

FINAL BILL REPORT

ESSB 6040

C 276 L 24
Synopsis as Enacted

Brief Description: Concerning prompt payment in public works.

Sponsors: Senate Committee on State Government & Elections (originally sponsored by Senators Valdez, Keiser, Conway, Hasegawa and Nobles).

Senate Committee on State Government & Elections
House Committee on Capital Budget

Background: Under current law when a contractor or subcontractor is paid for work performed on a public works project, they must pay subcontractors no later than ten days after receipt of payment. In the event of a good faith dispute over all or any portion of the amount due from the state or municipality to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state, municipality, prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

Anyone whose funds have been withheld in violation of law are entitled to receive interest at the highest rate allowed by statute for every month of non-payment from the person wrongfully withholding the funds. In any action for the collection of wrongfully withheld funds, the prevailing party is entitled to costs of the suit as well as reasonable attorneys' fees.

Summary: The Capital Projects Advisory Review Board (CPARB) must review the extent to which prompt pay statutes meet the needs of small businesses, particularly women and minority-owned businesses. The review must include consideration of a requirement for state and local entities to pay the prime contractor within 30 days for work satisfactorily completed or materials delivered by a subcontractor of any tier that is a small business or women or minority-owned business enterprise. The review must also consider a requirement that within ten days of payment, the prime contractor and each higher tier subcontractor must make payment to its subcontractor until the small business or women or

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minority-owned business has received payment. CPARB must present findings and recommendations to the Legislature on or before November 1, 2024.

Votes on Final Passage:

Senate 34 15

House 95 0 (House amended)

Senate 49 0 (Senate concurred)

Effective: March 26, 2024