ESSB 6040 - H COMM AMD
    By Committee on Capital Budget

ADOPTED 03/01/2024

1   Strike everything after the enacting clause and insert the
2 following:

3   "<u>NEW SECTION.</u> **Sec. 1.** (1) The legislature finds that prompt pay
4 requirements address the acceptable amount of time that payments must
5 be made to contractors and subcontractors, and under what
6 circumstances exceptions can be made. Washington state has prompt pay
7 statutes that apply to public works commissioned by the state or
8 local public entities such as counties, cities, towns, port
9 districts, school districts, and other public entities in the state.
10 These statutes intend to promote efficient implementation of public
11 works projects by, among other things, requiring timely payment to
12 assist contractors and subcontractors in operating their businesses
13 and meet working capital and cash flow needs, while enabling public
14 entities to address such things as disagreements over amounts owed,
15 unsatisfactory performance, and noncompliance with the terms of the
16 contract.
17   (2) The legislature intends to review how well prompt pay
18 provisions are working for small businesses, particularly women and
19 minority-owned businesses, potential improvements that could be
20 considered, and the potential impacts on the industry any
21 recommendations might have.

22   <u>NEW SECTION.</u> **Sec. 2.** (1)(a) The capital projects advisory
23 review board created in chapter 39.10 RCW shall review the extent to
24 which prompt pay statutes meet the needs of small businesses, as
25 defined in RCW 39.26.010, particularly women and minority-owned
26 businesses as certified under chapter 39.19 RCW or as officially
27 recognized as such by a local public entity. These statutes include
28 RCW 39.04.250, 39.76.011, and 39.76.020.
29   (b) The capital projects advisory review board must present
30 findings and any recommendations the board develops to the

1 appropriate committees of the legislature on or before November 1,
2 2024.

3 (2) In carrying out the review and considering possible
4 recommendations under subsection (1) of this section, the board shall
5 engage with a broad range of stakeholders.

6 NEW SECTION. **Sec. 3.** In considering possible recommendations
7 under section 2(1)(b) of this act, at a minimum the capital projects
8 advisory review board shall consider:

9 (1) Requiring the state and local entities to pay the prime
10 contractor within 30 days for work satisfactorily completed or
11 materials delivered by a subcontractor of any tier that is a small
12 business certified with the office of minority and women's business
13 enterprises under chapter 39.19 RCW, or is recognized as a women or
14 minority-owned business enterprise in a state of Washington port,
15 county, or municipal small business or women or minority-owned
16 business enterprise program;

17 (2) Requiring that, within 10 days of receipt of payment, the
18 prime contractor and each higher tier subcontractor must make payment
19 to its subcontractor until the subcontractor that is a certified
20 small business or recognized women or minority-owned business has
21 received payment.

22 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of
24 the state government and its existing public institutions, and takes
25 effect immediately."

26 Correct the title.

EFFECT: Strikes the underlying bill that: (1) Requires the state
to promptly pay the prime contractor for work or materials provided
by a subcontractor that is a women or minority-owned small business,
and (2) requires the prime contractor and each higher tier
subcontractor to make payment until the women or minority-owned
business subcontractor receives payment. Adds a requirement that the
Capital Projects Advisory Review Board review the extent to which
prompt pay statutes meet the needs of small businesses, particularly
women and minority-owned businesses, as well as make findings and any

recommendations the board develops. The board is to engage stakeholders as part of its work.

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