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**SUBSTITUTE HOUSE BILL 2667**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on State Government (originally sponsored by Representatives Veloria, Clements, Conway, G. Chandler, Gombosky, Dunn, Cooper, Campbell, Kenney and Buck)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to prompt payment for goods and services provided  
2 to the state of Washington; amending RCW 39.76.011; and adding new  
3 sections to chapter 39.76 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.76 RCW  
6 to read as follows:

7 (1) The legislature finds that:

8 (a) Firms and organizations that do business with the state expect  
9 and deserve to be paid in a prompt and timely manner; and

10 (b) Unjustified delays in paying vendors, construction contractors,  
11 and providers of service may discourage these firms and organizations,  
12 in particular small and medium-sized firms and women and minority-owned  
13 business enterprises, from doing business with the state, and may  
14 ultimately increase the costs to the state government of: (i)  
15 Purchasing materials, equipment, and supplies; (ii) undertaking  
16 construction and reconstruction projects; and (iii) obtaining a wide  
17 variety of professional and other specialized services, including those  
18 that are provided to persons in need.

1 (2) It is the purpose of this chapter to set standards for the  
2 payment of bills incurred by state agencies within specified periods of  
3 time and to require interest payments in situations where contract  
4 payments do not conform to these standards. It is also the intent of  
5 this chapter, consistent with accepted business practices and with  
6 sound principles of fiscal management: (a) To encourage state agencies  
7 in all branches of state government to make payments at least as  
8 expeditiously as they currently do; (b) to reduce existing payment  
9 processing times whenever feasible, while at the same time permitting  
10 the state agencies to perform proper and reasonable financial oversight  
11 activities designed to ensure that the state government receives the  
12 quality of goods and services to which it is entitled; and (c) to  
13 ensure that public funds are spent in a prudent and responsible manner.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.76 RCW  
15 to read as follows:

16 (1) Except as provided in subsection (2) of this section, in the  
17 event that an interest payment is made by a contractor in the course of  
18 transacting business with any entity other than a state agency, the  
19 interest shall not be an obligation of the state, and the state shall  
20 not reimburse the contractor for the interest, nor shall any moneys  
21 expended for interest payments be counted toward any matching  
22 requirement applicable to grants or payments of state funds unless  
23 expressly permitted by state law.

24 (2) If a contractor incurs an interest obligation or charge as a  
25 direct result of the state agency's failure to make a payment in  
26 accordance with the provisions of this chapter, then the state agency  
27 must reimburse the contractor for the amount of the interest obligation  
28 or charge.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 39.76 RCW  
30 to read as follows:

31 No contract entered into between a state agency and a contractor  
32 after July 1, 2000, shall contain any provision requiring the payment  
33 of interest in a manner inconsistent with this chapter, and any  
34 provision contained in a contract which waives the right to the payment  
35 of interest is hereby declared to be contrary to public policy and  
36 wholly void.

1       **Sec. 4.** RCW 39.76.011 and 1992 c 223 s 1 are each amended to read  
2 as follows:

3       (1) Except as provided in RCW 39.76.020, every state agency,  
4 county, city, town, school district, board, commission, or any other  
5 public body shall pay interest at a rate of one percent per month, but  
6 at least one dollar per month, on amounts due on written contracts for  
7 public works, personal services, goods and services, equipment, and  
8 travel, whenever the public body fails to make timely payment.

9       (2) For purposes of this section, payment shall be timely if:

10       (a) Except as provided otherwise in this subsection, a check or  
11 warrant is mailed or is available on the date specified for the amount  
12 specified in the applicable contract documents but not later than  
13 thirty days of receipt of a properly completed invoice or receipt of  
14 goods or services, whichever is later. If a contract is funded by  
15 grant or federal money, the public body shall pay the prime contractor  
16 for satisfactory performance within thirty calendar days of the date  
17 the public body receives a payment request that complies with the  
18 contract or within thirty calendar days of the date the public body  
19 actually receives the grant or federal money, whichever is later.

20       (b) On written contracts for public works, when part or all of a  
21 payment is going to be withheld for unsatisfactory performance or if  
22 the payment request made does not comply with the requirements of the  
23 contract, the public body shall notify the prime contractor in writing  
24 within eight working days after receipt of the payment request stating  
25 specifically why part or all of the payment is being withheld and what  
26 remedial actions must be taken by the prime contractor to receive the  
27 withheld amount.

28       (c) If the notification by the public body required by (b) of this  
29 subsection does not comply with the notice contents required under (b)  
30 of this subsection, the public body shall pay the interest under  
31 subsection (1) of this section from the ninth working day after receipt  
32 of the initial payment request until the contractor receives notice  
33 that does comply with the notice contents required under (b) of this  
34 subsection.

35       (d) If part or all of a payment is withheld under (b) of this  
36 subsection, the public body shall pay the withheld amount within thirty  
37 calendar days after the prime contractor satisfactorily completes the  
38 remedial actions identified in the notice. If the withheld amount is  
39 not paid within the thirty calendar days, the public body shall pay

1 interest under subsection (1) of this section from the thirty-first  
2 calendar day until the date paid.

3 (e)(i) If the prime contractor on a public works contract, after  
4 making a request for payment to the public body but before paying a  
5 subcontractor for the subcontractor's performance covered by the  
6 payment request, discovers that part or all of the payment otherwise  
7 due to the subcontractor is subject to withholding from the  
8 subcontractor under the subcontract for unsatisfactory performance, the  
9 prime contractor may withhold the amount as allowed under the  
10 subcontract. If the prime contractor withholds an amount under this  
11 subsection, the prime contractor shall:

12 (A) Give the subcontractor notice of the remedial actions that must  
13 be taken as soon as practicable after determining the cause for the  
14 withholding but before the due date for the subcontractor payment;

15 (B) Give the contracting officer of the public body a copy of the  
16 notice furnished to the subcontractor under (e)(i)(A) of this  
17 subsection; and

18 (C) Pay the subcontractor within eight working days after the  
19 subcontractor satisfactorily completes the remedial action identified  
20 in the notice.

21 (ii) If the prime contractor does not comply with the notice and  
22 payment requirements of (e)(i) of this subsection, the contractor shall  
23 pay the subcontractor interest on the withheld amount from the eighth  
24 working day at an interest rate that is equal to the amount set forth  
25 in subsection (1) of this section.

26 (3) Except as provided in subsection (2)(e) of this section, a  
27 prime contractor on a public works project shall pay a subcontractor on  
28 the date specified in the applicable contract document or, if no date  
29 is specified, within thirty days of receipt of a properly completed  
30 invoice or receipt of goods or services. If the prime contractor does  
31 not comply with the time limits in this subsection, the prime  
32 contractor shall pay the subcontractor interest on the amount due from  
33 the day the amount was due at an interest rate that is equal to the  
34 amount set forth in subsection (1) of this section.

35 (4) For the purposes of this section:

36 (a) A payment is considered to be made when mailed or personally  
37 delivered to the party being paid.

38 (b) An invoice is considered to be received when it is date-stamped  
39 or otherwise marked as delivered. If the invoice is not date-stamped

1 or otherwise marked as delivered, the date of the invoice is considered  
2 to be the date when the invoice is received.

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