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SENATE BILL 6416

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State of Washington                      62nd Legislature                      2012 Regular Session

By Senators Chase, Pridemore, Conway, Benton, Kohl-Welles, Kline, Roach, Kastama, Keiser, and Shin

Read first time 01/23/12. Referred to Committee on Labor, Commerce & Consumer Protection.

1            AN ACT Relating to certified payroll records on public works  
2 projects; and amending RCW 39.04.320 and 39.12.040.

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

4            **Sec. 1.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to read  
5 as follows:

6            (1)(a) Except as provided in (b) through (d) of this subsection,  
7 from January 1, 2005, and thereafter, for all public works estimated to  
8 cost one million dollars or more, all specifications shall require that  
9 no less than fifteen percent of the labor hours be performed by  
10 apprentices. Contracts for public works subject to this section must  
11 include a provision requiring a participating contractor or  
12 subcontractor to submit certified payroll records demonstrating proof  
13 of apprentice utilization to the awarding entity.

14            (b)(i) This section does not apply to contracts advertised for bid  
15 before July 1, 2007, for any public works by the department of  
16 transportation.

17            (ii) For contracts advertised for bid on or after July 1, 2007, and  
18 before July 1, 2008, for all public works by the department of

1 transportation estimated to cost five million dollars or more, all  
2 specifications shall require that no less than ten percent of the labor  
3 hours be performed by apprentices.

4 (iii) For contracts advertised for bid on or after July 1, 2008,  
5 and before July 1, 2009, for all public works by the department of  
6 transportation estimated to cost three million dollars or more, all  
7 specifications shall require that no less than twelve percent of the  
8 labor hours be performed by apprentices.

9 (iv) For contracts advertised for bid on or after July 1, 2009, for  
10 all public works by the department of transportation estimated to cost  
11 two million dollars or more, all specifications shall require that no  
12 less than fifteen percent of the labor hours be performed by  
13 apprentices.

14 (c)(i) This section does not apply to contracts advertised for bid  
15 before January 1, 2008, for any public works by a school district, or  
16 to any project funded in whole or in part by bond issues approved  
17 before July 1, 2007.

18 (ii) For contracts advertised for bid on or after January 1, 2008,  
19 for all public works by a school district estimated to cost three  
20 million dollars or more, all specifications shall require that no less  
21 than ten percent of the labor hours be performed by apprentices.

22 (iii) For contracts advertised for bid on or after January 1, 2009,  
23 for all public works by a school district estimated to cost two million  
24 dollars or more, all specifications shall require that no less than  
25 twelve percent of the labor hours be performed by apprentices.

26 (iv) For contracts advertised for bid on or after January 1, 2010,  
27 for all public works by a school district estimated to cost one million  
28 dollars or more, all specifications shall require that no less than  
29 fifteen percent of the labor hours be performed by apprentices.

30 (d)(i) For contracts advertised for bid on or after January 1,  
31 2010, for all public works by a four-year institution of higher  
32 education estimated to cost three million dollars or more, all  
33 specifications must require that no less than ten percent of the labor  
34 hours be performed by apprentices.

35 (ii) For contracts advertised for bid on or after January 1, 2011,  
36 for all public works by a four-year institution of higher education  
37 estimated to cost two million dollars or more, all specifications must

1 require that no less than twelve percent of the labor hours be  
2 performed by apprentices.

3 (iii) For contracts advertised for bid on or after January 1, 2012,  
4 for all public works by a four-year institution of higher education  
5 estimated to cost one million dollars or more, all specifications must  
6 require that no less than fifteen percent of the labor hours be  
7 performed by apprentices.

8 (2) Awarding entities may adjust the requirements of this section  
9 for a specific project for the following reasons:

10 (a) The demonstrated lack of availability of apprentices in  
11 specific geographic areas;

12 (b) A disproportionately high ratio of material costs to labor  
13 hours, which does not make feasible the required minimum levels of  
14 apprentice participation;

15 (c) Participating contractors have demonstrated a good faith effort  
16 to comply with the requirements of RCW 39.04.300 and 39.04.310 and this  
17 section; or

18 (d) Other criteria the awarding entity deems appropriate, which are  
19 subject to review by the office of the governor.

20 (3) The secretary of the department of transportation shall adjust  
21 the requirements of this section for a specific project for the  
22 following reasons:

23 (a) The demonstrated lack of availability of apprentices in  
24 specific geographic areas; or

25 (b) A disproportionately high ratio of material costs to labor  
26 hours, which does not make feasible the required minimum levels of  
27 apprentice participation.

28 (4) This section applies to public works contracts awarded by the  
29 state, to public works contracts awarded by school districts, and to  
30 public works contracts awarded by state four-year institutions of  
31 higher education. However, this section does not apply to contracts  
32 awarded by state agencies headed by a separately elected public  
33 official.

34 (5)(a) The department of (~~general administration~~) enterprise  
35 services must provide information and technical assistance to affected  
36 agencies and collect the following data from affected agencies for each  
37 project covered by this section:

38 (i) The name of each apprentice and apprentice registration number;

- 1 (ii) The name of each project;  
2 (iii) The dollar value of each project;  
3 (iv) The date of the contractor's notice to proceed;  
4 (v) The number of apprentices and labor hours worked by them,  
5 categorized by trade or craft;  
6 (vi) The number of journey level workers and labor hours worked by  
7 them, categorized by trade or craft; and  
8 (vii) The number, type, and rationale for the exceptions granted  
9 under subsection (2) of this section.

10 (b) The department of labor and industries shall assist the  
11 department of ((~~general administration~~)) enterprise services in  
12 providing information and technical assistance.

13 (6) The secretary of transportation shall establish an  
14 apprenticeship utilization advisory committee, which shall include  
15 statewide geographic representation and consist of equal numbers of  
16 representatives of contractors and labor. The committee must include  
17 at least one member representing contractor businesses with less than  
18 thirty-five employees. The advisory committee shall meet regularly  
19 with the secretary of transportation to discuss implementation of this  
20 section by the department of transportation, including development of  
21 the process to be used to adjust the requirements of this section for  
22 a specific project. The committee shall provide a report to the  
23 legislature by January 1, 2008, on the effects of the apprentice labor  
24 requirement on transportation projects and on the availability of  
25 apprentice labor and programs statewide.

26 (7) At the request of the senate labor, commerce, research and  
27 development committee, the house of representatives commerce and labor  
28 committee, or their successor committees, and the governor, the  
29 department of ((~~general administration~~)) enterprise services and the  
30 department of labor and industries shall compile and summarize the  
31 agency data and provide a joint report to both committees. The report  
32 shall include recommendations on modifications or improvements to the  
33 apprentice utilization program and information on skill shortages in  
34 each trade or craft.

35 **Sec. 2.** RCW 39.12.040 and 2009 c 219 s 2 are each amended to read  
36 as follows:

37 (1) Except as provided in subsection (2) of this section, before

1 (~~payment is made by or on behalf of~~) the state, or any county,  
2 municipality, or political subdivision created by its laws, finalizes  
3 a contract for any public work subject to prevailing wage requirements,  
4 (~~of any sum or sums due on account of a public works contract, it~~  
5 ~~shall be the duty of~~) the officer or person charged with the custody  
6 and disbursement of public funds (~~to require~~) must receive from the  
7 contractor and each and every subcontractor (~~from the contractor or a~~  
8 ~~subcontractor to submit to such officer~~) a "Statement of Intent to Pay  
9 Prevailing Wages". For a contract in excess of ten thousand dollars,  
10 the statement of intent to pay prevailing wages shall include:

- 11 (a) The contractor's registration certificate number; and  
12 (b) The prevailing rate of wage for each classification of workers  
13 entitled to prevailing wages under RCW 39.12.020 and the estimated  
14 number of workers in each classification.

15 Each statement of intent to pay prevailing wages must be approved  
16 by the industrial statistician of the department of labor and  
17 industries before it is submitted to said officer. (~~Unless otherwise~~  
18 ~~authorized by the department of labor and industries, each~~) Before the  
19 officer charged with the disbursement of public funds makes any payment  
20 due on a public works contract, the officer must have certified payroll  
21 records from the contractor and any subcontractor receiving part or all  
22 of the disbursement, and the contractor must submit a voucher claim  
23 (~~submitted by a contractor~~) for payment (~~on a project estimate shall~~  
24 ~~state~~) that includes a statement that the prevailing wages have been  
25 paid in accordance with the prefiled statement or statements of intent  
26 to pay prevailing wages on file with the public agency. Following the  
27 final acceptance of a public works project, it shall be the duty of the  
28 officer charged with the disbursement of public funds(~~(7)~~) to require  
29 the contractor and each and every subcontractor from the contractor or  
30 a subcontractor to submit to such officer an "Affidavit of Wages Paid."  
31 Before the funds retained according to the provisions of RCW 60.28.011  
32 are released to the contractor, the officer charged with the  
33 disbursement of public funds must have the affidavit of wages paid and  
34 certified payroll records from the contractor and each and every  
35 subcontractor. Each affidavit of wages paid must be certified by the  
36 industrial statistician of the department of labor and industries  
37 before it is submitted to said officer. Certified payroll records  
38 required under this section must be submitted to the public officer in

1 an electronic format. Upon receipt of certified payroll records, the  
2 public officer must publish the certified records, with social security  
3 numbers redacted, on a publicly accessible database, and forward  
4 unredacted copies of the records to the department of labor and  
5 industries.

6 (2) As an alternate to the procedures provided for in subsection  
7 (1) of this section, for public works projects of two thousand five  
8 hundred dollars or less and for projects where the limited public works  
9 process under RCW 39.04.155(3) is followed:

10 (a) An awarding agency may authorize the contractor or  
11 subcontractor to submit the statement of intent to pay prevailing wages  
12 directly to the officer or person charged with the custody or  
13 disbursement of public funds in the awarding agency without approval by  
14 the industrial statistician of the department of labor and industries.  
15 The awarding agency shall retain such statement of intent to pay  
16 prevailing wages for a period of not less than three years.

17 (b) Upon final acceptance of the public works project, the awarding  
18 agency shall require the contractor or subcontractor to submit an  
19 affidavit of wages paid. Upon receipt of the affidavit of wages paid,  
20 the awarding agency may pay the contractor or subcontractor in full,  
21 including funds that would otherwise be retained according to the  
22 provisions of RCW 60.28.011. Within thirty days of receipt of the  
23 affidavit of wages paid, the awarding agency shall submit the affidavit  
24 of wages paid to the industrial statistician of the department of labor  
25 and industries for approval.

26 (c) A statement of intent to pay prevailing wages and an affidavit  
27 of wages paid shall be on forms approved by the department of labor and  
28 industries.

29 (d) In the event of a wage claim and a finding for the claimant by  
30 the department of labor and industries where the awarding agency has  
31 used the alternative process provided for in subsection (2) of this  
32 section, the awarding agency shall pay the wages due directly to the  
33 claimant. If the contractor or subcontractor did not pay the wages  
34 stated in the affidavit of wages paid, the awarding agency may take  
35 action at law to seek reimbursement from the contractor or  
36 subcontractor of wages paid to the claimant, and may prohibit the  
37 contractor or subcontractor from bidding on any public works contract  
38 of the awarding agency for up to one year.

1 (e) Nothing in this section shall be interpreted to allow an  
2 awarding agency to subdivide any public works project of more than two  
3 thousand five hundred dollars for the purpose of circumventing the  
4 procedures required by ((~~RCW 39.12.040(1)~~)) subsection (1) of this  
5 section.

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