

SENATE BILL REPORT

ESSB 5873

As Passed Senate, March 9, 2009

Title: An act relating to apprentice utilization.

Brief Description: Regarding apprenticeship utilization.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kline, Keiser, Hobbs, Marr, Fairley, McAuliffe, Kohl-Welles and Shin).

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/17/09, 2/23/09 [DPS, DNP].

Passed Senate: 3/09/09, 28-18.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5873 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Minority Report: Do not pass.

Signed by Senators Holmquist, Ranking Minority Member; Honeyford and King.

Staff: Mac Nicholson (786-7445)

Background: On state and school district public works projects estimated to cost \$1 million or more, at least 15 percent of the labor hours must be performed by apprentices. Public works contracts awarded by state four-year institutions of higher education and state agencies headed by separately elected officials are exempt from apprentice utilization requirements. Apprentice utilization requirements can be adjusted on projects if there is a demonstrated lack of availability of apprentices in the geographic area, if there is a disproportionately high ratio of material costs to labor hours which does not make utilization requirements feasible, or if participating contractors have demonstrated a good faith effort to comply with utilization requirements.

Contractors bidding on public works contracts must meet responsibility criteria in order to be considered a responsible bidder and qualified to be awarded a public works project. Bidders

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must be registered as a contractor; have a current state unified business identifier number; have industrial insurance, unemployment insurance, and a state excise tax registration number; and not be disqualified from bidding for prevailing wage or contractor registration violations.

Contractors are barred from bidding on public works contracts for one year if the contractor has committed any combination of two of the following violations in a five year period: knowingly misrepresenting payroll or employee hours upon which the industrial insurance premium is based; or engaging in business without having obtained a certificate of industrial insurance coverage.

Summary of Engrossed Substitute Bill: Public works contracts awarded by state four-year institutions of higher education must include apprentice utilization provisions. The apprentice utilization requirements are phased in over a three-year period.

A bidder on a public works project subject to apprenticeship utilization requirements will be disqualified if the bidder was found out of compliance in the one-year period preceding the date of the bid solicitation for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes.

An additional violation is added to the list of violations for which a contractor can be barred from bidding on a public works contract if the contractor commits any combination of two violations in a five-year period. The additional violation is being found out of compliance for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes.

The Washington State Apprenticeship and Training Council must adopt rules addressing due process protections for all parties and must strengthen the accountability for apprenticeship committees approved under chapter 49.04 RCW in enforcing the apprenticeship program standards adopted by the council.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Apprenticeship utilization requirements have increased the number of apprentices in the state. This bill clarifies the original intent of the executive order, which was a craft-by-craft requirement. Its important to recognize that there are 22 different crafts that can be used on any project. It is a natural fit to expand utilization requirements to higher educational facilities just as K-12 schools and the two-year schools have them. There needs to be increased enforcement for violations of apprenticeship programs. This bill provides more opportunities for all apprentices to advance their careers. The existing statute has been effective in ensuring that tomorrow's workforce can learn the

craft, but it does fall short in some aspects. The craft-by-craft requirement would prevent a contractor from fulfilling the utilization requirement using only one craft.

CON: Government apprenticeship utilization mandates are impractical in the real world. It is not possible to meet the craft-by-craft requirement as many crafts don't have approved apprentice programs. Mandated quotas interfere with collective bargaining. The craft-by-craft requirement is not a proper approach as it mandates how contractors do business. Folks in the paving industry have two options to comply with the bill: layoffs or noncompliance. The existing 15 percent requirement should be given the opportunity to run its course. The violations and penalties sections seem excessive. The bill would restrict fair and open bidding, increase costs to taxpayers on public works projects, and would decrease opportunities for minority businesses.

Persons Testifying: PRO: Bob Abbott, Laborers District Council; Bob Markholt, Seattle Vocational Institute Pre-Apprenticeship Construction Training; David Johnson, Washington State Building Trades; Eric Gustafson, Don DeMulling, Iron Workers Local #86; Stacia Jenkins, Western Washington Masons and Plasterers Apprenticeships; William Hayden, IBEW 45, Sound Alliance.

CON: Rick Slunaker, David D'Hondt, Associated General Contractors; Tom Gaetz, Washington Asphalt Pavement Association; Aran Buchan, Associated Builders and Contractors; Mike Purdy, University of Washington; Larry Stevens, Mechanical and Electrical Contractors.