

SHB 1395 - H AMD 295

By Representative Stokesbary

NOT CONSIDERED 12/23/2019

1 On page 2, line 3, after "(1)(a)" strike "A" and insert "Subject
2 to subsection (6) of this section, a"

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4 On page 2, line 38, after "(b)" strike "A" and insert "Subject to
5 subsection (5) of this section, a"

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7 On page 3, line 4, after "(c)" strike "A" and insert "Subject to
8 subsection (5) of this section, a"

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10 On page 4, line 6, after "(5)" insert "(a) Upon request by a
11 direct contractor to a third party owed fringe or other benefit
12 payments or contributions, the third party must provide:

13 (i) The fringe or other benefit payments or contributions owed by
14 an employer for each hour of labor performed by an employee; and

15 (ii) Records of payments received from an employer for fringe or
16 other benefit payments or contributions owed as a result of the
17 employee's performance of labor included in the subject of the
18 contract between the direct contractor and the owner. The records
19 must contain sufficient information to apprise the direct contractor
20 of the employer's payment status in making the fringe or other
21 benefits payments or contributions on the employee's behalf. The
22 direct contractor may rely upon the records provided by the third
23 party.

24 (b) The failure of a third party to produce records of payments
25 received from an employer in response to a direct contractor's request
26 under this subsection (5) shall preclude the third party from bringing

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1 a civil action against a direct contractor under subsection (1) of
2 this section.

3 (6)(a) A direct contractor may show a good faith effort to verify
4 any debt owed to an employee or third party owed fringe or other
5 benefits payments or contributions. A direct contractor's good-faith
6 efforts shall include requesting records under subsections (4) and (5)
7 of this section, as appropriate, as well as other efforts by the
8 direct contractor to verify the employee's receipt of wages or the
9 third party's receipt of fringe or other benefits payments or
10 contributions.

11 (b) A direct contractor who shows good faith efforts to verify the
12 employee's receipt of wages or the third party's receipt of fringe or
13 other benefit payments or contributions is not liable for any debt
14 owed to an employee or third party owed fringe or other benefits
15 payments or contributions. In any civil action brought by a third
16 party, joint committee, or other interested party under subsection (1)
17 of this section, upon the direct contractor's showing of good-faith
18 efforts to verify the employee's receipt of wages or the third
19 party's receipt of fringe or other benefit payments or contributions,
20 the court shall award to the direct contractor the direct contractor's
21 reasonable: (i) Attorneys' fees; (ii) costs; and (iii) expert witness
22 fees.

23 (7)"

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25 Renumber the remaining subsection consecutively and correct any
26 internal references accordingly.

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EFFECT: Requires a third party owned fringe or other benefits
payments or contributions (third party), upon request of a direct
contractor, to provide the payments or contributions for each hour
of labor, and records of payments received as a result of the
employee's labor. Provides that the failure to produce the records
precludes the third party from bringing the action.

34 Allows a direct contractor to show a good faith effort to verify any
debt owed to an employee or third party. Provides that the efforts

include requesting records as provided in the bill, as well as other efforts. Provides that a direct contractor who shows good faith efforts to verify wages or a third party's receipt of benefits is not liable to an employee or third party, and requires the court to award to the direct contractor the direct contractor's reasonable attorneys' fees, costs, and expert witness fees if the contractor shows good faith efforts to verify.

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