

SENATE BILL REPORT

SB 6192

As Reported by Senate Committee On:
Labor & Commerce, January 29, 2024

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: Senators King, Stanford, Mullet and Nobles.

Brief History:

Committee Activity: Labor & Commerce: 1/23/24, 1/29/24 [DPS].

Brief Summary of First Substitute Bill

- Adds private construction projects to the statute requiring issuance of a change order no later than 30 days after satisfactory completion of any additional work on public works projects.
- Adds subcontractors and suppliers to the change order statute.
- Provides that a contractor or subcontractor that requests a change order from the project owner is not liable for any interest on unpaid amounts for additional work if the project owner has not issued the requested change order.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6192 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, Hansen, MacEwen, Schoesler and Stanford.

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: Jarrett Sacks (786-7448)

Background: In general, a change order is an amendment to a construction contract that changes the scope of work, usually by changing the work required or adjusting the amount of time required to complete the work. On public works projects, for additional work beyond the scope of the contract, the state or municipality must issue a change order within 30 days of satisfactory completion of all or a portion of the additional work. If a change order is not issued within 30 days, the state or municipality must pay interest at a rate of 1 percent per month.

Summary of Bill (First Substitute): The change order requirements for public works projects are applied to private construction, except private residential projects under 12 units. Subcontractors and suppliers are also added, so that for any additional work by a contractor, subcontractor, or supplier not in dispute, a change order must be issued within 30 days after receipt from the contractor for issuance of a change order. Within ten days of receipt of a change order from the owner, state, municipality, or upper-tier contractor, the contractor or subcontractor must issue change orders to lower-tier subcontractors impacted by the change. The owner, contractor, subcontractor, state, or municipality pays their proportionate share of any interest owed for the non-issuance of a change order.

The contractor or subcontractor must request a change order within 30 days of satisfactory completion of any authorized additional work and a request by subcontractor or supplier. A lower-tier subcontractor or supplier must request a change order from the upper-tier contractor 30 days after the completion of additional work and a request from a lower-tier subcontractor. If a contractor or subcontractor has requested a change order within 30 days of a request from a subcontractor or supplier, 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 a change order has not been issued. The bill does not provide any rights 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.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

Provides that the bill does not grant any rights to a contractor, subcontractor, or supplier against a party that they are not in a written contract with. Excludes private residential projects of 12 units or less from the bill.

Requires contractors and subcontractors to issue change orders within ten days of receipt of a change order from the owner, municipality, or upper-tier contractor. Provides that the

owner, contractor, subcontractor, state, or municipality pays their proportionate share of any interest owed for the non-issuance of a change order. Requires a lower-tier subcontractor or supplier to request a change order from the upper-tier contractor 30 days after the completion of additional work and a request from the lower-tier subcontractor.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill makes sure change orders are approved in private construction. These provisions already apply to public works projects. There is currently no good way for subcontractors to collect interest. Subcontractors have to wait months to get payment on change orders. Contracts will require subcontractors to accept change orders but provide no process for how they will get paid for the extra work. There is no recourse for a subcontractor if the general contractor refuses to request a change order from the owner.

CON: Project owners only have a contract with the general contractor but the bill creates an obligation between the project owner and subcontractors and suppliers that they do not have a contract with. The bill should make sure the funds are flowing properly from the owner to the general contractor to the subcontractors and suppliers.

OTHER: Cities do not have a contractual relationship with subcontractors and any amendment should clarify that. There are some suggested changes to the civil action part of the bill and some other technical issues should be addressed.

Persons Testifying: PRO: Senator Curtis King, Prime Sponsor; Shane Webley, Johansen Construction Company; John Gehlsen; Jerry VanderWood, AGC of Washington.

CON: Scott Hazlegrove, WA Association of Sewer & Water Districts.

OTHER: Brandy DeLange, Association of Washington Cities; Chris Herman, Washington Public Ports Association; William Frare, Washington State Department of Enterprise Services.

Persons Signed In To Testify But Not Testifying: No one.