
Commerce & Labor Committee

HB 2805

Brief Description: Regarding public works involving off-site prefabrication.

Sponsors: Representatives Ormsby, Campbell, Williams, Van De Wege, Simpson, White, Chase, Hasegawa, Rolfes and Conway.

Brief Summary of Bill

- Requires contractors on public works projects estimated to cost over \$1 million to submit lists of specified information regarding certain prefabricated items produced outside Washington to the awarding agency and to the Department of Labor and Industries (Department).
- Requires contractors who produce certain prefabricated items outside Washington for public works projects estimated to cost over \$1 million to submit certified payroll records to the awarding agency and to the Department upon request of an interested party.

Hearing Date: 1/26/10

Staff: Alison Hellberg (786-7152).

Background:

Under Washington's prevailing wage law, wages paid to laborers, workers, and mechanics on public works projects of the state or political subdivisions must be not less than the prevailing rate of wage in the same trade or occupation in the locality within the state where the labor is performed. The Washington State Supreme Court has held that the prevailing wage law applies to the off-site manufacture of prefabricated items for use on a particular project. The prevailing wage law, however, does not apply to work performed outside Washington.

Contractors and subcontractors on public works projects must submit to the awarding agency an "intent" to pay prevailing wage and an "affidavit" that prevailing wages have been paid before certain payments are made. By rule, the Department of Labor and Industries (Department)

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requires contractors and subcontractors on public works projects to keep accurate payroll records. Within 10 days after a contractor or subcontractor receives a written request from an interested party or the Department, the contractor or subcontractor must file a certified copy of the payroll records with the awarding agency and with the Department.

Contractors or subcontractors who fail to file required statements or records under prevailing wage laws are subject to a civil penalty of \$500 and may not bid on any public works contracts until the penalty is paid. A second violation within a five-year period bars the contractor or subcontractor from bidding on public works contracts for one year.

Summary of Bill:

Until December 31, 2012, information about certain items produced outside Washington under public works projects estimated to cost over \$1 million must be provided to the awarding agency and to the Department.

List.

Public works contracts estimated to cost over \$1 million must contain a provision requiring contractors and subcontractors to submit a certified list to the awarding agency and to the Department regarding any off-site, prefabricated, nonstandard, project-specific items produced under each contract and produced outside Washington. The list must provide: (1) a general description of the item; (2) the name and address of the contractor or subcontractor; and (3) the name, address, and federal employer identification number of the contractor or subcontractor that produced the item.

The list must be submitted within 10 days of delivery of the item. The failure to file a list is a failure to file a record under prevailing wage penalty provisions. However, no penalty may be imposed for a first violation if the list is filed within a reasonable time as determined by the Department.

Certified Payroll.

Public works contracts estimated to cost over \$1 million must contain a provision requiring all contractors and subcontractors producing off-site, prefabricated, nonstandard, project specific items outside Washington to file certified copies of payroll records with the awarding agency and the Department within 10 days of request of an interested party. The contract must state that the contractor producing the items consents to Washington jurisdiction for purposes of enforcement of the requirement. A contractor who fails to include the payroll records requirement in a contract is subject to a civil penalty of \$1,000 for each second or subsequent failure to comply.

The failure to file certified payroll records is a failure to file a record under prevailing wage provisions.

General.

"Off-site, prefabricated, nonstandard, project-specific items" means products or items that are: (1) made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work; (2) produced specifically for the public work and not considered to be regularly available shelf items; (3) produced or manufactured by labor expended to assemble or modify standard items; and (4) produced at an off-site location.

The provisions do not apply to entities responsible for supplying the materials to the manufacturers, fabricators, or employers that will be used to complete, construct, or assemble the product, products, or items prior to their delivery to the public works site.

The Department of General Administration must develop standard contract language regarding the list and certified payroll requirements and post the language on the agency's website. The lists, payroll records, and certifications must be on forms made available by the Department.

An awarding agency aware of incidences of noncompliance with the requirements to submit the list and payroll records must report the incidences to the Department.

Upon request, the Department must submit any data collected under these provisions to the appropriate committees of the Legislature for review.

The provisions apply to contracts entered on or after September 1, 2010, and expire December 31, 2012.

Appropriation: None.

Fiscal Note: Requested on January 19, 2010.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.