

SENATE BILL REPORT

SB 6421

As of January 27, 2012

Title: An act relating to the statement of intent to pay prevailing wages on public works.

Brief Description: Addressing the statement of intent to pay prevailing wages on public works.

Sponsors: Senators King, Kline and Holmquist Newbry.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/30/12.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Staff: Mac Nicholson (786-7445)

Background: Employers on public works projects must pay prevailing wages and submit a statement of intent to pay prevailing wages (intent) after the contract is awarded but before work begins. After all of the work is complete, employers must submit an affidavit of wages paid (affidavit). The forms are filed with the Department of Labor and Industries (L&I) and, when approved, are submitted by the employer to the agency administering the contract. A complaint concerning nonpayment of prevailing wage must be filed with L&I within 30 days of the acceptance date of the public works project. Failure to file a complaint does not preclude a claimant from pursuing a private right of action for unpaid prevailing wages, and the statute of limitations for such causes of action is three years.

State law requires public agencies to withhold 5 percent of money due the contractor for a public improvement or work until completion and/or acceptance of the contract. This is known as retainage, and retainage money is to be set aside as a trust fund for the protection and payment of anyone who performs labor; provides materials, supplies, or equipment; or subcontracts to the prime contractor. Anyone who performs labor; provides materials, supplies, or equipment; or subcontracts to the prime contractor must file a notice of lien against retainage within 45 days of the completion of all contract work. After completion of all contract work, the contractor may request that the public agency release the retainage. The agency is to release these funds within 60 days of this request. The public agency administering the contract may not release final retainage until all contractors have submitted an affidavit form that has been certified by the industrial statistician at L&I.

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.

L&I has a policy of allowing a contractor to file an affidavit on behalf of a sub contractor in limited circumstances. A contractor seeking to file on behalf of a subcontractor must submit supporting documentation and an assumption of liability statement, under which the filing contractor accepts liability for any unpaid wages owed by the nonresponsive subcontractor for three years from the date of performance of the work.

Summary of Bill: A contractor may file an affidavit on behalf of a subcontractor if the contractor had a contractual relationship with the subcontractor and the subcontractor has ceased operations or failed to file an affidavit as required. An affidavit filed on behalf of a subcontractor may be accepted no sooner than 31 days after the acceptance date of the public works project.

Intentionally filing a false affidavit on behalf of a subcontractor subjects the filing contractor to a civil penalty and disbarment for a period of one year.

Appropriation: None.

Fiscal Note: Requested on January 25, 2012.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.