

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Virtual Meeting via Teams

Special Meeting Minutes

January 14, 2026

MEMBERS PRESENT	REPRESENTING	MEMBERS ABSENT	REPRESENTING
Linneth Riley-Hall (<i>Chair</i>)	Transportation	Bobby Forch Jr.	Disadvantaged Businesses
Keith Michel (<i>Vice-Chair</i>)	General Contractors	Senator Bob Hasegawa	Senate (D)
Robert Blain	Counties	Bruce Hayashi	Architects
Garett Buckingham	Public Hospital Districts	Santosh Kuruvilla	Engineers
Lekha Fernandes	OMWBE	John Salinas II	Specialty Contractors
Erin Frasier	Construction Trades Labor	Kara Skinner	Ins./Surety Industry
Janet Jansen (<i>Proxy</i>)	Dept. of Enterprise Services	Rep. Mike Steele	House (R)
Karen Mooseker	School Districts	Rep. Steve Tharinger	House (D)
Heather Munden	Ports	Robynne Thaxton	Private Industry
Mark Nakagawara	Cities	Senator Judy Warnick	Senate (R)
Irene Reyes	Private Industry		
Steven Russo	Specialty Contractors		
Robin Strom	General Contractors	<i>Vacant</i>	Construction Trades Labor
Olivia Yang	Higher Education		

Staff & Guests are listed on the last page

CALL TO ORDER & ROLL CALL FOR QUORUM

Chair Linneth Riley-Hall called the hybrid special meeting of the Capital Projects Advisory Review Board (CPARB) to order at 1:01 p.m. A roll call of members established a meeting quorum.

WELCOME BOARD MEMBERS & INTRODUCTIONS

Chair Riley-Hall welcomed members.

APPROVE AGENDA – *Action*

Irene Reyes moved, seconded by Robert Blain, to approve the agenda as published. A voice vote approved the motion unanimously.

INVITATION FOR PUBLIC COMMENTS – *Information*

Michael Transue, Mechanical Contractors Association of Western Washington (MCAWW), commented on the need to improve the prompt pay system. Most would agree the draft proposal is better than current provisions. The proposal moves the process in the right direction to achieve a positive outcome. As a specialty contractor, there is still a belief of risks associated with slow or non-payment; however, the proposal moves the process in the right direction. He shared his struggle with reading Sections (6) and (7) in the current order and recommended reordering the sections to better reflect that the agreement for commencement of any additional work is the first action to improve the flow of the change order process. Additionally, a question arose as to whether the completion of the additional work is to be authorized by the owner, state, or the municipality. Language is included in Section (7). His suggestion is to ensure “authorization” is added to Section (6) prior to the phrase of “additional work” to ensure clarity that agreement to commence is authorized followed by satisfactory completion of authorized work.

PROMPT PAY LEGISLATION – *Information/Action*

SSB 5176 From 2025

Co-Chair Irene Reyes reported that because of a scheduling conflict, she is presenting the information on behalf of Co-Chair Lekha Fernandes, who has been leading efforts on amendments to the Prompt Payment bill. Part of those efforts included Ms. Fernandes working closely with Senator Valdez’s staff. She conveyed their appreciation and gratitude to all committee members for their time, effort, and dedication to the project. While all members intended to attend every meeting, it is understood that schedules often created conflicts.

Ms. Reyes shared that she participated in the process and identified five goals she wanted to achieve but ultimately compromised with stakeholders and achieved two of the goals, which speaks to the importance of collaboration and compromise. Committee members were exceptional, brilliant, cooperative, and deeply committed to the outcome of achieving the goal of prompt payment with principle guiding the efforts.

The Business Equity/Diverse Business Inclusion (BE/DBI) Committee reviewed proposed changes to bill language aimed at minimizing fiscal impact. Leadership engaged with multiple public owners to discuss and refine the changes. Members also agreed to defer any changes to retainage until next year. Two meetings were convened including a special session to evaluate suggestions and reach consensus. Following the first meeting, all participants received the proposed changes with

an invitation to provide feedback. All input was presented during the second meeting resulting in adjustments to language. Prior to the second meeting, participants received multiple versions of the bill to track revisions. Of those members present, all voted in favor except for three abstentions for additional time for review. Those abstaining were invited to share their comments and/or concerns with the Board during the special meeting.

Vice Chair Michel said that as a member of the committee, he abstained from the vote because he wanted to learn about the collective position of other committee members prior to voting on the proposal. Today, he supports the proposed edits. He acknowledged several written comments and comments offered by Mr. Transue. The feedback from Mr. Transue would improve the flow and clarity of the legislation while not altering the work of the committee.

Bob Armstead shared that he was the third member who abstained primarily because of a desire to listen to the comments about the process and to learn about any proposed future changes. His interest is in learning about the proposal prior to offering additional comments.

Steven Russo echoed similar comments because as a specialty contractor representative, he supports prompt pay and while the proposal improves provisions, the language needs some improvement. For example, his company does not initiate change order work unless a fully executed change order is completed. Performing work and then seeking a change order is unusual. He prefers adding "authorized" within the provision to avoid performance of work prior to receiving a fully executed change order. The process of change orders can often result in a small subcontractor financing the work for a number of months prior to receiving payment. Prompt pay can sometimes be a misnomer as delay in payment is based on contractual timelines that often leads to a delay in payment to smaller companies. Within Section (7), the language speaks to the requirement that a subcontractor or supplier must request a change order from the upper tier contractor 30 days after the commencement. He suggested the provision should be changed to reflect "no later than 30 days." Although, he is not a committee member, he attended many of the meetings because of his interest in prompt pay and believes additional editing is required.

Kimberly Sockle commented that a potential concern that has emerged is the lack of definition and specificity involving the role of the "point of contact." The provisions state that the point of contact would receive written inquiry requiring acknowledgment within five days. The language is not specific in terms of next steps leading to the potential for agencies to interpret the provisions as to what the point of contact might do, which could create the potential of claiming the requirement might create a fiscal impact to the owner. The language is silent in terms of the response necessary to the inquiry necessitating the need to add a definition as to the owner's role.

Chair Riley-Hall acknowledged the importance of the point of **contact** role while cautioning that the detail in the RCW speaks to the degree of detail the Board would want regarding roles and responsibilities.

Lekha Fernandes joined the meeting at 1:21 p.m.

Chair Riley-Hall reviewed prior comments and proposed changes to the bill.

Ms. Fernandes advised that the action requested of the Board is approval of the proposed language. The Board has the option of revising language or making minor adjustments; however, the proposed bill represents a compromise and not everyone will be satisfied. Switching the order of some provisions and adding "authorization" are options available to the Board. She prefers moving the proposal through this legislative session recognizing that some provisions are not perfect. There is always the option of making future changes. The product is the best outcome based on time availability with much input offered to the extent possible.

Chair Riley-Hall thanked Ms. Fernandes for her service as Co-Chair of the BE/DBI Committee. Ms. Fernandes has announced that she is leaving the committee. Previously, the Board has reviewed and suggested edits to proposed bill language. Following the review, the Board either approves or disapproves the proposed bill. She encouraged members to contribute to the conversation and share any concerns that should be addressed or changed.

Lekha Fernandes disconnected from the meeting at 1:34 p.m.

The Board conducted a review of draft Substitute Senate Bill 5176 forwarded from the BE/DBI Committee in draft format with strikeouts and additions with additional written comments from committee members provided to the Board. Additional suggestions from Board members, committee members, and others are designated in yellow highlight throughout the bill:

Sec. 1. RCW 39.04.250 and 1992 c 223 s 5 are each amended to read as follows:

(1) The state or **authorized local government municipality** must make payments on public works projects within 30 days of receipt of a properly completed invoice in accordance with RCW 39.76.011(3). ~~Contractors and subcontractors on public works projects shall be provided with payment and invoicing information in writing prior to the start of the project. Contract documents must include instructions for properly completing an invoice. Contracts must include:~~

- ~~(a). Payment cutoff dates;~~
- ~~(b). Invoice due dates;~~
- ~~(c). Review time frames;~~
- ~~(d). Notice procedures;~~
- ~~(e). Payment timelines, which must include a payment release schedule with dates, if properly completed invoices are received;~~
- ~~(f). Retainage withholding; and~~
- ~~(g). A payment release schedule, which must be included in any contracts made with subcontractors, at every tier, to ensure project payment release expectations are provided for the project.~~

Vice Chair Michel advised that the strikeouts were thoroughly reviewed by committee members as part of intentional adjustments to lessen the specificity of the section in terms of the administrative burden to avoid fiscal impacts. The provisions still require a payment timeline to be identified to all project participants while the language reduces the level of specificity.

(2) The state or **authorized local government municipality shall identify a point of contact that is shared with all contractors and subcontractors for each public works project for written payment inquiries. Acknowledgement of receipt of a written payment or change order inquiry must be provided by the agency within 5 business days.**

Vice Chair Michel indicated the language in red is a new approach for providing an inherent response obligation without specifying a solution. The context of the change identifies an owner point of contact enabling any subcontractor to contact and ask questions about the lack of payment or the status of a payment, etc. The committee thoroughly discussed how the provision might be administered. Essentially, the language speaks to the owner representative required to investigate the situation with other project participants. The language speaks to an acknowledgment that the owner has received an inquiry and is responsible for investigating the request. The committee recommended five days because of the reasonableness of the timeline.

Cathy Robinson, member of the BE/DBI Committee, said she submitted some comments that were not included in the edits because she was unable to attend the last committee meeting. The bill references state and municipalities. Only municipalities are authorized as local governments; however, not all authorized local governments are municipalities. She had recommended including “state or authorized local government.” Ms. Reyes supported the recommendation. In response to Vice Chair Michel’s suggestion to include “public agency” instead, Ms. Robinson said the proposed definition is included in RCW 39.04.10 and that the suggestion was intended to maintain consistency.

Nancy Deakins added that staff would seek an opinion on the proposed change from the Assistant Attorney General while ensuring the change meets the intent of the Board and committee.

~~(2) (3) When payment is received by a contractor or subcontractor for work performed on a public work, the contractor or subcontractor shall pay to any subcontractor not later than ~~(ten)~~ 10 days after the receipt of the payment, amounts allowed the contractor on account of the work performed by the subcontractor, to the extent of each subcontractor's interest therein. If a payment does not adhere to the requirements in subsection (1) of this section, payment is late and the public agency must provide a payment recovery schedule that includes interest in accordance with RCW 39.76.011, unless notice of a good faith dispute has been provided. If the prime contractor does not provide payment to a lower tier subcontractor within 10 days of being paid by the public agency, payment is late and the contractor must provide a payment recovery schedule that includes one percent interest per month accruing on past due amounts owed to every subcontractor as of the date of the late invoice payment.~~

~~((2)) (3) (4) In the event of a good faith dispute over all or any portion of the amount due on a payment from the state or a **authorized local government municipality** to the prime contractor, or from the prime contractor or subcontractor to a subcontractor, then the state or the **authorized local government municipality**, or the prime contractor or subcontractor, may withhold no more than ~~((one hundred fifty)) 100~~ 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.

~~((3))~~ (4) (5) In addition to all other remedies, any person from whom funds, excluding retainage, have been withheld in violation of this section ~~((shall be entitled to receive from))~~ must be paid by the person wrongfully withholding the funds, one percent per month interest accrued for every month ~~((and))~~ or portion thereof that payment including retainage is not made ~~((, interest at the highest rate allowed under RCW 19.52.025))~~. In any action for the collection of funds wrongfully withheld, the prevailing party ~~((shall be))~~ is entitled to disputed costs ~~((of suit))~~ and reasonable attorneys' fees.

(5) (6) No later than 30 days after satisfactory completion of any additional work or portion of any additional work by a contractor, subcontractor, or supplier on a public works project or private construction project, except private residential projects of 12 units or less, and receipt by the owner, state, or municipality of a request from the contractor for issuance of a change order to the contract, the owner, state, or municipality shall issue a change order to the contract for the full dollar amount of the work not in dispute to the contractor. Within 10 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. If the owner, state, or municipality does not issue such a change order within the 30 days, or the contractor or upper-tier subcontractor does not issue a change order to lower-tier subcontractors within 10 days after receipt of the approved change order, interest accrues on the dollar amount of the additional work satisfactorily completed and not in dispute until a change order is issued. The owner, contractor, subcontractor, state, or municipality shall pay their proportionate share of the interest at a rate of one percent per month.

~~(6)~~ (7) No later than 30 days after the agreed authorized commencement of work for any additional work authorization by the owner, state, or authorized local government municipality and a request by a subcontractor or supplier, the contractor must request a change order from the owner, state, or authorized local government municipality. A lower-tier subcontractor or supplier must request a change order from the upper-tier contractor no later than 30 days after the commencement of the authorized additional work and a request from the lower-tier subcontractor. If a contractor or subcontractor has requested the change order from the owner, upper-tier contractor, state, or authorized local government municipality within 30 days of the request from the subcontractor or supplier, the contractor or subcontractor is not liable for any interest on the unpaid dollar amount for any authorized additional work satisfactorily completed and not in dispute if the owner, upper-tier contractor, state, or authorized local government municipality has not issued the requested change order. This section 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.

Vice Chair Michel advised that the strikeouts in Section (3) are addressed later in the bill. The only updated provision in Section (5) is the addition of excluding retainage as there are separate constraints relative to the release of retainage. Additionally, no changes are proposed in Section 6 as most of the changes are relative to last year's bill supported by the committee and the Board.

Talia Baker noted that Section (6) includes references to nine municipalities, which will be updated.

Ms. Deakins noted that Ms. Fernandes recommended adding "agreed commencement" of the work in Section (7).

Steven Russo referred to Section (6) and recommended distinguishing "additional work" by adding "authorized additional work."

Vice Chair Michel recommended not including "agreed" but include "authorized" additional work in any of the pertinent provisions. The Board discussed the frequency of adding "authorized" and agreed to include it for consistency within the provisions.

The Board supported an earlier recommendation to switch the order of Sections (6) and (7).

The Board discussed whether the intent of the provision in new Section (6) is to process any change orders within 30 days. Vice Chair Michel clarified that the provision speaks to change orders processed within 30 days of completion of the additional work. Ms. Deakins noted the language in the section does not speak to processing change orders within 30 days of completion of additional work.

Discussion ensued on the intent of the language in new Section (6) with some members pointing out that there could be occurrences where the timeline could be more or less than 30 days. The provision is typically interpreted as an average

timeline. Others noted that the provision of 30 days is factored on the processing of approved paperwork with other circumstances sometimes occurring. Ms. Deakins noted that the statute speaks to 30 days for a change order for completed work.

Cindy Magruder added that typically, municipalities require approval by city councils for change orders, which could also impact the 30-day timeline.

Ms. Deakins reported the committee offered no changes to Sections (8) or (9).

Mark Nakagawara referred to Section 2 (b) and suggested revising language that addresses payments withheld due to the public body as it infers that a public body could withhold payment. It is important to specify that if payments are improperly withheld due to the public body, interest continues to accrue. The section was revised as follows.

Sect 2.

(b) On written contracts for public works, when part or all of a payment is going to be withheld for unsatisfactory performance or if the payment request made does not comply with the requirements of the contract, the public body shall notify the prime contractor in writing within eight working days after receipt of the payment request stating specifically why part or all of the payment is being withheld and what remedial actions must be taken by the prime contractor to receive the withheld amount. Payments for work where there is no **disagreement** in work or quantity must not be withheld and must follow the payment schedule outlined above. If **undisputed payments** are withheld **due to by** the public body, interest accrues as outlined in subsection (1) of this section, **except on any contract retainage withheld.**

Ms. Deakins referred to written comments from committee member Brenda Nnambi with Sound Transit and recommended following up during finalization of the draft final bill as the comments do not substantially change the legislation because the comments reference corrections or alignment with other provisions or RCWs that could be addressed by the Code Reviser.

Discussion ensued on language addressing the private sector. Frank Lemos explained that Senator Valdez is attempting to address both public and private sector constituents. He suggested not changing any language addressing the private sector. Members agreed to retain the language and acknowledged that the provisions are not pertinent to public works.

Keith Michel moved, seconded by Irene Reyes, to approve the draft version of Substitute Senate Bill 5176 as edited by the BE/DBI Committee and the Board. A voice vote approved the motion unanimously.

Chair Riley-Hall thanked and acknowledged committee and Board members for attending and participating in the discussion.

ADJOURNMENT

Olivia Yang moved, seconded by Irene Reyes, to adjourn the meeting at 2:28 p.m. A voice vote approved the motion unanimously.

Staff & Guests

Bob Armstead, National Assn. of Minority Contractors
John Baker, Sound Transit
Theresa Bauccio, City of Everett
Josh Brown, Department of Enterprise Services
Joshua Browne, Department of Enterprise Services
James Cockburn, Washington Public Ports
Jack Donahue, Maul Foster Alongi
Nancy Deakins, Department of Enterprise Services
Steve Ellis, Association of Washington Cities
Valerie Gow, Puget Sound Meeting Services
Shelly Henderson, Mukilteo School District
Maja Huff, Washington State University
Frank Lemos, LDC Incorporated

Cindy Magruder, University of Washington
Monique Martinez, Department of Enterprise Svcs.
Scott Middleton, MCAWW
Brianna Morin, Association of Washington Cities
Cathy Robinson, University of Washington
Colin Reed, Swinerton
Jon Rose, MRSC
Young-Sang Song, Song Consulting
Leeann Snyder, King County
Kimberly Sockle, Department of Enterprise Services
Andrew Thompson, Granite Construction
Michael Transue, MCAWW
Jerry Vanderwood, AGC