FINAL BILL REPORT
HB 1064

C 164 L 95

Synopsis as Enacted

Brief Description: Correcting unconstitutional provisions relating to resident employees on public works.

Sponsors: Representatives Padden and Appelwick; by request of Law Revision Commission.

House Committee on Law & Justice
Senate Committee on Government Operations

Background: With some exceptions, an existing statute requires a certain percentage of employees on all public works contracts to be Washington residents. RCW 39.16.005 provides in part:

> In all contracts let by the state . . . or any county, city . . . for the erection, construction, alteration, demolition, or repair of any public building . . . or any other kind of public work or improvement, the contractor or subcontractor shall employ ninety-five percent or more bona fide Washington residents as employees where more than forty persons are employed, and ninety percent or more bona fide Washington residents as employees where forty or less persons are employed . . .

The United States Supreme Court and Washington Supreme Court have held that residency requirements are constitutional only if nonresidents constitute a "peculiar source of evil" the legislation is reasonably designed to overcome. Economic protectionism is an insufficient reason for such legislation.

In 1982, the Washington Supreme Court declared this state's public works statute unconstitutional. Laborers Local 374 v. Felton Construction, 98 Wn.2d 121 (1982).

As part of its duties, the Law Revision Commission is directed "[t]o recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the supreme court of the state or the supreme court of the United States." (RCW 1.30.040) The commission recommends repealing the public works laws containing residency requirements.

Summary: Residency requirements for employees on public works contracts are repealed.

A cross-reference to the repealed requirements is removed.

Votes on Final Passage:

House   96 0
Senate   40 0

Effective: July 23, 1995