

FINAL BILL REPORT

EHB 2805

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Synopsis as Enacted

Brief Description: Regarding public works involving off-site prefabrication.

Sponsors: Representatives Ormsby, Campbell, Williams, Van De Wege, Simpson, White, Chase, Hasegawa, Rolfes and Conway.

House Committee on Commerce & Labor
House Committee on Capital Budget
Senate Committee on Labor, Commerce & Consumer Protection

Background:

Under Washington's prevailing wage law, wages paid to laborers, workers, and mechanics on public works projects of the state or political subdivisions must be not less than the prevailing rate of wage in the same trade or occupation in the locality within the state where the labor is performed. The Washington State Supreme Court has held that the prevailing wage law applies to the off-site manufacture of prefabricated items for use on a particular project. The prevailing wage law, however, does not apply to work performed outside Washington.

Contractors and subcontractors on public works projects must submit to the awarding agency an "intent" to pay prevailing wage and an "affidavit" that prevailing wages have been paid before certain payments are made.

In 2005 the Capital Projects Advisory Review Board (CPARB) was created to review alternative public works contracting procedures and provide guidance to state policymakers on ways to further enhance the quality, efficiency and accountability of public works contracting methods.

Contractors bidding on public works contracts must meet responsibility criteria in order to be considered a responsible bidder and qualified to be awarded a public works project. Bidders must: be registered as a contractor; have a current state unified business identifier number; have industrial insurance, unemployment insurance, and a state excise tax registration number; not be disqualified from bidding for prevailing wage or contractor registration violations; and be in compliance with apprenticeship utilization requirements.

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

Summary:

Public works contracts estimated to cost over \$1 million must contain a provision requiring contractors and subcontractors to submit information regarding any off-site, prefabricated, nonstandard, project-specific items produced under each contract and produced outside Washington. The information that must be provided is: (1) the estimated cost of the public works project; (2) the name of the awarding agency and the title of the public works project; (3) the contract value of the off-site, prefabricated, nonstandard, project specific items produced outside Washington; and (4) the name, address, and federal employer identification number of the contractor that produced the off-site, prefabricated, nonstandard, project specific items.

The information must be provided to the Department of Labor and Industries (Department) as a part of the affidavit of wages paid form. Only the contractor or subcontractor who directly contracted for the items. A failure to submit the information does not constitute a violation of the prevailing wage requirements.

"Off-site, prefabricated, nonstandard, project-specific items" means products or items that are: (1) made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work; (2) produced specifically for the public work and not considered to be regularly available shelf items; (3) produced or manufactured by labor expended to assemble or modify standard items; and (4) produced at an off-site location.

The Department of General Administration must develop standard contract language regarding these requirements and post the language on the agency's website. The Department must transmit information collected to the CPARB for review.

In order to meet the responsible bidder criteria and qualify to be awarded a public works project, a bidder on a public works subject must not have violated these requirements more than once, as determined by the Department.

The requirements apply to contracts entered on or after September 1, 2010, and expire December 31, 2013. The Department of Transportation and local transportation public works are exempt from the requirements.

Votes on Final Passage:

House	54	43	
Senate	28	18	(Senate amended)
House	52	42	(House concurred)

Effective: June 10, 2010