
HOUSE BILL 2331

State of Washington

63rd Legislature

2014 Regular Session

By Representatives Sells, Ormsby, Moscoso, Moeller, Ryu, Reykdal, and Pollet

Read first time 01/15/14. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to certified payroll records on public works
2 projects; 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 2013 c 113 s 5 are each amended to read
5 as follows:

6 (1)(a) 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 is the duty of
10 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 must include:

16 (i) The contractor's registration certificate number; and

17 (ii) 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 (b) Each statement of intent to pay prevailing wages must be
2 approved by the industrial statistician of the department of labor and
3 industries before it is submitted to the disbursing officer. Unless
4 otherwise authorized by the department of labor and industries, each
5 voucher claim submitted by a contractor for payment on a project
6 estimate must 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 is the duty of the officer
10 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. On a public works project where no
15 retainage is withheld pursuant to RCW 60.28.011(1)(b), the affidavit of
16 wages paid must be submitted to the state, county, municipality, or
17 other public body charged with the duty of disbursing or authorizing
18 disbursement of public funds prior to final acceptance of the public
19 works project. If a subcontractor performing work on a public works
20 project fails to submit an affidavit of wages paid form, the contractor
21 or subcontractor with whom the subcontractor had a contractual
22 relationship for the project may file the forms on behalf of the
23 nonresponsive subcontractor. Affidavit forms may only be filed on
24 behalf of a nonresponsive subcontractor who has ceased operations or
25 failed to file as required by this section. The contractor filing the
26 affidavit must accept responsibility for payment of prevailing wages
27 unpaid by the subcontractor on the project pursuant to RCW 39.12.020
28 and 39.12.065. Intentionally filing a false affidavit on behalf of a
29 subcontractor subjects the filer to the same penalties as are provided
30 in RCW 39.12.050. Each affidavit of wages paid must be certified by
31 the industrial statistician of the department of labor and industries
32 before it is submitted to the disbursing officer.

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

37 (a) An awarding agency may authorize the contractor or
38 subcontractor to submit the statement of intent to pay prevailing wages

1 directly to the officer or person charged with the custody or
2 disbursement of public funds in the awarding agency without approval by
3 the industrial statistician of the department of labor and industries.
4 The awarding agency must retain such statement of intent to pay
5 prevailing wages for a period of not less than three years.

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

15 (c) A statement of intent to pay prevailing wages and an affidavit
16 of wages paid must be on forms approved by the department of labor and
17 industries.

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

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

32 (3) Before payment is made by or on behalf of the state, or any
33 county, municipality, or political subdivision created by its laws, it
34 is the duty of the officer or person charged with the custody and
35 disbursement of public funds to require the contractor and each and
36 every subcontractor to submit to the officer current, complete, and
37 accurate certified payroll records. Following the final acceptance of
38 a public works project, it is the duty of the officer charged with the

1 disbursement of public funds to require the contractor and each and
2 every subcontractor to submit current, complete, and accurate certified
3 payroll records before final payment is made and funds retained
4 according to the provisions of RCW 60.28.011 are released to the
5 contractor.

6 (4) Certified payroll records provided to the officer or person
7 charged with the custody and disbursement of public funds under this
8 section must be submitted on forms approved by the industrial
9 statistician.

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