

HOUSE BILL REPORT

SHB 2555

As Passed Legislature

Title: An act relating to authorizing the department of labor and industries to issue subpoenas, but only with respect to enforcement of chapter 19.28 RCW

Brief Description: Authorizing the department of labor and industries to issue subpoenas to enforce production of information related to electricians and electrical installations.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Simpson, Ormsby and Moeller).

Brief History:

Committee Activity:

Commerce & Labor: 1/22/10, 2/2/10 [DPS].

Floor Activity:

Passed House: 2/10/10, 96-0.

Passed Senate: 3/2/10, 32-13.

Passed Legislature.

Brief Summary of Substitute Bill

- Authorizes the Department of Labor and Industries to issue subpoenas to enforce the production and examination of necessary information when there is reason to believe a violation of laws relating to electricians and electrical installations has occurred.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Rebecca Jones (786-5793) and Jill Reinmuth (786-7134).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Labor and Industries (Department) is responsible for licensing electrical contractors and certifying electricians. An electrical contractor license is required for a business to do most electrical work. Certification is required for a worker participating in the electrical construction trade. Violations are subject to a penalty.

The Department may inspect a job site to determine whether electrical contractors and electricians have complied with the requirements for licensing, certification, and installation. The inspector may choose to inspect a particular job site or may be requested by a third party to inspect a particular site.

The Department may audit an electrical contractor's records in order to verify the hours of experience submitted by an electrical trainee to the Department under certain circumstances.

There is no statutory authority for the Director of the Department (Director) to issue subpoenas related to its enforcement activities. However, subpoena authority is given to the Director or the Director's representative in the context of registered contractors to enforce the production and examination of a list of the registered contractors working on the property, contracts between the registered contractor and any suppliers or subcontractors, and any other information necessary to enforce contract registration. The subpoena may only be issued if the contractor fails to provide the information when requested. The superior court may enforce such subpoenas.

Summary of Substitute Bill:

The Director or the Director's representatives are authorized to issue subpoenas to enforce the production and examination of any information needed to enforce the law surrounding electrical installations and electricians if there is reason to believe a violation has taken place.

The subpoena may only be issued if the person to which the electrician and electrical installation law applies fails to provide the requested information.

The subpoena and the request for information must describe the possible violation, cite to relevant law, and explain how the information being requested or subpoenaed is reasonably related to the possible violation.

The superior court is authorized to enforce such a subpoena.

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) This bill is a valuable tool to help the electrical department fight the underground economy and level the playing field for legitimate contractors. The subpoena

authority in this bill is similar to the subpoena authority that the plumbing department already has. This bill is in line with the work of the Underground Economy Task Force because it provides a mechanism to stamp out those who operate their business outside of the law, depriving the state of necessary funds and undercutting safety standards. Contractors who abide by the law self-police, but those who operate outside of the law must be caught red-handed. An inspector must catch the violator in the act. Sometimes inspectors get lucky, but there is a lot of work going on under the radar. This bill is needed in order to enforce existing law. The underground economy is a major threat to businesses competing with those businesses that hire underground workers. Solar work is electrical work, so this bill affects solar businesses as well.

(Available for questions) There is subpoena power under the administrative law courts, but that type of subpoena has not been used in the last 10 years. Before issuing a subpoena under the administrative law court, the Department must be in an appeal before that court. The show cause that is built in to the bill is that there has been a request for information and there has been a failure to respond. This bill would help the Department be more efficient because it promotes cooperation and therefore the Department will get the information needed without having to issue a lot of subpoenas.

(Opposed) No one denies that there are installations that warrant higher levels of scrutiny and enforcement, but this bill is redundant and removes critical protections from the enforcement process. The Department already has subpoena power under the administrative law courts, which carries equal weight to the subpoena authority in this bill and would not be ignored. There is no show cause requirement and no standards for when or how it can be used, yet it concentrates an important power in the hands of few people. The language of the bill would allow the Department to be able to issue subpoena after subpoena until it receives the answers it requested. This bill is not going to accomplish what the Legislature intends it to accomplish.

Persons Testifying: (In support) Mike Grunwald, International Brotherhood of Electrical Workers; Nicole Grant, Certified Electrical Workers of Washington; and Casey Lawrence, Artisan Electric.

(Available for questions) Ron Fuller, Department of Labor and Industries.

(Opposed) Tim Linenbrink.

Persons Signed In To Testify But Not Testifying: None.