

# HOUSE BILL ANALYSIS

## HB 2667

**Title:** AN ACT Relating to prompt payment for goods and services provided to the state of Washington.

**Brief Description:** Establishing standards for the prompt payment of bills incurred by state government.

**Sponsors:** Veloria, Clements.

### BRIEF SUMMARY

- Requires state agencies to make contract payments within a specified amount of time.
- Provides penalties for agencies that fail to make timely payments.

---

### HOUSE STATE GOVERNMENT COMMITTEE

**Staff:** Jim Morishima (786-7191)

#### BACKGROUND:

State agencies enter into three basic types of contracts: 1) Contracts for materials, supplies, and equipment, 2) contracts for public works, including contracts for highway construction, and 3) contracts for services, including personal service contracts.

#### I. Payment Deadlines

State agencies and local governments must make payments on contracts within 30 days of receiving an invoice unless:

- The contract is funded by federal money, in which case payment must be made within 30 days of receiving an invoice or 30 days of receiving the federal funds, whichever is later; or
- The contract is a public works contract and has been performed in an unsatisfactory manner.

The 30 day payment deadline does not apply to:

- Interagency or intergovernmental transactions;
- Amounts payable to government employees as reimbursement for expenses;
- Claims subject to a good faith dispute;

- Delinquencies due to natural disasters, disruptions in postal service, work stoppages due to labor disputes, power failures, or any other cause outside of the control of the agency or unit of local government.

On public works contracts, an agency or unit of local government has 8 days to notify the contractor that performance is unsatisfactory. When withholding payment, the agency or local government must notify the contractor of remedial actions that must be taken. Once the work has been completed in a satisfactory manner, the 30 day payment deadline applies.

## II. Interest Payments

If the agency or local government fails to make payment within the required time, the agency must pay a one percent interest payment to the contractor. The payment must be made from funds designated for the administrative costs of the agency and must not be paid from funds appropriated for client services.

## III. Court Action

In an action to collect interest due to a contractor, the prevailing party is entitled to reasonable attorney fees.

### **SUMMARY:**

#### I. Payment Deadlines

State agencies must make payments on contracts within 30 calendar days, or 90 calendar days in the case of final payments on highway construction contracts, after receiving an invoice unless:

- The designated payment office determines that there is reasonable cause to believe that payment is not due;
- The contract requires that payment be preceded by an inspection or audit;
- The necessary appropriation has not been enacted;
- The balance of the fund from which the payment must be made is insufficient to cover the payment;
- The invoice must be inspected by the federal government prior to payment;
- The contractor has not performed in compliance with the terms or conditions of the contract;
- The payment date has been modified; or
- In the case of highway construction, the contractor has not submitted the necessary materials to ensure expeditious processing of the payment.

"State agency" is defined broadly to include any department, board, commission, office, council, institution, or committee in the executive, legislative, or judicial branches.

An agency has 15 days to notify the contractor that there are defects in the contract performance, defects in the invoice, or suspected improprieties of any kind. The presence of such problems prevents the commencement of the thirty day payment period. If the agency fails to notify the contractor within 15 days, the number of days the agency has to pay the invoice will be decreased by the number of days between the fifteenth day and the day the agency notified the contractor. If the agency does not provide reasonable grounds in support of the alleged problems in the contract, the payment date is calculated from the date of the receipt of the invoice.

## II. Interest Payments

If the agency fails to make payment within the required payment period, the agency must pay a one percent interest payment to the contractor. The State Treasurer must pay the portion of the interest attributable to delay on the part of the Treasurer. The interest payment must be made, whenever possible, from the same appropriation from which the invoice was paid. If the appropriation is insufficient, the Office of Financial Management (OFM) may transfer or interchange funds from other appropriations available to the agency in order to make the payment. If a contractor incurs interest charges as a result of the agency's failure to make timely payments, the agency must reimburse the contractor for the charges.

## III. Court Action

If the contractor files a claim in court, the liability of the Treasurer to make an interest payment ends. The court then determines the extent of the interest payment due to the contractor, if any. The claim must be paid from funds available to the agency or the Treasurer, depending on which agency caused the interest obligation.

## IV. The State Treasurer

The State Treasurer must develop procedures for calculating the amount of interest a state agency owes to a contractor. The Treasurer must implement a procedure for paying the interest. The Treasurer must also deliver an annual report to the Governor and Legislature detailing matters relating to agency contract payments including the number and amounts of any interest payments made, and a summary of the principal reasons causing late payments.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2000.

**Effective Date:** July 1, 2000.