

# SENATE BILL REPORT

## EHB 1473

---

---

As of April 4, 2013

**Title:** An act relating to reporting payments for construction services.

**Brief Description:** Requiring certain entities to report payments for construction services.

**Sponsors:** Representatives Sells, McCoy, Morrell, Roberts, Takko, Lytton, Green, Ormsby, Bergquist, Freeman, Pollet and Tarleton.

**Brief History:** Passed House: 3/09/13, 51-47.

**Committee Activity:** Commerce & Labor: 4/03/13.

---

### SENATE COMMITTEE ON COMMERCE & LABOR

**Staff:** Edith Rice (786-7444)

**Background:** Contractors and subcontractors are subject to industrial insurance laws. The person, firm, or corporation letting the contract is entitled to collect from the contractor the full amount payable in premiums, and the contractor is entitled to collect from the subcontractor the contractor's proportionate amount of the payment.

Contractors must register with the Department of Labor and Industries (Department). Applicants for registration must submit an application that includes the applicant's Unified Business Identifier (UBI) number and evidence of workers' compensation coverage for their employees working in the state.

An employer who contracts for work from a contractor must keep a record of: (1) the UBI of the person or entity performing the work; and (2) the compensation paid to that person or entity.

Contractors are barred from bidding on public works contracts for one year if the contractor commits any two of the following violations in a five-year period: knowingly misrepresenting payroll or employee hours upon which the industrial insurance premium is based; engaging in business without obtaining a certificate of industrial insurance coverage; committing an infraction under the Contractor Registration Act; performing work as an unregistered contractor; or not complying with certain apprenticeship standards.

---

*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.*

**Summary of Bill:** An entity that in the course of business makes a payment to a construction service provider of \$600 or more in a taxable year for construction services must report the payment to the Department and the construction service provider in the manner prescribed by the Department.

The report must be made by January 31 following the taxable year in which the payment was made. The report must include the following: (1) the entity's name, address, and UBI; (2) the construction service provider's name, address, and UBI; and (3) the total amount paid to the construction service provider in the taxable year, including payments for services and any materials and equipment.

The Department must transmit the report to the Employment Security Department no later than the first day of the month following the calendar quarter in which the report was received. The Department may share the report, upon request, with other local, state, or federal government agencies. Except for the sharing of the report with other agencies, the reports are otherwise confidential and are not subject to public disclosure.

If the Director of the Department (Director) determines that an entity failed to file a report or filed an incomplete report, the Director may assess a monetary penalty. The monetary penalty is higher if the Director determines that an entity knowingly failed to file a report or knowingly filed an incomplete, false, or misleading report. Penalties assessed are deposited into the state general fund.

An entity assessed a penalty may not bid or have a bid considered on any public works contract until the penalty is fully paid. In addition, violations of the reporting requirements are added to the debarment statute.

The reporting requirement starts with payments made in the 2014 taxable year and does not apply to an entity that does not regularly contract for constructions services, as defined by the Department.

Funding to implement the reporting requirement must come from the Public Works Administration Account.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Contractors are being cheated. No one tracks payments to subcontractors, so this will close that loophole. The goal is to protect small businesses that pay more than their fair share. This will give the Department the ability to better detect fraud. The Latino community is very affected by this issue and is supportive. Many employees are threatened when they consider reporting illegal practices. Often it is other contractors who report illegal practices of competitors.

CON: This bill is unnecessary. Illegal contractors just do not report. Homeowners are a big part of the problem. We need more inspectors out in the field to identify problems and follow up on inspections. This will be an administrative burden on school districts. It is primarily homeowners who are hiring illegal contractors. This will drive up costs of projects. We have concerns that meaningful changes will be made.

**Persons Testifying:** PRO: Terry Tilton, Evelyn Shapiro-O'Connor, Jimmy Haun, NW Carpenters.

CON: Bill Clarke, WA Realtors; Tom Kwieciak, Building Industry Assn. of WA; Patrick Connor, National Federation of Independent Business; Heather Hansen, WA State Nursery and Landscape Assn., Charlie Brown, Puget Sound School Coalition.