

SENATE BILL REPORT

ESHB 1050

As Passed Senate - Amended, April 20, 2023

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

Committee Activity: Labor & Commerce: 3/13/23, 3/23/23 [DP, DNP, w/oRec].

Floor Activity: Passed Senate - Amended: 3/31/23, 30-18; 4/20/23, 29-18.

Brief Summary of Bill (As Amended by Senate)

- 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.
- 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.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; Robinson

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.

and Stanford.

Minority Report: Do not pass.

Signed by Senators Braun and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators King, Ranking Member; MacEwen.

Staff: Jarrett Sacks (786-7448)

Background: Public works 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 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 the Department of Labor and Industries (L&I).

Municipality means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or other districts authorized by law for the reclamation or development of waste or undeveloped lands.

Summary of Amended 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 exempt from the apprenticeship utilization requirements. L&I, rather than the Department of Enterprise Services (DES), must provide information and technical assistance to affected agencies and municipalities, and collect specified apprenticeship utilization data. DES must make sample contract language available and provide 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, same 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, women, minority, and veteran-owned businesses. At a minimum, the study and report must:

- delineate by project size and type of awarding entity, including 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, 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, 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.

The report must be submitted to the Office of Financial Management and specified committees of the Legislature by December 1, 2025.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The bill will help create a more diverse and local workforce and will create job placements for apprentices. The bill should add the subcontractor language back into the bill because that makes them responsible for their own part of the project. We must create new opportunities for apprenticeships to improve workforce.

CON: The substitute version of the bill is better because the current bill has an expansion of requirements but no uniformity. The substitute version had specific language making the general contractor not liable for another contractor's non-compliance. The bill mandates more utilization but does not increase access to apprenticeship programs. There are not enough programs to meet the demand.

OTHER: There should only be one threshold for apprenticeship utilization at \$2 million. It is difficult to meet utilization goals on smaller projects and it is difficult for smaller jurisdictions to get responsive bids. There is no pathway for success for smaller ports that do not currently have apprenticeship utilization requirements.

Persons Testifying: PRO: Representative Marcus Riccelli, Prime Sponsor; Erin Frasier, Washington State Building & Construction Trades Council; Matt Chapman, Ironworkers; Scott Tennant; Heather Kurtenbach, Ironworkers Local 86; Chris Ellis, Bricklayers & Allied Craftworkers Local 1; Brandy DeLange, Association of Washington Cities; Matthew Hepner, IBEW/ceww.

CON: Jerry VanderWood, Associated General Contractors (AGC); Sophia Steele, Associated Builders and Contractors.

OTHER: Axel Swanson, Washington State Association of County Engineers; Chris Herman, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: No one.