
Labor & Workforce Development Committee

SSB 6421

Brief Description: Addressing the affidavit of wages paid on public works.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators King, Kline and Holmquist Newbry).

Brief Summary of Substitute Bill

- Permits a contractor or subcontractor on a public works project to file an affidavit of wages paid on behalf of a subcontractor who has failed to file under certain circumstances.
- Requires a contractor who files an affidavit on behalf of a nonresponsive subcontractor to accept responsibility for unpaid prevailing wages.

Hearing Date: 2/15/12

Staff: Alexa Silver (786-7190).

Background:

Washington's prevailing wage law requires that contractors and subcontractors on public works projects and public building service maintenance contracts pay their workers prevailing wages when employed on such projects and contracts. The prevailing wage is the hourly wage, usual benefits, and overtime paid in the largest city in each county to the majority of workers in a particular trade or occupation. The Department of Labor and Industries (Department) establishes prevailing wage rates for each trade and occupation and is otherwise responsible for administering and enforcing the prevailing wage law.

Contract Retainage: Public agencies that award public improvement contracts withhold a contract retainage of up to five percent of the money due to the contractor. The retainage is a trust fund for the protection and payment of anyone who may have a claim under the contract.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Laborers and suppliers have a lien on the retainage and have 45 days from completion of the contract work to give notice of the lien. Once the contract work is completed, the contractor may request release of the retainage, and the public agency has 60 days to release the retainage, subject to the requirements of the prevailing wage law.

Intents and Affidavits: Contractors and subcontractors on public works projects must submit an "intent" to pay prevailing wage to the awarding agency before any payment is made. After the final acceptance of the project, contractors and subcontractors must submit an "affidavit" that prevailing wages have been paid. Intents and affidavits are certified by the industrial statistician at the Department before they are submitted to the awarding agency. An awarding agency may not release the contract retainage until all affidavits are submitted.

The Department permits a contractor to file an affidavit on behalf of a subcontractor if the subcontractor fails to file because it has gone out of business, filed for bankruptcy, or refused to file. To file on behalf of such a subcontractor, the contractor must obtain authorization from the Department and assume liability for any worker wage claims.

Contractors and subcontractors who fail to file or who file false intents and affidavits 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.

Complaints: An interested party may file a complaint concerning nonpayment of prevailing wage rates with the Department. A complaint must be filed no later than 30 days from the acceptance date of the project.

Summary of Bill:

A contractor or subcontractor may file an affidavit that prevailing wages have been paid on behalf of a subcontractor who has failed to submit an affidavit if they have a contractual relationship for the project. The nonresponsive subcontractor must have ceased operations or failed to file an affidavit as required. An affidavit filed on behalf of a nonresponsive subcontractor may be accepted no sooner than 31 days after the acceptance date of the project.

The contractor who files the affidavit accepts responsibility for payment of unpaid prevailing wages. A contractor or subcontractor who intentionally files a false affidavit on behalf of a subcontractor is subject to penalties for false filing.

Appropriation: None.

Fiscal Note: Available.

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