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ENGROSSED SUBSTITUTE SENATE BILL 6040

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State of Washington

68th Legislature

2024 Regular Session

By Senate State Government & Elections (originally sponsored by Senators Valdez, Keiser, Conway, Hasegawa, and Nobles)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to prompt payment in public works; amending RCW  
2 39.04.250; and providing an effective date.

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

4 **Sec. 1.** RCW 39.04.250 and 1992 c 223 s 5 are each amended to  
5 read as follows:

6 (1) (a) When payment is received by a contractor or subcontractor  
7 for work performed on a public work, the contractor or subcontractor  
8 shall pay to any subcontractor not later than ~~((ten))~~ 10 days after  
9 the receipt of the payment, amounts allowed the contractor on account  
10 of the work performed by the subcontractor, to the extent of each  
11 subcontractor's interest therein.

12 (b) (i) The state must pay the prime contractor within 30 days for  
13 work satisfactorily completed or materials delivered by a  
14 subcontractor of any tier that is small business certified with the  
15 office of minority and women's business enterprises under chapter  
16 39.19 RCW, or is recognized as a women or minority-owned business  
17 enterprise in a state of Washington port, county, or municipal small  
18 business or women or minority-owned business enterprise program.  
19 Within 10 days of receipt of payment, the prime contractor and each  
20 higher tier subcontractor must make payment to its subcontractor

1 until the subcontractor that is a certified small business or  
2 recognized women or minority-owned business has received payment.

3 (ii) For the purposes of this subsection, when a public owner has  
4 made an incremental acceptance of a portion of a prime contract, the  
5 work of a subcontractor covered by the incremental acceptance is  
6 deemed satisfactorily complete.

7 (2) In the event of a good faith dispute over all or any portion  
8 of the amount due on a payment from the state or a municipality to  
9 the prime contractor, or from the prime contractor or subcontractor  
10 to a subcontractor, then the state or the municipality, or the prime  
11 contractor or subcontractor, may withhold no more than (~~one hundred~~  
12 ~~fifty~~) 150 percent of the disputed amount. Those not a party to a  
13 dispute are entitled to full and prompt payment of their portion of a  
14 draw, progress payment, final payment, or released retainage.

15 (3) In addition to all other remedies, any person from whom funds  
16 have been withheld in violation of this section shall be entitled to  
17 receive from the person wrongfully withholding the funds, for every  
18 month and portion thereof that payment including retainage is not  
19 made, interest at the highest rate allowed under RCW 19.52.025. In  
20 any action for the collection of funds wrongfully withheld, the  
21 prevailing party shall be entitled to costs of suit and reasonable  
22 attorneys' fees.

23 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2025.

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