

SHB 1395 - H AMD 1063

By Representative Stokesbary

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

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

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

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

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

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

21 (b) The failure of a third party to produce records of payments  
22 received from an employer in response to a direct contractor's  
23 request under this subsection (5) shall preclude the third party from  
24 bringing a civil action against a direct contractor under subsection  
25 (1) of this section.

26 (6)(a) A direct contractor may show a good faith effort to verify  
27 any debt owed to an employee or third party owed fringe or other  
28 benefit payments or contributions. A direct contractor's good-faith  
29 efforts shall include requesting records under subsections (4) and  
30 (5) of this section, as appropriate, as well as other efforts by the  
31 direct contractor to verify the employee's receipt of wages or the

1 third party's receipt of fringe or other benefit payments or  
2 contributions.

3 (b) A direct contractor who shows good faith efforts to verify  
4 the employee's receipt of wages or the third party's receipt of  
5 fringe or other benefit payments or contributions is not liable for  
6 any debt owed to an employee or third party owed fringe or other  
7 benefit payments or contributions. In any civil action brought by a  
8 third party, joint committee, or other interested party under  
9 subsection (1) of this section, upon the direct contractor's showing  
10 of good-faith efforts to verify the employee's receipt of wages or  
11 the third party's receipt of fringe or other benefit payments or  
12 contributions, the court shall award to the direct contractor the  
13 direct contractor's reasonable:

- 14 (i) Attorneys' fees;
  - 15 (ii) Costs; and
  - 16 (iii) Expert witness fees.
- 17 (7) "

18 Renumber the remaining subsection consecutively and correct any  
19 internal references accordingly.

EFFECT: Requires a third party owed fringe or other benefit 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.

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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