

ESHB 2864 - S AMD 281

By Senator Kohl-Welles

1 Strike everything after the enacting clause and insert the
2 following:

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

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

17 (2) For purposes of compliance with this chapter, including
18 identifying certified payroll records to be requested from a contractor
19 or subcontractor, every contract and subcontract for the construction,
20 reconstruction, maintenance, or repair of any public work, to which the
21 state or any county, municipality, or political subdivision created by
22 its laws is a party, must contain a provision requiring the contractor
23 and all subcontractors to submit a certified list of any off-site
24 prefabricated, nonstandard, project-specific products that are supplied
25 under the terms of each respective contract. The list must identify:
26 (a) The type of product produced; (b) the contractor or subcontractor's
27 name; (c) the contractor or subcontractor's employer identification
28 number; (d) the labor hours expended producing the product; and (e) the
29 hourly rate of wages paid in each trade or occupation producing the
30 product. The provision in the contract or subcontract must indicate

1 that the list requirement does not apply to a contractor or
2 subcontractor who submits a statement of intent to pay prevailing wages
3 under RCW 39.12.040(1).

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

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

16 ~~((a))~~ (i) The contractor's registration certificate number; and
17 ~~((b))~~ (ii) The prevailing rate of wage for each classification of
18 workers entitled to prevailing wages under RCW 39.12.020 and the
19 estimated number of workers in each classification. Each statement of
20 intent to pay prevailing wages must be approved by the industrial
21 statistician of the department of labor and industries before it is
22 submitted to said officer.

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

28 (c) For purposes of compliance with this chapter, including
29 identifying certified payroll records to be requested from a contractor
30 or subcontractor, for a public works project involving the off-site
31 prefabrication of a nonstandard, project-specific product, before final
32 acceptance of the project, the awarding agency must receive from the
33 contractor or subcontractor of all such products a list certified by
34 the contractor or subcontractor that identifies: (i) The contractor or
35 subcontractor's name; (ii) the contractor or subcontractor's employer
36 identification number; (iii) the labor hours expended producing the
37 product; and (iv) the hourly rate of wages paid in each trade or

1 occupation producing the product. The contractor or subcontractor must
2 also submit a copy of the list to the department of labor and
3 industries. This subsection does not apply to a contractor or
4 subcontractor who has submitted a statement of intent to pay prevailing
5 wages under (a) of this subsection.

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

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

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

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

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

1 (d) In the event of a wage claim and a finding for the claimant by
2 the department of labor and industries where the awarding agency has
3 used the alternative process provided for in subsection (2) of this
4 section, the awarding agency shall pay the wages due directly to the
5 claimant. If the contractor or subcontractor did not pay the wages
6 stated in the affidavit of wages paid, the awarding agency may take
7 action at law to seek reimbursement from the contractor or
8 subcontractor of wages paid to the claimant, and may prohibit the
9 contractor or subcontractor from bidding on any public works contract
10 of the awarding agency for up to one year.

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

16 NEW SECTION. Sec. 3. A new section is added to chapter 39.12 RCW
17 to read as follows:

18 If an interested party makes a written request of a contractor or
19 subcontractor to file certified payroll records under rules regarding
20 payroll which have been adopted by the department of labor and
21 industries to enforce this chapter and the records requested are for
22 the off-site prefabrication of a nonstandard, project-specific product,
23 the contractor or subcontractor must file the certified copy of the
24 payroll records with the awarding agency and the department of labor
25 and industries."

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26 On page 1, line 2 of the title, after "projects;" strike the
27 remainder of the title and insert "amending RCW 39.12.030 and
28 39.12.040; and adding a new section to chapter 39.12 RCW."

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