed PLA / Pre-hire Agreements

February 5, 2025

Honorable Whatcom County Council Members.

As a group of mayors in Whatcom County we strongly encourage you not to pass the CBA on construction projects proposal. We recognize the intent to provide social and community benefits through large public works projects, but we note significant issues with the ordinance as drafted.

This proposal includes Project Labor Agreements (PLAs). These PLAs require all workers on the project to be unionized. We recommend removing references to PLAs for the following reasons:

1. Studies show PLAs increase project costs by 10-20%
 - a. For the proposed 23-hour treatment center, the \$14 million cost would increase by \$1.4-2.8 million.
 - b. For the proposed Justice Facility and Behavioral Health Treatment Center the proposed cost of \$150 million would increase by \$15-30 million with no added benefit to the facility.
2. We feel that PLAs limit competition, which is bad public policy.
3. Collectively we all have public projects in our cities. These are all being built under current rules. The projects are completed on time and the local workforce is paid at scale rates. This proposed legislation is trying to fix something that is not broken.
4. PLAs reduce opportunities and pose financial risk for certified small, minority, and women-owned businesses.
5. Dictating a union workforce eliminates choice for open shop workers. It should be noted that 87% of Whatcom County is open shop. Again, don't fix something that is not broken.

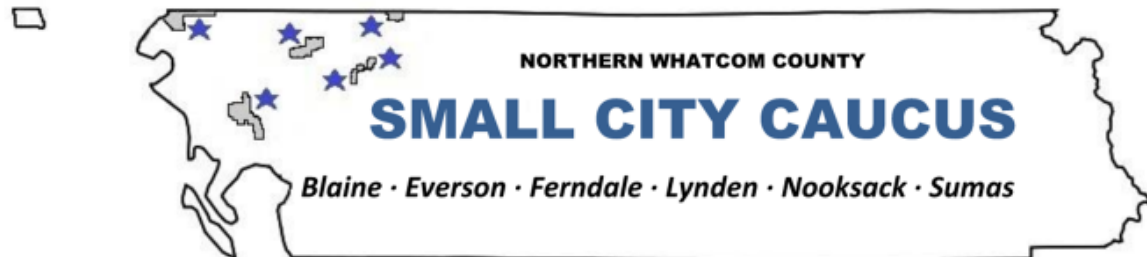
If you decide to move forward with this bad proposal, we recommend making significant changes:

1. Remove references to private development in this ordinance. This injects prevailing wage requirements, which are not required in private sector work. Adding more regulatory requirements would further worsen the existing housing crisis. Development Agreements already include community benefit negotiations.
2. Remove the requirement for union representation as it proves costly for non-union workers when a PLA is mandated.
3. If you want to maintain a CBA:
 - a. Add language prohibiting discrimination against open shops or union contractors.
 - b. Implement individual CBAs at the project level.

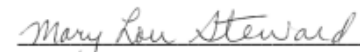
The proposal would add costs in other areas of government. The stated goal is to streamline paperwork and reporting requirements; however, the proposal adds redundant and/or unintended impacts for the County:

1. Reporting requirements would necessitate an additional 2-3 FTE for county staff.
2. All contractors on public works projects already are required to pay prevailing wages.
3. State laws already mandate workforce development goals (i.e.: apprenticeship requirements, minority contracting), making additional provisions redundant.
4. Equity and sustainability goals can be achieved through standard contract documents.

Thank you for the opportunity to provide feedback on ensuring our local workforce and community benefit from significant public works projects. We support community benefits, fair competition, maximizing local economic benefits, and promoting equity and sustainability, but do not think this legislation makes any of these better.

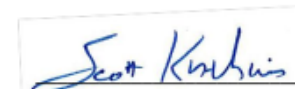



Respectfully, the mayors of the small cities of Whatcom County:

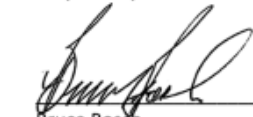

Mary Lou Steward
Mayor of Blaine


John Perry
Mayor of Everson


Greg Hansen
Mayor of Ferndale


Scott Korthuis
Mayor of Lynden


Kevin Hester
Mayor of Nooksack


Bruce Bosch
Mayor of Sumas

Community Response Opposed to proposed PLA / Pre-hire Agreements



LUMMI INDIAN BUSINESS COUNCIL

2665 KWINA ROAD • BELLINGHAM, WASHINGTON 98226 • (360) 312-2000

January 13, 2025

Subject: Opposition to HB1050 and Proposed Community Benefit Agreement Ordinance

Dear Whatcom County Council,

On behalf of the Lummi Indian Business Council (LIBC), we are writing to oppose HB1050 and the proposed Community Benefit Agreement (CBA) ordinance. While we recognize the value of workforce development initiatives, these measures introduce significant barriers that harm Tribal small businesses and limit opportunities for Tribal members working in the construction industry.

The proposed CBA ordinance's requirement for Project Labor Agreements (PLAs) disproportionately impacts nonunion contractors, which includes many Tribal-owned businesses. These businesses often operate on tight margins and cannot absorb the additional costs and regulatory burdens imposed by PLAs. Forcing Tribal contractors to temporarily join unions or contribute to union benefit trusts they may never utilize is an inequitable practice that undermines their financial stability.

Tribal members working in construction are also directly affected. Many nonunion workers stand to lose a portion of their earnings to union trust contributions without ever receiving corresponding benefits unless they remain with the union for several years. This is particularly concerning for workers in rural areas or those seeking to maintain their independence in the industry.

The ordinance's provisions duplicate existing laws, such as HB1050's 15% apprenticeship utilization requirement and prevailing wage mandates, creating unnecessary administrative burdens without improving outcomes. These redundancies do little to address the unique challenges faced by Tribal businesses and workers and may even discourage participation in public projects.

Additionally, the requirement for union dispatch systems disproportionately excludes Tribal workers who have historically faced barriers to accessing such systems. Many Tribal members are already trained and skilled, with employment facilitated through Tribal programs like the Lummi TERO Pre-Apprenticeship program. The proposed ordinance fails to recognize the success of these existing efforts and instead imposes a one-size-fits-all approach that does not serve our community's needs.

This ordinance risks sidelining Tribal contractors and workers, undermining the economic progress we have worked hard to achieve. Tribal small businesses are vital to supporting local economies and fostering equity and diversity in the construction industry. Policies that exclude them from participating in public projects harm not only these businesses but also the broader community they serve.

We strongly urge lawmakers to reject HB1050 and the CBA ordinance as currently proposed. Instead, we advocate for policies that support fair competition, respect Tribal sovereignty, and empower Tribal small businesses and workers to thrive.

Thank you for considering our perspective. LIBC remains committed to collaborating on solutions that promote workforce development and economic opportunity for all, with an emphasis on inclusion and equity for Tribal communities.

Respectfully,

Anthony Hillaire, Chairman
Lummi Indian Business Council



Community Response Opposed to proposed PLA / Pre-hire Agreements

MEMO

To: Whatcom County Council
From: Whatcom County Business and Commerce Committee (WCBCC)
Date: April 14, 2025
RE: Opposition to Proposed Community Benefits Agreement Ordinance

Dear Council Members,

As the Whatcom County Business and Commerce Committee, we urge you to reject the proposed Community Benefits Agreement (CBA) ordinance, including any form of Project Labor Agreement (PLA), Community Workforce Agreement, or similar mandates that require open shop contractors to sign pre-hire agreements with trade unions for eligibility on County projects.

While we understand the good intentions behind the proposal, we've heard from County Mayors, Lummi Business Council, and over 90 companies Big, Small, Union and Open Shop who are all opposed to the ordinance for the following reasons;

- Higher costs: County construction projects would increase by an estimated 10–20% in part due to a reduced bidding pool as most open shop companies would opt to not sign Union project agreements
- Harm to local businesses: over 95% of our Small, women-, minority-, and Native-owned businesses are open shop and wouldn't sign Union project agreements
- Unfair to Open shop workers: They could lose ~30% of their prevailing wage pay to unwanted union dues and benefits
- Increased bureaucracy: The ordinance could require 2–3 new County staff just to manage and enforce. Existing agencies and laws already address safety, wage and discrimination concerns.
- Reduced transparency and funding for community benefits such as childcare. Construction contracts are subject to WSST, Insurance, bonding and admin costs potentially reducing the available funding by 30-40% vs paying direct

In addition to being discriminatory towards open shop workers, the ordinance also reduces county resources for the justice project, behavioral health services, wetland bank development, housing affordability, salmon recovery, water security and childcare.

We support fair competition, smart use of County resources, and equal opportunity. This ordinance undermines all three and should be rejected in full. The current open bidding process is the fairest and most cost-effective way to serve Whatcom County taxpayers.

Sincerely,
Whatcom County Business and Commerce Committee

WCBCC meeting (4/15/25): Motion to approve memorandum as drafted (above) by Ryan Allsop; Seconded by Paul Burrill. Motion passed by quorum vote.

Community Response Opposed to proposed PLA / Pre-hire Agreements

Over 80 Whatcom County Construction and Construction Related Businesses



Recommendations to Council to Enhance Whatcom County through Public Works project exceeding \$15M

- **Keep public works contracting fair and open to all qualified contractors**
- Current bidding system works –prevailed wage and apprenticeship required by law
- Implementing Pre-hire Agreements are counter productive to proponent’s stated objectives – greater chance to exclude local workforce.
- Work to minimize unneeded regulations and additional administrative burden- applies to both contractors and county. Proposed ordinance will add administrative burden.
- Utilize project contract documents to seek additional community or social benefits such as child care, green building, incorporating equity plans, workforce diversity, using local resources and others. Very easy to implement but note- added to contract costs.
- Realize Community Coalitions for projects- add time = \$\$\$ to project costs.
- County could utilize alternative procurement methods (GCCM/Design Build/ Progress Design Build) for large public projects.

Final Thought

Respect Whatcom County workers' choice to join a union or remain an open shop craftsman. Their decision is a fundamental right that deserves support.

Let's make Whatcom County public works contracting equitable and open to all qualified contractors to participate in our tax payer funded projects.

Thank you for your time.

Questions?