
HOUSE BILL 1062

State of Washington

58th Legislature

2003 Regular Session

By Representatives Romero, Veloria, Bush, Cooper, Simpson, Wallace, Sullivan, Chase, Anderson, Kenney, Conway and Hudgins

Read first time 01/15/2003. Referred to Committee on State Government.

1 AN ACT Relating to expeditious payment for goods and services
2 provided to the state of Washington; adding a new chapter to Title 39
3 RCW; providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Firms and organizations that do business with the state expect
7 and deserve to be paid in an expeditious and timely manner; and

8 (b) Unjustified delays in paying vendors, construction contractors,
9 and providers of service may discourage these firms and organizations,
10 in particular small and medium-sized firms and women and minority-owned
11 business enterprises, from doing business with the state, and may
12 ultimately increase the costs to the state government of: (i)
13 Purchasing materials, equipment, and supplies; (ii) undertaking
14 construction and reconstruction projects; and (iii) obtaining a wide
15 variety of professional and other specialized services including those
16 that are provided to persons in need.

17 (2) It is the purpose of this chapter to set standards for the
18 payment of bills incurred by state agencies within specified periods of
19 time and to require interest payments in situations where contract

1 payments do not conform to these standards. It is also the intent of
2 this chapter, consistent with accepted business practices and with
3 sound principles of fiscal management: (a) To encourage state agencies
4 in all branches of state government to make payments at least as
5 expeditiously as they currently do; (b) to reduce existing payment
6 processing times whenever feasible, while at the same time permitting
7 the state agencies to perform proper and reasonable financial oversight
8 activities designed to ensure that the state government receives the
9 quality of goods and services to which it is entitled; and (c) to
10 ensure that public funds are spent in a prudent and responsible manner.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Contract" means an enforceable agreement entered into by a
14 contractor and a state agency.

15 (2) "Contractor" means any person, partnership, firm, corporation,
16 or association:

17 (a) Selling materials, equipment, or supplies or leasing property
18 or equipment to a state agency;

19 (b) Constructing, reconstructing, rehabilitating, or repairing
20 buildings or highways for, or on behalf of, a state agency; or

21 (c) Rendering or providing services pursuant to a contract with a
22 state agency.

23 (3) "Designated payment office" means the office designated by the
24 state agency to which a proper invoice is to be submitted by a
25 contractor.

26 (4) "Payment date" means the date on which a check for payment
27 according to a contract is dated.

28 (5) "Proper invoice" means a written request for a contract payment
29 that is submitted by a contractor setting forth the description, price,
30 and quantity of goods, property, or services delivered or rendered, in
31 a form and supported by other substantiating documentation as the
32 individual state agency may reasonably require.

33 (6) "Receipt of an invoice" means the date on which a proper
34 invoice is actually received in the designated payment office; or the
35 date on which the state agency receives the purchased goods, property,
36 or services covered by the proper invoice, whichever is later; or in

1 regard to final payments on highway construction contracts, the date
2 determined in accordance with the provisions of the contract.

3 (7) "Required payment date" means the date a contract payment must
4 be made in order for the state agency not to become liable for interest
5 payments, pursuant to section 3 (2) and (5) of this act.

6 (8) "Set-off" means the reduction by the state treasurer of a
7 payment due to a contractor by an amount equal to the amount of an
8 unpaid legally enforceable debt owed by the contractor to the state.

9 (9) "State agency" means any department, board, commission, office,
10 council, institution, or committee in the executive, legislative, or
11 judicial branches of state government. The term "state agency" also
12 includes that state's institutions of higher education and the
13 vocational and technical colleges.

14 (10) "State funds" means funds held in custody by the state
15 treasurer.

16 NEW SECTION. **Sec. 3.** (1) Each state agency which is required to
17 make a payment from state funds according to a contract and which does
18 not make the contract payment by the required payment date shall make
19 an interest payment to the contractor in accordance with this chapter
20 on the amount of the contract payment which is due, unless failure to
21 make the contract payment is the result of a lien, attachment, or other
22 legal process against the money due to the contractor, or unless the
23 amount of the interest payment, as computed in accordance with the
24 provisions of section 4 of this act, is less than one hundred dollars.

25 (2) The required payment date is thirty calendar days, excluding
26 legal holidays, or ninety calendar days in the case of final payments
27 on highway construction contracts, excluding legal holidays, after
28 receipt of an invoice for the amount of the contract payment due,
29 except when:

30 (a) The designated payment office in the course of its audit
31 determines that there is reasonable cause to believe that payment may
32 not be properly due, in whole or in part;

33 (b) In accordance with specific statutory or contractual
34 provisions, payment must be preceded by an inspection period or by an
35 audit to determine the resources applied or used by a contractor in
36 fulfilling the terms of the contract;

1 (c) The necessary state government appropriation required to
2 authorize payment has not been enacted;

3 (d) The cash balance of the fund or subfund from which the payment
4 is to be made is insufficient to finance the payment;

5 (e) A proper invoice must be examined by the federal government
6 prior to payment;

7 (f) The goods or property have not been delivered or the services
8 have not been rendered by the contractor in compliance with the terms
9 or conditions of the contract;

10 (g) The required payment date is modified in accordance with (c) of
11 this subsection; or

12 (h) In the case of final payments on highway construction
13 contracts, the secretary of transportation determines that the
14 contractor has failed to properly submit the necessary documents and
15 other submissions required by the contract and other applicable state
16 and federal laws which enable the department of transportation to
17 process the final payment properly and expeditiously.

18 Any time taken to satisfy or rectify any of the types of conditions
19 described in this subsection shall extend the required payment date by
20 an equal period of time.

21 (3) Each state agency has fifteen calendar days after receipt of an
22 invoice by the state agency at its designated payment office to notify
23 the contractor of defects in the delivered goods, property, or
24 services; defects in the invoice; or suspected improprieties of any
25 kind. The existence of any defects or improprieties shall prevent the
26 commencement of the time period specified in subsection (2) of this
27 section. When a state agency fails to notify a contractor of defects
28 or suspected improprieties within fifteen calendar days of receiving
29 the invoice, the number of days allowed for payment of the corrected
30 proper invoice will be reduced by the number of days between the
31 fifteenth day and the day that notification was transmitted to the
32 contractor. If the state agency, in these situations, fails to provide
33 reasonable grounds for its contention that a defect or impropriety
34 exists, the required payment date shall be calculated from the date of
35 receipt of an invoice.

36 (4) Notwithstanding any provision of the public service law or any
37 tariffs promulgated in accordance with the law to the contrary, the

1 provisions of this chapter provide the sole basis for determining and
2 making interest payments on invoices submitted by public utilities to
3 state agencies.

4 (5) A proper invoice submitted by the contractor is required to
5 initiate any payment, except where the contract provides that the
6 contractor will be paid at predetermined intervals without having to
7 submit an invoice for each scheduled payment, in which case the state
8 agency responsible for making the purchase shall submit an approvable
9 voucher to the state treasurer for the payment that is due and, for the
10 purposes of determining eligibility for payment of interest and subject
11 to the exception of time-to-rectify provisions of subsection (2) of
12 this section, the required payment date is the payment due date
13 specified in accordance with the contract.

14 NEW SECTION. **Sec. 4.** Interest payments on amounts due to a
15 contractor according to this chapter shall be paid to the contractor
16 for the period beginning on the day after the required payment date,
17 and ending on the payment date, for those payments required according
18 to this chapter and shall be paid at the rate of interest in effect on
19 the date when the interest payment is made. Notwithstanding any other
20 provision of law to the contrary, the interest rate equals one percent
21 per month.

22 NEW SECTION. **Sec. 5.** (1) Except where federal law or the
23 provisions of section 12 of this act require otherwise, an interest
24 payment required by this chapter shall be paid from the same
25 appropriation from which the related proper invoice is paid.

26 (2) The interest payment shall not reduce the amount of money that
27 otherwise will be payable to the contractor under the terms of the
28 contract, and if the obligation to make an interest payment is incurred
29 in whole or in part because it takes the state treasurer more than
30 twelve calendar days from the date it receives an approvable voucher
31 from another state agency, excluding legal holidays, to process a
32 contract payment, then the portion of the total interest payment that
33 is attributable to delays by the state treasurer shall be paid from
34 funds made available to the state treasurer.

35 (3) Notwithstanding any other provision of law to the contrary, if
36 the amount of money available from any appropriation to the state

1 agency which received the proper invoice is insufficient to pay the
2 interest, and if for any reason it is not feasible for the director of
3 financial management to exercise the transfer or interchange authority,
4 the director of financial management may issue a certificate or
5 certificates transferring or interchanging within a fund the amount
6 needed to pay the interest on the appropriation within the fund from
7 the unspent balance of any appropriation that is available to the same
8 state agency.

9 (4) In exercising the latter transfer or interchange authority, the
10 director of financial management shall transfer or interchange amounts
11 that are not needed to accomplish the purposes for which the
12 appropriation was made, however, the director of financial management
13 may, to the extent deemed practicable, transfer or interchange amounts
14 from appropriations that otherwise would be available for the
15 administration and operations of the state agency which incurred the
16 interest payment.

17 (5) Any certificate or certificates issued by the director of
18 financial management shall be sent to the state treasurer.

19 NEW SECTION. **Sec. 6.** Any interest paid to a contractor under the
20 provisions of this chapter shall not be included as revenue for the
21 purposes of determining any reimbursement rates applicable to a
22 contractor.

23 NEW SECTION. **Sec. 7.** (1) Except as provided in subsection (2) of
24 this section, in the event that an interest payment is made by a
25 contractor in the course of transacting business with any entity other
26 than a state agency, the interest shall not be an obligation of the
27 state, and the state shall not reimburse the contractor for the
28 interest, nor shall any moneys expended for interest payments be
29 counted toward any matching requirement applicable to grants or
30 payments of state funds unless expressly permitted by state law.

31 (2) If a contractor incurs an interest obligation or charge as a
32 direct result of the state agency's failure to make a payment in
33 accordance with the provisions of this chapter, then the state agency
34 must reimburse the contractor for the amount of the interest obligation
35 or charge.

1 (d) Develop and implement a procedure by which the state treasurer
2 notifies contractors expeditiously and directly whenever the state
3 treasurer rejects a voucher and returns it to a state agency.

4 (2) The state treasurer shall submit a report to the governor and
5 the legislature which includes the number and amounts of interest
6 payments made for each state agency, the number of interest chargeable
7 days, the number of days taken to process contract payments, the extent
8 to which delays occurred because a state agency took longer than
9 allotted under the provisions of this chapter to process the affected
10 invoices and the extent to which delays occurred because the state
11 treasurer took longer than allotted by the provisions of this chapter
12 to process the related vouchers, and a summary of the principal reasons
13 causing late payments. The report shall be delivered to the governor
14 and legislature within sixty calendar days after the conclusion of each
15 fiscal year.

16 NEW SECTION. **Sec. 11.** Any determination made by a state agency
17 according to section 3(3) of this act is subject to judicial review.
18 The proceedings shall only be commenced in the absence, or upon
19 completion, of other review procedures specified in the applicable
20 contract or by applicable regulations.

21 NEW SECTION. **Sec. 12.** (1) Notwithstanding any other provision of
22 law to the contrary, the liability of the state treasurer, insofar as
23 incurring an obligation to make an interest payment to a contractor
24 under the terms of this chapter is concerned, shall not extend beyond
25 the date of a notice of intention to file a claim, the date of a notice
26 of a claim, or the date commencing a legal action for the payment of
27 interest, whichever occurs first. Any interest payment owed by the
28 state agency in accordance with the provisions of this chapter as of
29 this date shall be paid as directed by the court, and to the extent
30 that the interest payment is attributable to processing delays caused
31 by the state agency which received the proper invoice or by processing
32 delays caused by the state treasurer, the interest payment shall be
33 made from funds available to the state agency or to the state treasurer
34 at the time of final judgment.

35 (2) With respect to the court actions or other legal processes
36 referred to in this section, any interest obligation incurred by the

1 state agency after the date specified in this chapter, or in accordance
2 with any other provision of law, shall be determined as prescribed by
3 any separate provision of law, shall be paid as directed by the court,
4 and shall be paid from any appropriation available for that purpose.

5 NEW SECTION. **Sec. 13.** The provisions of this chapter shall not
6 apply to payments due and owing by the state:

7 (1) Under the eminent domain procedure law, chapter 8.04 RCW;

8 (2) As interest allowed on judgments rendered by a court according
9 to any provision of law other than those provisions contained in this
10 chapter;

11 (3) To the federal government, to any state agency or its related
12 instrumentalities, to any duly constituted unit of local government
13 including, but not limited to, counties, cities, towns, school
14 districts, special districts, or any of their related
15 instrumentalities, to any public authority or public benefit
16 corporation, or to employees of state agencies when acting in, or
17 incidental to, their public employment capacity;

18 (4) To entities which receive state funds through any intermediary
19 organization other than a state agency; or

20 (5) In situations where the state agency exercises a legally
21 authorized setoff against all or part of the payment due the
22 contractor.

23 NEW SECTION. **Sec. 14.** For the purpose of making a final payment
24 on a highway construction contract, the date to be used for determining
25 the receipt of an invoice in section 3(2) of this act is the date the
26 contract work has been accepted as completed by the secretary of
27 transportation.

28 NEW SECTION. **Sec. 15.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 July 1, 2003.

3 NEW SECTION. **Sec. 17.** This act may be known and cited as the
4 expeditious payment act.

5 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act
6 constitute a new chapter in Title 39 RCW.

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