
SUBSTITUTE HOUSE BILL 1133

State of Washington**57th Legislature****2001 Regular Session**

By House Committee on Commerce & Labor (originally sponsored by Representatives Carrell, Lantz, Lambert, Hurst, Casada, Morell, Kagi, Marine, Cox, Talcott, Tokuda, Fisher, Bush, Edwards, O'Brien, Darneille, Edmonds, Esser and Haigh)

Read first time . Referred to Committee on .

1 AN ACT Relating to limiting liability for donated labor on
2 community projects; amending RCW 51.12.050 and 51.12.035; and creating
3 a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that government and
6 business partnerships on projects for community improvement can assist
7 communities to preserve historic property and create opportunities for
8 volunteer service. The legislature also recognizes that uncertainty
9 about risks and obligations may deter employers who would otherwise be
10 willing to donate materials and equipment to a community project. The
11 purpose of this act is to encourage participation by establishing clear
12 criteria for determining industrial insurance obligations with respect
13 to donated labor on certain community projects.

14 **Sec. 2.** RCW 51.12.050 and 1977 ex.s. c 350 s 18 are each amended
15 to read as follows:

16 (1) Whenever ((the state, county, any municipal corporation, or
17 other taxing district shall)) a public entity engages in any work, or
18 let a contract therefor, in which workers are employed for wages, this

1 title shall be applicable thereto. The employer's payments into the
2 accident fund shall be made from the treasury of the ((state, county,
3 municipality, or other taxing district)) public entity. If the work is
4 being done by contract, the payroll of the contractor and the
5 subcontractor shall be the basis of computation and, in the case of
6 contract work consuming less than one year in performance, the required
7 payment into the accident fund shall be based upon the total payroll.
8 The contractor and any subcontractor shall be subject to the provisions
9 of this title, and the state for its general fund, the county,
10 municipal corporation, or other taxing district shall be entitled to
11 collect from the contractor the full amount payable to the accident
12 fund and the contractor, in turn, shall be entitled to collect from the
13 subcontractor his or her proportionate amount of the payment.

14 (2)(a) A public entity may seek partnerships with volunteer groups
15 and businesses to engage in community improvement projects to benefit
16 the public entity. In administering a project, the public entity must:

17 (i) Provide prospective donors and participants written notice of
18 the risks and responsibilities to be assumed by the public entity and
19 the donors or participants. A volunteer donating labor on the project
20 must, before beginning work, document in writing that he or she has
21 received the notice and that he or she is donating labor as a result of
22 his or her own free choice; and

23 (ii) Pay premiums and assessments required under this title to
24 secure medical aid benefits under chapter 51.36 RCW for volunteers
25 donating labor on the project.

26 (b) A contractor or employer donating equipment or materials for
27 use on a community improvement project shall not, for the purposes of
28 this title, be considered the employer of an individual donating labor
29 unless the contractor or employer pays the individual wages for working
30 on the project or makes working on the project a condition of
31 employment. This subsection applies regardless of whether:

32 (i) The contractor or employer informs the individual about the
33 community improvement project or encourages the individual to donate
34 labor on the project;

35 (ii) The individual uses equipment or materials on the project that
36 are donated by the contractor or the individual's employer; or

37 (iii) The individual is granted maintenance or reimbursement for
38 actual expenses necessarily incurred in performing labor for the
39 project.

1 (3) Whenever and so long as, by state law, city charter, or
2 municipal ordinance, provision is made for employees or peace officers
3 injured in the course of employment, such employees shall not be
4 entitled to the benefits of this title and shall not be included in the
5 payroll of the municipality under this title: PROVIDED, That whenever
6 any state law, city charter, or municipal ordinance only provides for
7 payment to the employee of the difference between his or her actual
8 wages and that received under this title such employees shall be
9 entitled to the benefits of this title and may be included in the
10 payroll of the municipality.

11 (4) The definitions in this subsection apply throughout this
12 section, unless the context clearly requires otherwise.

13 (a) "Community improvement project" means a project sponsored by a
14 public entity that uses donated labor, materials, or equipment and
15 includes, but is not limited to, projects to repair, restore, or
16 preserve historic property.

17 (b) "Historic property" means real property owned by a public
18 entity including, but not limited to, barns, schools, military
19 structures, and cemeteries.

20 (c) "Public entity" means the state, county, any municipal
21 corporation, or other taxing district.

22 **Sec. 3.** RCW 51.12.035 and 1981 c 266 s 3 are each amended to read
23 as follows:

24 (1) Volunteers shall be deemed employees and/or workers, as the
25 case may be, for all purposes relating to medical aid benefits under
26 chapter 51.36 RCW.

27 A "volunteer" shall mean a person who performs any assigned or
28 authorized duties for the state or any agency thereof, except emergency
29 services workers as described by chapter 38.52 RCW, brought about by
30 one's own free choice, receives no wages, and is registered and
31 accepted as a volunteer by the state or any agency thereof, prior to
32 the occurrence of the injury or the contraction of an occupational
33 disease, for the purpose of engaging in authorized volunteer service:
34 PROVIDED, That such person shall be deemed to be a volunteer although
35 he or she may be granted maintenance and reimbursement for actual
36 expenses necessarily incurred in performing his or her assigned or
37 authorized duties.

1 Any and all premiums or assessments due under this title on account
2 of such volunteer service shall be the obligation of and be paid by the
3 state or any agency thereof which has registered and accepted the
4 services of volunteers.

5 (2) Except as provided in RCW 51.12.050, volunteers may be deemed
6 employees and/or workers, as the case may be, for all purposes relating
7 to medical aid benefits under chapter 51.36 RCW at the option of any
8 city, county, town, special district, municipal corporation, or
9 political subdivision of any type, or any private nonprofit charitable
10 organization, when any such unit of local government or any such
11 nonprofit organization has given notice of covering all of its
12 volunteers to the director prior to the occurrence of the injury or
13 contraction of an occupational disease.

14 A "volunteer" shall mean a person who performs any assigned or
15 authorized duties for any such unit of local government, or any such
16 organization, except emergency services workers as described by chapter
17 38.52 RCW, or fire fighters covered by chapter 41.24 RCW, brought about
18 by one's own free choice, receives no wages, and is registered and
19 accepted as a volunteer by any such unit of local government, or any
20 such organization which has given such notice, for the purpose of
21 engaging in authorized volunteer services: PROVIDED, That such person
22 shall be deemed to be a volunteer although he or she may be granted
23 maintenance and reimbursement for actual expenses necessarily incurred
24 in performing his or her assigned or authorized duties: PROVIDED
25 FURTHER, That juveniles performing community services under chapter
26 13.40 RCW may not be granted coverage as volunteers under this section.

27 Any and all premiums or assessments due under this title on account
28 of such volunteer service for any such unit of local government, or any
29 such organization shall be the obligation of and be paid by such
30 organization which has registered and accepted the services of
31 volunteers and exercised its option to secure the medical aid benefits
32 under chapter 51.36 RCW for such volunteers.

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