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**SUBSTITUTE HOUSE BILL 2864**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Commerce & Labor (originally sponsored by Representatives Ormsby, Wood, Barlow, Hasegawa, and Simpson)

READ FIRST TIME 02/05/08.

1            AN ACT Relating to filing certified payroll records on public works  
2 projects; and amending RCW 39.12.030 and 39.12.040.

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

4            **Sec. 1.** RCW 39.12.030 and 1989 c 12 s 9 are each amended to read  
5 as follows:

6            (1) The specifications for every contract for the construction,  
7 reconstruction, maintenance, or repair of any public work, to which the  
8 state or any county, municipality, or political subdivision created by  
9 its laws is a party, shall contain a provision stating the hourly  
10 minimum rate of wage, not less than the prevailing rate of wage, which  
11 may be paid to laborers, workers, or mechanics in each trade or  
12 occupation required for such public work employed in the performance of  
13 the contract either by the contractor, subcontractor or other person  
14 doing or contracting to do the whole or any part of the work  
15 contemplated by the contract, and the contract shall contain a  
16 stipulation that such laborers, workers, or mechanics shall be paid not  
17 less than such specified hourly minimum rate of wage.

18            (2) Every contract for the construction, reconstruction,  
19 maintenance, or repair of any public work, to which the state or any

1 county, municipality, or political subdivision created by its laws is  
2 a party, shall contain a provision that contractors and subcontractors  
3 for any off-site prefabrication of nonstandard, project-specific items  
4 shall submit certified payroll records as required by RCW  
5 39.12.040(1)(c).

6 **Sec. 2.** RCW 39.12.040 and 2007 c 210 s 4 are each amended to read  
7 as follows:

8 (1)(a) Except as provided in subsection (2) of this section, before  
9 payment is made by or on behalf of the state, or any county,  
10 municipality, or political subdivision created by its laws, of any sum  
11 or sums due on account of a public works contract, it shall be the duty  
12 of the officer or person charged with the custody and disbursement of  
13 public funds to require the contractor and each and every subcontractor  
14 from the contractor or a subcontractor to submit to such officer a  
15 "Statement of Intent to Pay Prevailing Wages". For a contract in  
16 excess of ten thousand dollars, the statement of intent to pay  
17 prevailing wages shall include:

18 ((+a)) (i) The contractor's registration certificate number; and  
19 ((+b)) (ii) The prevailing rate of wage for each classification of  
20 workers entitled to prevailing wages under RCW 39.12.020 and the  
21 estimated number of workers in each classification.

22 Each statement of intent to pay prevailing wages must be approved  
23 by the industrial statistician of the department of labor and  
24 industries before it is submitted to said officer.

25 (b) Unless otherwise authorized by the department of labor and  
26 industries, each voucher claim submitted by a contractor for payment on  
27 a project estimate shall state that the prevailing wages have been paid  
28 in accordance with the prefiled statement or statements of intent to  
29 pay prevailing wages on file with the public agency.

30 (c) For a public works project involving the off-site  
31 prefabrication of a nonstandard, project-specific item, before final  
32 acceptance of the project the awarding agency shall require the  
33 contractor and any subcontractor of the item to submit to the awarding  
34 agency and to the department of labor and industries a certified copy  
35 of the payroll records for all hours worked on the item by each  
36 laborer, worker, and mechanic. The records shall be on a form approved  
37 by the department of labor and industries.

1        (d) Following the final acceptance of a public works project, it  
2 shall be the duty of the officer charged with the disbursement of  
3 public funds, to require the contractor and each and every  
4 subcontractor from the contractor or a subcontractor to submit to such  
5 officer an "Affidavit of Wages Paid" before the funds retained  
6 according to the provisions of RCW 60.28.010 are released to the  
7 contractor. Each affidavit of wages paid must be certified by the  
8 industrial statistician of the department of labor and industries  
9 before it is submitted to said officer.

10        (2) As an alternate to the procedures provided for in subsection  
11 (1) of this section, for public works projects of two thousand five  
12 hundred dollars or less and for projects where the limited public works  
13 process under RCW 39.04.155(3) is followed:

14        (a) An awarding agency may authorize the contractor or  
15 subcontractor to submit the statement of intent to pay prevailing wages  
16 directly to the officer or person charged with the custody or  
17 disbursement of public funds in the awarding agency without approval by  
18 the industrial statistician of the department of labor and industries.  
19 The awarding agency shall retain such statement of intent to pay  
20 prevailing wages for a period of not less than three years.

21        (b) Upon final acceptance of the public works project, the awarding  
22 agency shall require the contractor or subcontractor to submit an  
23 affidavit of wages paid. Upon receipt of the affidavit of wages paid,  
24 the awarding agency may pay the contractor or subcontractor in full,  
25 including funds that would otherwise be retained according to the  
26 provisions of RCW 60.28.010. Within thirty days of receipt of the  
27 affidavit of wages paid, the awarding agency shall submit the affidavit  
28 of wages paid to the industrial statistician of the department of labor  
29 and industries for approval.

30        (c) A statement of intent to pay prevailing wages and an affidavit  
31 of wages paid shall be on forms approved by the department of labor and  
32 industries.

33        (d) In the event of a wage claim and a finding for the claimant by  
34 the department of labor and industries where the awarding agency has  
35 used the alternative process provided for in subsection (2) of this  
36 section, the awarding agency shall pay the wages due directly to the  
37 claimant. If the contractor or subcontractor did not pay the wages  
38 stated in the affidavit of wages paid, the awarding agency may take

1 action at law to seek reimbursement from the contractor or  
2 subcontractor of wages paid to the claimant, and may prohibit the  
3 contractor or subcontractor from bidding on any public works contract  
4 of the awarding agency for up to one year.

5 (e) Nothing in this section shall be interpreted to allow an  
6 awarding agency to subdivide any public works project of more than two  
7 thousand five hundred dollars for the purpose of circumventing the  
8 procedures required by ((RCW 39.12.040(1))) subsection (1) of this  
9 section.

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