

# HOUSE BILL REPORT

## ESHB 1050

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### As Amended by the Senate

**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.

#### **Brief Summary of Engrossed Substitute Bill**

- Requires public works contracts awarded by a municipality that cost more than \$1 million to include specifications that no less than 15 percent of the labor hours be performed by apprentices.
- Requires municipalities to monitor and report their apprentice utilization hours by contractor and subcontractor.

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### 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,

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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, 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:**

Public works contracts awarded by a municipality that cost more than \$1 million must require no less than 15 percent of the hours be performed by apprentices. The contracts must include goals and monetary incentives and penalties for meeting the goals. Municipalities, within existing resources, must monitor and report apprentice utilization hours by contractor and subcontractor. Municipalities may adjust the requirements for a specific project based on criteria the municipality deems appropriate. The criteria are subject to review from the municipality's legislative authority. Any local laws or ordinances that are more favorable to apprentices than the new requirements shall remain in effect.

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. No contractor or subcontractor is accountable for or vicariously liable for the failure of any other contractor or subcontractor to comply with the apprenticeship utilization requirements.

### **EFFECT OF SENATE AMENDMENT(S):**

#### The Senate amendment:

1. phases in the apprenticeship utilization requirements for municipalities, with the requirements applying to contracts of more than \$2 million until July 1, 2026; contracts of more than \$1.5 million from July 1, 2026, until July 1, 2028; and contracts of more than \$1 million after July 1, 2028;
2. requires L&I and the Municipal Research and Services Center to provide training and technical assistance to municipalities to comply with apprenticeship utilization requirements; and requires the training to include reporting requirements, contract administration, and best practices regarding adopting apprenticeship guidelines; and
3. requires L&I to conduct a study on public works project outcomes related to apprenticeship utilization requirements, access to apprentices, and participation by women, minority, and veteran-owned businesses. The types of data, analyses, and recommendations the study must include are specified. The report to be submitted to the Office of Financial Management and the Legislature is due by December 1, 2025.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 31, 2023.

**Effective Date:** The bill takes effect on July 1, 2024.

**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.