

SENATE BILL REPORT

SB 5176

As of February 5, 2026

Title: An act relating to implementing prompt pay recommendations from the capital projects advisory review board.

Brief Description: Implementing prompt pay recommendations from the capital projects advisory review board.

Sponsors: Senators Valdez, Wilson, J., Conway, Hasegawa and Nobles.

Brief History:

Committee Activity: Ways & Means: 2/24/25; 2/05/26.

Brief Summary of Bill

- Clarifies that payment on public works projects must be made within 30 days of receipt of a properly completed invoice, and all subcontractors to be paid within ten days after payment is received by the prime contractor, with 1 percent interest per month charged on all late payments.
- Requires the state or local government to provide contractors with payment information and a point of contact prior to the start of a project.
- Excludes retainage from withheld amounts that will accrue interest and adjusts the rate of withholding in good faith disputes from 150 percent to 100 percent.
- Modifies requirements for requesting and issuing change orders.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL AFFAIRS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 5176 be substituted therefor, and the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Valdez, Chair; Krishnadasan, Vice Chair; Wilson, J., Ranking Member; Fortunato, Hasegawa, Kauffman, McCune, Riccelli and Short.

Staff: Danielle Creech (786-7412)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Shani Bauer (786-7468)

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 in 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 nonpayment 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.

In 2024, the Legislature passed ESSB 6040, directing the Capital Projects Advisory Review Board (CPARB) to conduct a study on prompt pay. The Legislature required CPARB to engage with a broad range of stakeholders in considering possible recommendations related to the extent to which prompt pay statutes meet the needs of small businesses, particularly women and minority-owned businesses. The Legislature also required the study to include consideration of the following requirements:

- 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; and
- 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 minority-owned business has received payment.

CPARB presented its findings and recommendations to the Senate State Government and Elections Committee at its December 12, 2024 meeting.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Second Substitute): The state or authorized local government must pay undisputed amounts due on a public works project within 30 days of receipt of a properly completed invoice, with 1 percent interest per month charged on all

late payments. Interest is not required on amounts withheld for retainage. In the event of a good faith dispute, the party owing payment may not withhold more than 100 percent of the disputed amount.

The state or authorized local government is required to:

- provide contractors and subcontractors with payment and invoicing information in writing prior to the start of the project;
- identify a point of contact for written payment inquiries; and
- acknowledge receipt of a written payment or change order inquiry within five days.

A contractor or subcontractor must request a change order from the state, authorized local government, or upper tier contractor no later than 30 days after commencement of authorized additional work. A contractor or subcontractor is not liable for interest to a lower tier contractor if a request for a change order was submitted and the state, local government, or upper tier contractor has not issued the change order in a timely manner.

Payments may be made by electronic funds transfer.

An aggrieved party may bring civil action for violation of the section, including interest and reasonable attorney fees and costs.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (State Government, Tribal Affairs & Elections): *The committee recommended a different version of the bill than what was heard.* PRO: Small businesses are one of the primary drivers of our state economy, and when payments are delayed these businesses struggle to meet payroll, provide health insurance, buy supplies, and make their union payments. For them, prompt payment is a lifeline. We routinely see projects that small businesses would like to pursue, but are constrained because they're unsure whether the clients will be able to pay on time. This is not just about administrative efficiency, it is about economic justice. Timely payments allow for small businesses to sustain their operations. This bill is not just about uplifting our local community, it is about survival for many small businesses that build our state. This will foster equity, transparency, and economic stability in public contracting.

OTHER: The language in the bill references payments being mailed or personally delivered to the parties being paid. The concept of electronic payment should also be added as a form of valid payment. Additionally, the 30 day payment period should begin after receiving any

required release from state agencies. There needs to be enough time for change orders to be fully negotiated before the clock starts to tick. There are concerns over the ability to monitor and enforce interest charges related to late payments.

Persons Testifying (State Government, Tribal Affairs & Elections): PRO: Senator Javier Valdez, Prime Sponsor; Linneth Riley-Hall, Capital Projects Advisory Review Board (CPARB); Lekha Fernandes, CPARB (BE/DBI sub committee), OMWBE; Jerry VanderWood, Associated General Contractors (AGC); Van Collins, PO Box 65051; Julius Brooks, Yates Consulting; Jimmy Matta, Northwest Minority Builders Alliance (NWMBA) ; Axel Swanson, Washington State Association of County Engineers; Paula Sardinas, WBBA/Tabor 100; Chris Herman, Washington Public Ports Association.

OTHER: Scott Hazlegrove, WA Association of Sewer & Water Districts; Katie Whittier, Clark Regional Wastewater District, Discovery Clean Water Alliance; Joren Clowers; Kelsey Hulse, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Affairs & Elections): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means) (Regular Session 2025): PRO: Prompt payments are crucial for small and minority businesses. A delay in payment may mean the inability to pay workers or subcontractors. Many small businesses will not bid on public works projects because of the fear of not getting paid in a timely manner. This bill is an investment in the future and recognition that small contractors are an important part of the process.

We are in support of the recommendations from CPARB, but believe there is room for improvement to the language to address retainages. Substantial paperwork is required before the final payment can be released to a contractor. Often this paperwork is outside the control of the state agency or municipality. There should be an exemption from mandatory interest for the final payment or retainage. CPARB is currently taking a look at this issue.

Persons Testifying (Ways & Means): PRO: Henry Yates; Eric Pettigrew, The Northwest Minority Builders Alliance; Kelsey Hulse, Association of Washington Cities; Axel Swanson, Washington State Association of County Engineers; Michele Willms, Associated General Contractors (AGC); Michael Transue, Mechanical Contractors Association of Western Washington; Chris Herman, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.