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SENATE BILL 6421

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State of Washington

62nd Legislature

2012 Regular Session

By Senators King, Kline, and Holmquist Newbry

Read first time 01/23/12. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to the statement of intent to pay prevailing wages  
2 on public works; 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 2009 c 219 s 2 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 (~~said~~) the disbursing officer.  
4 Unless otherwise authorized by the department of labor and industries,  
5 each 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 pursuant to rules adopted by the  
19 department of labor and industries. Affidavit forms may only be filed  
20 on behalf of a nonresponsive subcontractor who has ceased operations or  
21 failed to file as required by this section. Filings made on behalf of  
22 a nonresponsive subcontractor may not be accepted sooner than thirty-  
23 one days after the acceptance date of the public works project.  
24 Intentionally filing a false affidavit on behalf of a subcontractor  
25 subjects the filer to the same penalties as are provided in RCW  
26 39.12.050. Each affidavit of wages paid must be certified by the  
27 industrial statistician of the department of labor and industries  
28 before it is submitted to (~~said~~) the disbursing officer.

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

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

1 The awarding agency shall retain such statement of intent to pay  
2 prevailing wages for a period of not less than three years.

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

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

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

25 (e) Nothing in this section shall be interpreted to allow an  
26 awarding agency to subdivide any public works project of more than two  
27 thousand five hundred dollars for the purpose of circumventing the  
28 procedures required by ((RCW 39.12.040(1))) subsection (1) of this  
29 section.

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