

HOUSE BILL REPORT

SSB 6192

As Reported by House Committee On:
Capital Budget

Title: An act relating to additional work and change orders on public and private construction projects.

Brief Description: Addressing additional work and change orders on public and private construction projects.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators King, Stanford, Mullet and Nobles).

Brief History:

Committee Activity:

Capital Budget: 2/23/24, 2/26/24 [DP].

Brief Summary of Substitute Bill

- Adds most private construction projects, subcontractors, and suppliers to the public works contracting statute requiring change orders to be issued within 30 days of satisfactory completion of additional work.
- Requires contractors and subcontractors to issue change orders to lower-tier subcontractors within 10 days of receipt of a change order from the project owner or upper-tier contractor.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass. Signed by 26 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Abbarno, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Alvarado, Bateman, Christian, Eslick, Farivar, Fosse, Kloba, Kretz, Leavitt, Maycumber, Morgan, Mosbrucker, Orwall, Peterson, Reed, Rule, Sandlin, Shavers, Stearns and Waters.

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.

Staff: Dawn Eychaner (786-7135).

Background:

After a public works contract is executed, any changes to contract terms are documented through a change order. Generally, a change order is a written agreement between the project owner and contractor that incorporates agreed upon changes to the project scope of work, cost, or schedule.

The state or a municipality must issue a change order to a public works contract for the full dollar amount of work not in dispute within 30 days of satisfactory completion of any additional work. Failure to do so results in interest paid by the state or municipality on the undisputed amount at a rate of 1 percent per month.

Summary of Bill:

The change order requirements for public works contracts are applied to subcontractors and suppliers as well as to private construction projects, except for private residential projects with 12 units or less.

Within 30 days of satisfactory completion of any authorized additional work and a request by a subcontractor or supplier, the contractor must request a change order from the owner, state, or municipality. A lower-tier subcontractor or supplier must request the change order from the upper-tier contractor within 30 days after completion of the additional work and a request by a lower-tier subcontractor.

Within 10 days of receipt of a change order from the owner, state, municipality, or upper-tier contractor, a contractor or subcontractor must issue change orders to lower-tier subcontractors impacted by the change. The owner, state, municipality, contractor, or upper-tier subcontractor must pay their proportionate share of any interest owed if the change order is not issued within the established timeframes.

If a contractor or subcontractor has met the timeframe for requesting a change order, the contractor or subcontractor is not liable for any interest on the unpaid dollar amount for any additional work completed and not in dispute if the requested change order is not issued by the owner, upper-tier contractor, state, or municipality.

No rights are provided to a contractor, subcontractor, or supplier against a party with whom they are not a party to a written contract.

An aggrieved party may bring a civil action for violations of the change order requirements in a court of competent jurisdiction for appropriate relief, including interest and reasonable attorneys' fees and costs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The flow of payments to contractors and subcontractors can be difficult even on the main portion of construction projects, but for change order work these difficulties can create significant cash flow challenges for subcontractors. The time it takes for subcontractors to get paid for change order work can take months and even years. Streamlining change order rules will expedite this process for all parties. Small business owners face many challenges and are lucky if they are paid for change order work within six months, which creates difficulties for subcontractors within the construction industry. This must change. Owners require change order work to be done and contractors often have to pay for materials and labor themselves upfront, creating challenges in getting paid for that work after it is complete. Construction contracts often require change order work to be done but do not address payment for change order work. In some cases, subcontractors' payment can be delayed for up to three years. The only way to resolve these problems is to enact legislation to allow subcontractors to be paid in a timely manner or to be compensated for the delay.

(Opposed) None.

Persons Testifying: Jerry VanderWood, Associate General Contractors of Washington; and John Gehlsen, Yakima Steel.

Persons Signed In To Testify But Not Testifying: None.