

HOUSE BILL REPORT

ESHB 1050

As Passed Legislature

Title: An act relating to expanding apprenticeship utilization requirements.

Brief Description: Expanding apprenticeship utilization requirements.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Riccelli, Berry, Simmons, Ryu, Goodman, Reed, Ramel, Lekanoff, Pollet, Street, Doglio, Donaghy, Wylie, Santos, Ormsby and Fosse).

Brief History:

Committee Activity:

Capital Budget: 1/19/23, 2/20/23 [DPS].

Floor Activity:

Passed House: 2/28/23, 58-39.

Senate Amended.

Passed Senate: 3/31/23, 30-18.

House Refused to Concur.

Senate Receded.

Senate Amended.

Passed Senate: 4/20/23, 29-18.

House Concurred.

Passed House: 4/20/23, 57-38.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Requires public works contracts awarded by a municipality estimated to cost more than \$2 million to include specifications that no less than 15 percent of the labor hours be performed by apprentices.
- Phases in lower contract thresholds for apprenticeship utilization requirements for public works contracts awarded by municipalities through July 1, 2028.

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

- Requires the Department of Labor and Industries to study and report on public works project outcomes related to apprenticeship utilization requirements, access to apprentices, and participation by small, women, minority, and veteran-owned businesses.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; Sandlin, Assistant Ranking Minority Member; Alvarado, Bateman, Dye, Farivar, Fosse, Kloba, Leavitt, Morgan, Orwall, Peterson, Reed, Rule, Shavers and Stearns.

Minority Report: Without recommendation. Signed by 9 members: Representatives Cheney, Christian, Couture, Eslick, Maycumber, McClintock, McEntire, Mosbrucker and Waters.

Staff: Kelci Karl-Robinson (786-7116).

Background:

The Washington State Apprenticeship and Training Council, which is part of the Department of Labor and Industries (L&I), establishes apprenticeship program standards, approves apprenticeship training programs, and otherwise governs the programs.

Public works that are estimated to cost \$1 million or more must require that at least 15 percent of the labor hours be performed by apprentices enrolled in approved apprenticeship training programs. This requirement applies to public works contracts awarded by state agencies, school districts, and four-year institutions of higher education. It does not apply to agencies that are headed by a separately elected official. For public works by the Department of Transportation (DOT), the requirement applies to public works estimated to cost \$2 million or more.

Awarding entities may adjust the apprentice 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 apprentice utilization requirement; or
- other criteria the entity deems appropriate, subject to review by the Office of the Governor.

The awarding entity of the public work contract, within existing resources, must monitor contractor and subcontractor apprenticeship hours. Contracts must specify that apprenticeship utilization goals should be met, monetary incentives for meeting the goals, monetary penalties for not meeting the goals, and an expected cost value included in the bid associated with meeting the goal. The contractor must report any noncompliance no later than the final project acceptance to L&I.

Contractors may be disqualified from bidding on public works if they have been found to be out of compliance with certain apprentice requirements.

A public work means all work, construction, alteration, repair, or improvement that is executed at the cost of the state or a local public agency.

A municipality includes every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work, except districts associated with drainage, diking, irrigation, or reclamation of undeveloped land.

Summary of Engrossed Substitute Bill:

Apprenticeship utilization requirements are applied to public works contracts awarded by municipalities and phased in through July 1, 2028. Beginning July 1, 2024, public works contracts awarded by a municipality estimated to cost more than \$2 million must require no less than 15 percent of the labor hours be performed by apprentices. Beginning July 1, 2026, and until July 1, 2028, apprenticeship utilization requirements apply to public works contracts estimated to cost over \$1.5 million. Beginning July 1, 2028, apprenticeship utilization requirements apply to public works contracts estimated to cost over \$1 million. Municipalities are added to the existing laws related to apprenticeship utilization, including:

- allowing awarding entities to adjust the apprenticeship utilization requirements for a specific project for certain reasons;
- requiring awarding entities to, within existing resources, monitor apprenticeship utilization hours by contractor and requiring awarding entities to report the apprenticeship utilization by contractor to L&I; and
- requiring contracts to include goals and monetary incentives for meeting the goals and penalties for not meeting the goals.

Public housing authorities are exempted from the apprenticeship utilization requirements. Subsections that have expired are removed. L&I, instead of the Department of Enterprise Services (DES), is responsible for collecting data, providing information and technical assistance on apprenticeship utilization reporting. The DES continues to provide sample contract language and contract administration advice.

L&I and the Municipal Research and Services Center must provide training, information, and ongoing technical assistance to municipalities to comply with apprenticeship utilization requirements. Training must include reporting requirements, sample contract language, and

best practices on adopting apprenticeship guidelines, including ensuring compliance related to a contractor that seeks a good faith waiver.

Any apprenticeship utilization standards established by local law or ordinance that are more favorable to apprentices remain in effect.

L&I must study and report on public works project outcomes related to apprenticeship utilization requirements, access to apprentices, and participation by small, and women-, minority-, and veteran-owned businesses. At a minimum, the study and report must:

- delineate by project size and type of awarding entity, including the DOT, school districts, four-year institutions of higher education, and municipalities. Project data for municipalities, if any, must be delineated by type of municipality;
- include total project cost, total labor costs, the ratio of labor costs to total costs, apprentice hours worked by craft and percent of total hours worked, cost savings or increases from utilizing apprentices, number of projects achieving and not achieving apprentice utilization requirements, number of projects waiving apprentice utilization requirements for good faith efforts or other criteria deemed appropriate by the awarding agency with the reasons for the waivers, and the number and percentages of women-, minority-, and veteran-owned businesses as prime contractors or subcontractors and whether they utilized apprentices;
- include, by craft, the number and service area of construction apprenticeship programs, the number of training agents, and the number of construction apprentices;
- identify the number of small, and women-, minority-, and veteran-owned businesses performing work on public works projects as a prime contractor or subcontractor, and utilization of apprentices on those projects, and provide information on how small, and women-, minority-, and veteran-owned businesses may access apprentices on public works projects and examine any barriers to registered apprenticeship and apprentices. The analysis should include project data and consultation with the Office of Minority and Women's Business Enterprises and women-, minority-, and veteran-owned businesses;
- identify and analyze existing applications of apprenticeship utilization requirements by municipalities and for subcontractors beyond current apprenticeship utilization requirements;
- include recommendations and best practices for increasing apprenticeship utilization and supporting women, minority, and veteran-owned businesses in accessing apprentices; and
- include recommendations and best practices for extending apprenticeship utilization requirements to subcontractors.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 18, 2023.

Effective Date: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) The goal is to expand statewide a successful ordinance that went into effect in Spokane in 2015. The apprenticeship requirements will assist the state in attracting the next generation of skilled workers. There is a need to balance building the workforce along with bringing projects to fruition. Individuals are completing their apprenticeship programs more quickly in Spokane than in other counties without the requirement. Spokane is seeing an increase in applicants into the trades as a result. The bill would bring continuity across the state. Individuals will be able to find jobs in the building trades in their local communities. The skilled construction workforce need is increasing as a result of retirements. It takes years to earn a skill in a trade and apprenticeships are the best way to build a skilled workforce. A skilled construction workforce is necessary to build Washington's critical infrastructure, such as schools, roads, and hospitals. High school graduates who do not want to go to college should have the opportunity to attend a registered apprenticeship program and enter a trade. The bill assists the state in meeting the transportation project workforce needs and climate goals. Apprenticeships are a partnership between employers and workers and leads to private investment in the state's workforce development system. Extending the requirement to municipalities increases apprenticeship opportunities in local communities. Often times, general contractors employ carpenters and laborers directly and subcontract with all the other trades. By not including subcontractors, the other trades such as plumbers, electricians, tile workers, and sheet metal workers are left out. Certain trades are not using apprenticeships as a result of the calculation being on the overall contract, not the individual trades. Extending the requirement to subcontracts will extend on-the-job training to multiple crafts. Apprentices make a portion of the journey worker's prevailing wage, so it results in lower costs. Apprenticeships lead to living wages, health care, and retirement. State taxpayer dollars will invest in the future workforce to help people build the skills needed to achieve life-changing careers. Apprenticeships lead to consistent wage increases if the individual is able advance, which requires on-the-job training. An apprenticeship led to a career that improved the quality of life for myself and my children. Apprenticeship programs allow more workers to provide for their families and give back to their communities. Oregon requires a 12 percent apprenticeship utilization requirement at the contractor and subcontractor levels. Apprenticeships should come from a state accredited program.

(Opposed) Apprenticeship programs can be a great tool for workforce development. The bill restricts open shop contractors from bidding on public works. The bill mandates more apprenticeship utilization before increasing access to apprenticeship programs. In order to use apprentices, a contractor or subcontractor has to be a training agent with an approved apprenticeship program. The process to approve programs is broken and inefficient. Without more approved programs, this requirement will suppress the labor market and drive up the cost of construction.

(Other) Subcontractors should meet their own apprenticeship goals, and there should be enforceable contract language to achieve that outcome. There is a lack of clarity on whether

all subcontractor hours are calculated in the apprenticeship requirement or just those subcontractors with contracts over the \$200,000 threshold. The threshold should be increased or the bill should be changed to include a minimum number of employees. Clarity is needed so that general contractors are not liable when subcontractors are out of compliance. L&I needs an additional six months to update the system to capture the increased data reporting. Some cities already have successful apprenticeship programs, yet there is difficulty finding apprentices, which could be compounded by this bill. Apprenticeships are important to creating a workforce pipeline. Smaller jurisdictions struggle to find contractors. There are technical concerns related to retroactivity of the bill. Clarity is needed on whether the \$200,000 requirement applies to the million threshold or not. The cost of materials would make up a large portion of the \$200,000 minimum, and that should be replaced with 2,000 labor hours instead. Journeymen have to supervise an apprentice, which may not be possible with smaller projects.

Persons Testifying: (In support) Representative Marcus Riccelli, prime sponsor; Luis Licea, Northwest Laborers Employers Training Trust; Erin Frasier, Washington State Building and Construction Trades Council; Joe Kendo, Washington State Labor Council; Chris Ellis, Bricklayers and Allied Craftworkers Local 1; Matt Chapman, Ironworkers Local 14; Brian Walter, Sheet Metal Workers Local 55; Lorne Bulling, Ironworkers Local 29; Nicole Grant, International Brotherhood of Electrical Workers Local 46; Michael Wright, Operative Plasterers' and Cement Masons' International Association Local 72; and Sheldon Bennett, Anthony Edwards and Julian Jensen, Southwest Mountain States Regional Council of Carpenters.

(Opposed) Sophia Steele, Associated Builders and Contractors.

(Other) Jerry VanderWood, Associated General Contractors; Cheryl Stewart, Inland Northwest Associated General Contractors; Tammy Fellin, Labor and Industries; Brandy DeLange, Association of Washington Cities; Chris Herman, Washington Public Ports Association; and Michael Transue, Mechanical Contractors Association of Western Washington.

Persons Signed In To Testify But Not Testifying: None.