

SHB 2864 - H AMD 1187

By Representative Ormsby

ADOPTED 2/18/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 39.12.030 and 1989 c 12 s 9 are each amended to
4 read as follows:

5 (1) The specifications for every contract for the
6 construction, reconstruction, maintenance, or repair of any
7 public work, to which the state or any county, municipality, or
8 political subdivision created by its laws is a party, shall
9 contain a provision stating the hourly minimum rate of wage, not
10 less than the prevailing rate of wage, which may be paid to
11 laborers, workers, or mechanics in each trade or occupation
12 required for such public work employed in the performance of the
13 contract either by the contractor, subcontractor or other person
14 doing or contracting to do the whole or any part of the work
15 contemplated by the contract, and the contract shall contain a
16 stipulation that such laborers, workers, or mechanics shall be
17 paid not less than such specified hourly minimum rate of wage.

18 (2) For purposes of compliance with this chapter, including
19 identifying certified payroll records to be requested from a
20 contractor or subcontractor, every contract for the construction,
21 reconstruction, maintenance, or repair of any public work, to
22 which the state or any county, municipality, or political
23 subdivision created by its laws is a party, must contain a
24 provision requiring the general contractor to submit a list of
25 all subcontractors that will supply any off-site prefabricated,
26 nonstandard, project-specific products. The list must identify
27 all products supplied, the name of each subcontractor, the
28 employer identification number of each subcontractor, and each
29 product's anticipated cost.

1 **Sec. 2.** RCW 39.12.040 and 2007 c 210 s 4 are each amended to
2 read as follows:

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

14 (~~(a)~~) (i) The contractor's registration certificate number;
15 and

16 (~~(b)~~) (ii) The prevailing rate of wage for each
17 classification of workers entitled to prevailing wages under RCW
18 39.12.020 and the estimated number of workers in each classification.
19 Each statement of intent to pay prevailing wages must be approved
20 by the industrial statistician of the department of labor and
21 industries before it is submitted to said officer.

22 (b) Unless otherwise authorized by the department of labor
23 and industries, each voucher claim submitted by a contractor for
24 payment on a project estimate shall state that the prevailing
25 wages have been paid in accordance with the prefiled statement or
26 statements of intent to pay prevailing wages on file with the
27 public agency.

28 (c) For purposes of compliance with this chapter, including
29 identifying certified payroll records to be requested from a
30 contractor or subcontractor, for a public works project involving
31 the off-site prefabrication of a nonstandard, project-specific
32 product, before final acceptance of the project, the awarding
33 agency must require the contractor or subcontractor of all such
34 products to submit a list to the awarding agency and to the
35 department of labor and industries. The list must be certified by
36 the contractor or subcontractor and identify: (i) The contractor
37 or subcontractor's name; (ii) the contractor or subcontractor's
38 employer identification number; (iii) the contract or subcontract

1 amount; (iv) the labor hours expended producing the product; and
2 (v) hourly minimum rate of wages paid in each trade or occupation
3 producing the product.

4 (d) Following the final acceptance of a public works project,
5 it shall be the duty of the officer charged with the disbursement
6 of public funds, to require the contractor and each and every
7 subcontractor from the contractor or a subcontractor to submit to
8 such officer an "Affidavit of Wages Paid" before the funds
9 retained according to the provisions of RCW 60.28.010 are
10 released to the contractor. Each affidavit of wages paid must be
11 certified by the industrial statistician of the department of
12 labor and industries before it is submitted to said officer.

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

17 (a) An awarding agency may authorize the contractor or
18 subcontractor to submit the statement of intent to pay prevailing
19 wages directly to the officer or person charged with the custody
20 or disbursement of public funds in the awarding agency without
21 approval by the industrial statistician of the department of
22 labor and industries. The awarding agency shall retain such
23 statement of intent to pay prevailing wages for a period of not
24 less than three years.

25 (b) Upon final acceptance of the public works project, the
26 awarding agency shall require the contractor or subcontractor to
27 submit an affidavit of wages paid. Upon receipt of the affidavit
28 of wages paid, the awarding agency may pay the contractor or
29 subcontractor in full, including funds that would otherwise be
30 retained according to the provisions of RCW 60.28.010. Within
31 thirty days of receipt of the affidavit of wages paid, the
32 awarding agency shall submit the affidavit of wages paid to the
33 industrial statistician of the department of labor and industries
34 for approval.

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

38 (d) In the event of a wage claim and a finding for the
39 claimant by the department of labor and industries where the

1 awarding agency has used the alternative process provided for in
2 subsection (2) of this section, the awarding agency shall pay the
3 wages due directly to the claimant. If the contractor or
4 subcontractor did not pay the wages stated in the affidavit of
5 wages paid, the awarding agency may take action at law to seek
6 reimbursement from the contractor or subcontractor of wages paid
7 to the claimant, and may prohibit the contractor or subcontractor
8 from bidding on any public works contract of the awarding agency
9 for up to one year.

10 (e) Nothing in this section shall be interpreted to allow an
11 awarding agency to subdivide any public works project of more
12 than two thousand five hundred dollars for the purpose of
13 circumventing the procedures required by (~~RCW 39.12.040(1)~~)
14 subsection (1) of this section.

15 NEW SECTION. Sec. 3. A new section is added to chapter 39.12
16 RCW to read as follows:

17 If an interested party makes a written request of a
18 contractor or subcontractor to file certified payroll records
19 under rules regarding payroll which have been adopted by the
20 department of labor and industries to enforce this chapter and
21 the records requested are for the off-site prefabrication of a
22 nonstandard, project-specific product, the contractor or
23 subcontractor must file the certified copy of the payroll records
24 only with the awarding agency."

25 Correct the title.

EFFECT: The substitute bill requires the filing of certified payroll records for the off-site prefabrication of nonstandard, project-specific ("off-site") items on public works contracts. The striking amendment requires public works contracts to contain a provision requiring the general contractor to submit a list of all subcontractors supplying off-site products. The list must identify all off-site products supplied, the name and EIN of each subcontractor, and each product's anticipated cost. Before final acceptance

of a project involving off-site products, the awarding agency must require the contractor and subcontractor of off-site products to submit a list to the awarding agency and to the Department of Labor and Industries (department). The list must be certified and must identify: 1) the contractor or subcontractor's name; 2) the EIN; 3) the contract or subcontract amount; 4) the labor hours expended producing the product; and 5) the hourly minimum rate of wages paid in each trade or occupation.

The striking amendment also provides that if an interested party makes a request for certified payroll records under the department's payroll rules and the request is for records for off-site work, the contractor or subcontractor must file the records only with the awarding agency (and not also with the department as required by rule for all payroll requests).