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## Capital Budget Committee

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### ESSB 6040

**Brief Description:** Concerning prompt payment in public works.

**Sponsors:** Senate Committee on State Government & Elections (originally sponsored by Senators Valdez, Keiser, Conway, Hasegawa and Nobles).

#### Brief Summary of Engrossed Substitute Bill

- The state must pay a prime contractor within 30 days for work satisfactorily completed or materials delivered by a subcontractor of any tier that is a small business certified with the Office of Minority and Women's Business Enterprises or otherwise recognized as a women or minority-owned business.
- A prime contractor and each higher tier subcontractor must make payment within 10 days to its subcontractor until the subcontractor that is a small business certified or recognized as a women or minority-owned business receives payment.

**Hearing Date:** 2/23/24

**Staff:** Charlie Gavigan (786-7340).

#### Background:

Generally, the state or other public owner must pay the contractor on a public works project the amount due at the time specified in the contract, but not later than 30 days after the invoice or delivery of goods or services, whichever is later. When a contractor or subcontractor is paid for work performed on a public works project, they must pay subcontractors no later than 10 days after receipt of payment.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

In the event of a good faith dispute over all or any portion of the amount due from the state or other public owner to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or other public owner may withhold no more than 150 percent of the disputed amount. Those not a party to a dispute are entitled to full and prompt payment of their portion of a draw, progress payment, final payment, or released retainage.

Anyone whose funds have been withheld in violation of law are entitled to receive interest at the highest rate allowed by statute for every month of non-payment from the person wrongfully withholding the funds. In any action for the collection of wrongfully withheld funds, the prevailing party is entitled to costs of suit as well as reasonable attorneys' fees.

The Office of Minority and Women's Business Enterprises certifies minority and women-owned businesses to participate in public contracting and procurement. This program includes a comprehensive certification process and support services to assist these businesses in participating in public works projects and public contracts for goods and services.

**Summary of Bill:**

The state must pay a prime contractor within 30 days for work satisfactorily completed or materials delivered by a subcontractor of any tier that is a small business certified with the Office of Minority and Women's Business Enterprises or otherwise recognized as a women or minority-owned business. A prime contractor and each higher tier subcontractor must make payment within 10 days to its subcontractor until the subcontractor that is a small business certified or recognized as a women or minority-owned business receives payment.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on July, 1, 2025.