
SENATE BILL 5621

State of Washington

63rd Legislature

2013 Regular Session

By Senators Chase, Roach, Hobbs, Conway, Harper, Keiser, Hasegawa, Kohl-Welles, Kline, and Murray

Read first time 02/06/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to certified payroll records on public works
2 projects; and amending RCW 39.12.040.

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

4 **Sec. 1.** RCW 39.12.040 and 2012 c 129 s 1 are each amended to read
5 as follows:

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

16 (a) The contractor's registration certificate number; and

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

1 Each statement of intent to pay prevailing wages must be approved
2 by the industrial statistician of the department of labor and
3 industries before it is submitted to the disbursing officer. Unless
4 otherwise authorized by the department of labor and industries, each
5 voucher claim submitted by a contractor for payment on a project
6 estimate shall state that the prevailing wages have been paid in
7 accordance with the prefiled statement or statements of intent to pay
8 prevailing wages on file with the public agency. Following the final
9 acceptance of a public works project, it shall be the duty of the
10 officer charged with the disbursement of public funds, to require the
11 contractor and each and every subcontractor from the contractor or a
12 subcontractor to submit to such officer an "Affidavit of Wages Paid"
13 before the funds retained according to the provisions of RCW 60.28.011
14 are released to the contractor. If a subcontractor performing work on
15 a public works project fails to submit an "affidavit of wages paid"
16 form, the contractor or subcontractor with whom the subcontractor had
17 a contractual relationship for the project may file the forms on behalf
18 of the nonresponsive subcontractor. Affidavit forms may only be filed
19 on behalf of a nonresponsive subcontractor who has ceased operations or
20 failed to file as required by this section. Filings made on behalf of
21 a subcontractor may not be accepted sooner than thirty-one days after
22 the acceptance date of the public works project and the contractor
23 filing the affidavit must accept responsibility for payment of
24 prevailing wages unpaid by the subcontractor on the project pursuant to
25 RCW 39.12.020 and 39.12.065. Intentionally filing a false affidavit on
26 behalf of a subcontractor subjects the filer to the same penalties as
27 are provided in RCW 39.12.050. Each affidavit of wages paid must be
28 certified by the industrial statistician of the department of labor and
29 industries before it is submitted to the disbursing officer.

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

34 (a) An awarding agency may authorize the contractor or
35 subcontractor to submit the statement of intent to pay prevailing wages
36 directly to the officer or person charged with the custody or
37 disbursement of public funds in the awarding agency without approval by

1 the industrial statistician of the department of labor and industries.
2 The awarding agency shall retain such statement of intent to pay
3 prevailing wages for a period of not less than three years.

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

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

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

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

30 (3) Before payment is made by or on behalf of the state, or any
31 county, municipality, or political subdivision created by its laws, it
32 is the duty of the officer or person charged with the custody and
33 disbursement of public funds to require the contractor and each and
34 every subcontractor to submit to the officer current, complete, and
35 accurate certified payroll records. Following the final acceptance of
36 a public works project, it is the duty of the officer charged with the
37 disbursement of public funds to require the contractor and each and
38 every subcontractor to submit current, complete, and accurate certified

1 payroll records before final payment is made and funds retained
2 according to the provisions of RCW 60.28.011 are released to the
3 contractor.

4 (4) Certified payroll records provided to the officer or person
5 charged with the custody and disbursement of public funds under this
6 section must be submitted on forms approved by the industrial
7 statistician.

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