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HOUSE BILL 1836

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Ormsby, Wood, Dunshee, Campbell, Moeller, Van De Wege, Simpson, Driscoll, Chase, and Conway

Read first time 01/30/09. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to public works involving off-site prefabrication;  
2 adding a new section to chapter 39.12 RCW; and providing an expiration  
3 date.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 39.12 RCW  
6 to read as follows:

7            (1)(a) Except as provided in (b) of this subsection, the  
8 specifications for every contract to perform public work as specified  
9 in RCW 39.12.030 must contain a provision requiring the prime  
10 contractor and all subcontractors and their subcontractors, and  
11 employers who are not required to register as contractors in the state,  
12 to submit to the awarding agency and to the department of labor and  
13 industries a certified list of off-site, prefabricated, nonstandard,  
14 project-specific items produced under the terms of each respective  
15 contract. The list must identify:

- 16            (i) The specific items produced;  
17            (ii) The name and address of the contractor, subcontractor, or  
18 employer;

1 (iii) The name and address of the contractor, subcontractor, or  
2 employer that will be producing the items if other than the contractor,  
3 subcontractor, or employer; and

4 (iv) The unified business identifier number of the contractor,  
5 subcontractor, and employer responsible for producing the items.

6 (b) This subsection (1) does not apply to contractors,  
7 subcontractors, and employers required to submit a statement of intent  
8 to pay prevailing wage under RCW 39.12.040.

9 (2) Contractors, subcontractors and their subcontractors, and  
10 employers responsible for producing the items identified in this  
11 section shall upon receipt of a request by an interested party file  
12 with the awarding agency and the department of labor and industries  
13 certified copies of payroll records that contain the number of labor  
14 hours expended producing the items and the hourly rate of wages paid to  
15 the workers in each trade or occupation used in producing the items.

16 (3) The specifications for each contract to perform public work  
17 must require that all contracts entered into by the prime contractor  
18 and every subcontractor and their subcontractors, or employers who are  
19 responsible for the off-site fabrication of nonstandard items, contain  
20 a requirement for the production of certified copies of payroll records  
21 when they are requested by interested parties. Noncompliance with this  
22 subsection by the contractor, subcontractor or their subcontractors, or  
23 the employer responsible for the fabrication of the items constitutes  
24 a violation of RCW 39.12.050.

25 (4) This section does not apply to entities responsible for  
26 supplying the materials to the manufacturers, fabricators, or employers  
27 that will be used to complete, construct, or assemble the product,  
28 products, or items prior to their delivery to the public works site.

29 (5) The required lists, payroll records, and certifications under  
30 this section must be submitted on forms made available by the  
31 department of labor and industries.

32 (6) Prior to the final acceptance of a project, the awarding agency  
33 must receive from the contractor, subcontractor, or employer  
34 responsible for the off-site production of the items identified in this  
35 section certified copies of the lists required to be submitted under  
36 subsection (1) of this section as well as copies of all certified  
37 payroll records that have been requested by interested parties. The  
38 awarding agency must report to the department of labor and industries

1 incidences of noncompliance with this requirement and the department  
2 must issue a notice of violation to the contractor, subcontractor, or  
3 employer that has failed to comply with this section. This subsection  
4 does not apply to contractors, subcontractors, and employers required  
5 to submit a statement of intent to pay prevailing wage under RCW  
6 39.12.040.

7 (7) The failure of a contractor, subcontractor, or employer  
8 responsible for the off-site fabrication of nonstandard items to submit  
9 the required lists and records does not affect the release of retained  
10 funds by the public agency following final acceptance of the project.

11 (8) For purposes of this section, "off-site, prefabricated,  
12 nonstandard, project-specific items" means products or items that are:  
13 (a) Made primarily of architectural or structural precast concrete,  
14 fabricated steel, pipe and pipe systems, or sheet metal and sheet metal  
15 duct work; (b) produced specifically for the public work and not  
16 considered to be regularly available shelf items; (c) produced or  
17 manufactured by labor expended to assemble or modify standard items;  
18 and (d) produced at an off-site location.

19 (9) This section expires December 31, 2011.

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