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HOUSE BILL 1083

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State of Washington

65th Legislature

2017 Regular Session

By Representative Manweller

1 AN ACT Relating to creating an exemption from the intents and  
2 affidavits requirements when paying prevailing wages; and amending  
3 RCW 39.12.040.

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

5 **Sec. 1.** RCW 39.12.040 and 2013 c 113 s 5 are each amended to  
6 read as follows:

7 (1)(a) Except as provided in subsections (2) and (3) of this  
8 section, before payment is made by or on behalf of the state, or any  
9 county, municipality, or political subdivision created by its laws,  
10 of any sum or sums due on account of a public works contract, it is  
11 the duty of the officer or person charged with the custody and  
12 disbursement of public funds to require the contractor and each and  
13 every subcontractor from the contractor or a subcontractor to submit  
14 to such officer a "Statement of Intent to Pay Prevailing Wages". For  
15 a contract in excess of ten thousand dollars, the statement of intent  
16 to pay prevailing wages must include:

17 (i) The contractor's registration certificate number; and

18 (ii) The prevailing rate of wage for each classification of  
19 workers entitled to prevailing wages under RCW 39.12.020 and the  
20 estimated number of workers in each classification.

1 (b) Each statement of intent to pay prevailing wages must be  
2 approved by the industrial statistician of the department of labor  
3 and industries before it is submitted to the disbursing officer.  
4 Unless otherwise authorized by the department of labor and  
5 industries, each voucher claim submitted by a contractor for payment  
6 on a project estimate must state that the prevailing wages have been  
7 paid in accordance with the prefiled statement or statements of  
8 intent to pay prevailing wages on file with the public agency.  
9 Following the final acceptance of a public works project, it is the  
10 duty of the officer charged with the disbursement of public funds, to  
11 require the contractor and each and every subcontractor from the  
12 contractor or a subcontractor to submit to such officer an affidavit  
13 of wages paid before the funds retained according to the provisions  
14 of RCW 60.28.011 are released to the contractor. On a public works  
15 project where no retainage is withheld pursuant to RCW  
16 60.28.011(1)(b), the affidavit of wages paid must be submitted to the  
17 state, county, municipality, or other public body charged with the  
18 duty of disbursing or authorizing disbursement of public funds prior  
19 to final acceptance of the public works project. If a subcontractor  
20 performing work on a public works project fails to submit an  
21 affidavit of wages paid form, the contractor or subcontractor with  
22 whom the subcontractor had a contractual relationship for the project  
23 may file the forms on behalf of the nonresponsive subcontractor.  
24 Affidavit forms may only be filed on behalf of a nonresponsive  
25 subcontractor who has ceased operations or failed to file as required  
26 by this section. The contractor filing the affidavit must accept  
27 responsibility for payment of prevailing wages unpaid by the  
28 subcontractor on the project pursuant to RCW 39.12.020 and 39.12.065.  
29 Intentionally filing a false affidavit on behalf of a subcontractor  
30 subjects the filer to the same penalties as are provided in RCW  
31 39.12.050. Each affidavit of wages paid must be certified by the  
32 industrial statistician of the department of labor and industries  
33 before it is submitted to the disbursing officer.

34 (2) As an alternate to the procedures provided for in subsection  
35 (1) of this section, for public works projects of two thousand five  
36 hundred dollars or less and for projects where the limited public  
37 works process under RCW 39.04.155(3) is followed:

38 (a) An awarding agency may authorize the contractor or  
39 subcontractor to submit the statement of intent to pay prevailing  
40 wages directly to the officer or person charged with the custody or

1 disbursement of public funds in the awarding agency without approval  
2 by the industrial statistician of the department of labor and  
3 industries. The awarding agency must retain such statement of intent  
4 to pay prevailing wages for a period of not less than three years.

5 (b) Upon final acceptance of the public works project, the  
6 awarding agency must require the contractor or subcontractor to  
7 submit an affidavit of wages paid. Upon receipt of the affidavit of  
8 wages paid, the awarding agency may pay the contractor or  
9 subcontractor in full, including funds that would otherwise be  
10 retained according to the provisions of RCW 60.28.011. Within thirty  
11 days of receipt of the affidavit of wages paid, the awarding agency  
12 must submit the affidavit of wages paid to the industrial  
13 statistician of the department of labor and industries for approval.

14 (c) A statement of intent to pay prevailing wages and an  
15 affidavit of wages paid must be on forms approved by the department  
16 of labor and industries.

17 (d) In the event of a wage claim and a finding for the claimant  
18 by the department of labor and industries where the awarding agency  
19 has used the alternative process provided for in this subsection (2),  
20 the awarding agency must pay the wages due directly to the claimant.  
21 If the contractor or subcontractor did not pay the wages stated in  
22 the affidavit of wages paid, the awarding agency may take action at  
23 law to seek reimbursement from the contractor or subcontractor of  
24 wages paid to the claimant, and may prohibit the contractor or  
25 subcontractor from bidding on any public works contract of the  
26 awarding agency for up to one year.

27 (e) Nothing in this section may be interpreted to allow an  
28 awarding agency to subdivide any public works project of more than  
29 two thousand five hundred dollars for the purpose of circumventing  
30 the procedures required by subsection (1) of this section.

31 (3)(a) Beginning on the effective date of this section, the  
32 requirement to submit a statement of intent to pay prevailing wages  
33 and an affidavit of wages paid does not apply to contractors or  
34 subcontractors whose contract amounts are less than seven hundred  
35 fifty dollars, or less than the contract amount established under (b)  
36 of this subsection.

37 (b) To take into account the rate of inflation, on September 30,  
38 2018, and on each following September 30th, the department of labor  
39 and industries shall calculate an adjusted threshold contract amount  
40 applicable to (a) of this subsection. The adjusted threshold contract

1 amount must be calculated to the nearest cent using the consumer  
2 price index for urban wage earners and clerical workers, CPI-W, or a  
3 successor index, for the twelve months prior to each September 1st as  
4 calculated by the United States department of labor. The adjusted  
5 threshold contract amount takes effect on the following January 1st.

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