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## Commerce & Labor Committee

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### ESSB 5873

**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 Summary of Engrossed Substitute Bill

- Extends apprenticeship utilization requirements to public works contracts awarded by institutions of higher education.
- Disqualifies a bidder from being awarded a public works contract if he or she has been found out of compliance for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes, for the one-year period immediately preceding the date of the bid solicitation.

**Hearing Date:** 3/17/09

**Staff:** Alison Hellberg (786-7152)

#### **Background:**

##### Apprenticeship Utilization Requirements.

State agencies under the Governor's authority and school districts must require that apprentices enrolled in state-approved apprenticeship training programs participate in public works projects. The requirement for state agencies was originally established in an executive order issued in 2000, and codified in legislation enacted in 2005. The requirement for school districts was enacted in 2007.

For public works by a state agency under the Governor's authority estimated to cost \$1 million or more, the specifications must require that no less than 15 percent of the labor hours be performed by apprentices enrolled in state-approved apprenticeship training programs.

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*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.*

These apprenticeship utilization provisions apply to public works contracts awarded by state agencies, but not the state Department of Transportation, state four-year institutions of higher education, or state agencies headed by a separately elected public official. (Public works by the state Department of Transportation are subject to slightly different apprenticeship utilization requirements.)

For contracts advertised for bid on or after January 1, 2009, for public works by a school district estimated to cost \$2 million or more, contract specifications must require that no less than 12 percent of the labor hours be performed by apprentices. For contracts advertised for bid on or after January 1, 2010, estimated to cost \$1 million or more, contract specifications must require that no less than 15 percent of the labor hours be performed by apprentices.

Awarding agencies may adjust this apprenticeship utilization requirement for specific projects for the following reasons:

- a demonstrated lack of availability of apprentices in specific geographic areas;
- a disproportionately high ratio of material costs to labor hours;
- a demonstrated good faith effort by participating contractors to comply with the apprenticeship utilization requirement; or
- other criteria the agency director deems appropriate, subject to prior review by the Office of the Governor.

#### Responsible Bidders.

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 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; engaging in business without having obtained a certificate of industrial insurance coverage; committing an infraction under the Contractor Registration Act; or performing work as an unregistered contractor.

#### **Summary of 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:

- For contracts advertised for bid on or after January 1, 2010, for public works by four-year institutions of higher education that are estimated to cost \$3 million or more, the specifications must require that no less than 10 percent of the labor hours be performed by apprentices enrolled in state-approved apprenticeship training programs.
- For contracts advertised for bid on or after January 1, 2011, for public works by four-year institutions of higher education estimated to cost \$2 million or more, the specifications must require that no less than 12 percent of the labor hours be performed by apprentices enrolled in state-approved apprenticeship training programs.

- For contracts advertised for bid on or after January 1, 2012, for public works by four-year institutions of higher education estimated to cost \$1 million or more, all specifications shall require that no less than 15 percent of the labor hours be performed by apprentices enrolled in state-approved apprenticeship training programs.

In order to meet the responsible bidder criteria and qualify to be awarded a public works project, a bidder on a public works subject to the apprenticeship utilization requirements must not have been found out of compliance by the Washington State Apprenticeship and Training Council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes, for the one-year period immediately preceding the date of the bid solicitation.

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.

**Rules Authority:** The Washington State Apprenticeship and Training Council (Council) is required to adopt rules necessary to implement these provisions. The rules must address due process protections for all parties and must strengthen the accountability for apprenticeship committees in enforcing the apprenticeship standards adopted by the Council.

**Appropriation:** None.

**Fiscal Note:** Requested on 3/10/09.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.