1395-S AMH STOK ELGE 165

**SHB 1395** - H AMD **309**

By Representative Stokesbary

**NOT CONSIDERED 12/23/2019**

On page 2, line 3, after "(1)(a)" strike "A" and insert "Subject to subsection (6) of this section, a"

On page 2, line 38, after "(b)" strike "A" and insert "Subject to subsection (5) of this section, a"

On page 3, line 4, after "(c)" strike "A" and insert "Subject to subsection (5) of this section, a"

On page 4, line 6, after "(5)" insert "(a) Upon request by a direct contractor to a third party owed fringe or other benefit payments or contributions, the third party must provide:

(i) The fringe or other benefit payments or contributions owed by an employer for each hour of labor performed by an employee; and

(ii) Records of payments received from an employer for fringe or other benefit payments or contributions owed as a result of the employee's performance of labor included in the subject of the contract between the direct contractor and the owner. The records must contain sufficient information to apprise the direct contractor of the employer's payment status in making the fringe or other benefits payments or contributions on the employee's behalf. The direct contractor may rely upon the records provided by the third party.

(b) The failure of a third party to produce records of payments received from an employer in response to a direct contractor's request under this subsection (5) shall preclude the third party from bringing a civil action against a direct contractor under subsection (1) of this section.

(6)(a) A direct contractor may show a good faith effort to verify any debt owed to an employee or third party owed fringe or other benefits payments or contributions. A direct contractor's good-faith efforts shall include requesting records under subsections (4) and (5) of this section, as appropriate, as well as other efforts by the direct contractor to verify the employee's receipt of wages or the third party's receipt of fringe or other benefits payments or contributions.

(b) A direct contractor who shows good faith efforts to verify the employee's receipt of wages or the third party's receipt of fringe or other benefit payments or contributions is not liable for any debt owed to an employee or third party owed fringe or other benefits payments or contributions. In any civil action brought by a third party, joint committee, or other interested party under subsection (1) of this section, upon the direct contractor's showing of good-faith efforts to verifty the employee's receipt of wages or the third party's receipt of fringe or other benefit payments or contributions, the court shall award to the direct contractor the direct contractor's reasonable: (i) Attorneys' fees; (ii) costs; and (iii) expert witness fees.

(7)"

Renumber the remaining subsection consecutively and correct any internal references accordingly.

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|  | EFFECT:  Requires a third party owed fringe or other benefits payments or contributions (third party), upon request of a direct contractor, to provide the payments or contributions for each hour of labor, and records of payments received as a result of the employee's labor.  Provides that the failure to produce the records precludes the third party from bringing the action.  Allows a direct contractor to show a good faith effort to verify any debt owed to an employee or third party. Provides that the efforts include requesting records as provided in the bill, as well as other efforts. Provides that a direct contractor who shows good faith efforts to verify wages or a third party's receipt of benefits is not liable to an employee or third party, and requires the court to award to the direct contractor the direct contractor's reasonable attorneys' fees, costs, and expert witness fees if the contractor shows good faith efforts to verify. |

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