
HOUSE BILL 2805

State of Washington

61st Legislature

2010 Regular Session

By Representatives Ormsby, Campbell, Williams, Van De Wege, Simpson, White, Chase, Hasegawa, Rolfes, and Conway

Read first time 01/14/10. 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; creating a new section;
3 prescribing penalties; and providing an expiration 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) For any public work estimated to cost over one million
8 dollars, the contract must contain a provision requiring all contracts
9 entered into by the prime contractor, all subcontractors and their
10 subcontractors, and employers who are not required to register as
11 contractors under chapter 18.27 RCW to submit a certified list of any
12 off-site, prefabricated, nonstandard, project-specific items produced
13 under the terms of each respective contract and produced outside
14 Washington. The list must be submitted to the awarding agency and to
15 the department of labor and industries within ten days of delivery of
16 the item under the respective contract. The list must provide:

17 (i) A general description of the item;

18 (ii) The name and address of the contractor, subcontractor, or
19 employer; and

1 (iii) The name, address, and federal employer identification number
2 of the contractor, subcontractor, or employer that produced the item.

3 (b) If the awarding agency is aware of incidences of noncompliance
4 with the requirement to submit a list under (a) of this subsection, the
5 awarding agency must report the incidences to the department of labor
6 and industries. The failure to file a certified list required under
7 (a) of this subsection constitutes the failure to file a record
8 required to be filed under this chapter and subjects the contractor,
9 subcontractor, or employer to the penalties in RCW 39.12.050. However,
10 no penalty may be imposed for a first violation if the contractor,
11 subcontractor, or employer files the certified list within a reasonable
12 time as determined by the department of labor and industries.

13 (c) The in-state contractor or subcontractor that contracted for
14 the off-site, prefabricated, nonstandard, project-specific item
15 produced outside Washington must notify the awarding agency when
16 reasonably possible upon receipt of the item.

17 (2)(a) For any public work estimated to cost over one million
18 dollars, the contract must contain a provision requiring that all
19 contracts entered into by the prime contractor, all subcontractors and
20 their subcontractors, and employers who are not required to register as
21 contractors under chapter 18.27 RCW for the production of off-site,
22 prefabricated, nonstandard, project-specific items which are produced
23 outside Washington contain a requirement for the production of
24 certified copies of payroll records as provided in subsection (3) of
25 this section. The contract must also state that the contractor or
26 employer producing the items consents to the jurisdiction of Washington
27 for the enforcement of subsection (3) of this section.

28 (b) If the director of the department of labor and industries
29 determines after a hearing under chapter 34.05 RCW that a prime
30 contractor, subcontractor, or employer has failed to comply with this
31 subsection, the prime contractor, subcontractor, or employer is subject
32 to a civil penalty of one thousand dollars for each second or
33 subsequent failure to comply. Civil penalties shall be deposited into
34 the public works administration account. The civil penalty does not
35 apply to a violation determined by the director to be an inadvertent
36 error.

37 (3) Within ten days of receipt of a request by an interested party,
38 contractors, subcontractors, and employers producing the items

1 identified in subsection (2)(a) of this section outside Washington must
2 file with the awarding agency and the department of labor and
3 industries certified copies of payroll records. The payroll records
4 must contain the number of labor hours expended producing the items and
5 the hourly rate of wages paid to the workers in each trade or
6 occupation used in producing the items. If the awarding agency is
7 aware of incidences of noncompliance with the requirement to submit
8 payroll records under this subsection, the awarding agency must report
9 the incidences to the department of labor and industries. The failure
10 to produce the certified copies constitutes the failure to file a
11 record required to be filed under this chapter and subjects the
12 contractor, subcontractor, or employer to the penalties in RCW
13 39.12.050.

14 (4) This section does not apply to entities responsible for
15 supplying the materials to the manufacturers, fabricators, or employers
16 that will be used to complete, construct, or assemble the items prior
17 to their delivery to the public works site.

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

21 (b) The department of general administration shall develop standard
22 contract language to meet the requirements of subsections (1)(a) and
23 (2)(a) of this section and make the language available on its web site.

24 (6) For purposes of this section, "off-site, prefabricated,
25 nonstandard, project-specific items" means products or items that are:
26 (a) Made primarily of architectural or structural precast concrete,
27 fabricated steel, pipe and pipe systems, or sheet metal and sheet metal
28 duct work; (b) produced specifically for the public work and not
29 considered to be regularly available shelf items; (c) produced or
30 manufactured by labor expended to assemble or modify standard items;
31 and (d) produced at an off-site location.

32 (7) Upon request, the department of labor and industries must
33 submit any data collected under this act to the appropriate committees
34 of the legislature for review.

35 (8) This section applies to contracts entered into on or after
36 September 1, 2010, and expires December 31, 2012.

1 NEW SECTION. **Sec. 2.** The expiration of section 1 of this act does
2 not affect any request or proceeding instituted prior to the expiration
3 of section 1 of this act.

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