

HOUSE BILL REPORT

HB 1065

As Reported by House Committee On:
Commerce & Labor
Capital Budget

Title: An act relating to apprenticeship utilization requirements on public works projects.

Brief Description: Establishing apprenticeship utilization requirements for public works projects.

Sponsors: Representatives Conway, Kenney, Wood, Hudgins, McCoy, Sullivan and Simpson.

Brief History:

Committee Activity:

Commerce & Labor: 1/30/03, 2/26/03 [DPS];
Capital Budget: 3/6/03, 3/7/03 [DP2S(w/o sub CL)].

Brief Summary of Second Substitute Bill

- Requires that specifications for public works done by state agencies require that apprentices enrolled in state-approved apprenticeship training programs participate in the projects at specified levels.
- Requires awarding agencies to adjust apprentice utilization requirements for specified reasons.
- Modifies the dates applicable to apprentice utilization requirements to be consistent with the dates in the Governor's executive order on apprentice utilization.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins, Kenney and McCoy.

Minority Report: Do not pass. Signed by 4 members: Representatives Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse and Holmquist.

Staff: Jill Reinmuth (786-7134).

Background:

Public Works

Public works projects are work, construction, alteration, repair, or improvements, other than regular maintenance, that are done for state agencies or local governments. Depending on a number of factors, public works projects may be performed by public employees or contracted out to be performed.

Apprenticeship Training Programs

A six-member apprenticeship council is appointed by the Director of the Department of Labor and Industries, composed of three members from employer organizations and three members from labor organizations. Members serve three-year staggered terms of office. The apprenticeship council establishes standards for apprenticeship training programs, adopts rules related to the programs, and approves the programs.

Apprentice Utilization

Under Executive Order 00-01, Governor Locke directed state agencies under his authority to require that apprentices enrolled in state-approved apprenticeship training programs participate in public works projects as follows:

- Ten percent of total labor hours for contracts of more than \$2 million awarded from July 1, 2000, through December 31, 2002;
- Twelve percent of total labor hours for contracts of more than \$2 million awarded from January 1, 2003, through December 31, 2003; and
- Fifteen percent of total labor hours for contracts of more than \$1 million awarded from January 1, 2004, forward.

The Governor permitted agency directors to adjust these requirements 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 requirements of Executive Order 00-01; or
- Other criteria the agency director deems appropriate, subject to prior review by the

Office of the Governor.

Under local ordinances or policies, certain public works contracts let by the City of Seattle, the City of Tacoma, the Port of Seattle, and King County also must require utilization of apprentices.

Summary of Substitute Bill:

Requirements for apprentice utilization in public works projects and reasons for adjusting the requirements, as set forth in Governor Locke's Executive Order, are codified.

Requirements for Apprentice Utilization

All specifications for public works done by certain state agencies and higher education institutions must require that apprentices enrolled in state-approved apprenticeship training programs participate in the projects as follows:

- No less than 10 percent of total labor hours for contracts estimated to cost \$2 million or more from July 1, 2003, through December 31, 2003;
- No less than 12 percent of total labor hours for contracts estimated to cost \$2 million or more from January 1, 2004, through December 31, 2004; and
- No less than 15 percent of total labor hours for contracts estimated to cost \$1 million from January 1, 2005, forward.

Contractors must make reasonable efforts to apply the requirements so that the appropriate percentage of labor hours is performed by apprentices within each craft or trade.

Adjustments to Utilization Requirements

Awarding agencies shall adjust the apprentice utilization requirements for specific projects if a bidder asserts one of 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 requirements; or
- Other criteria the awarding agency director deems appropriate.

Awarding agency directors that dispute the validity of the asserted reason must establish the invalidity of that reason.

Reporting Requirements

The Department of General Administration must collect certain data on covered projects from affected agencies and make annual reports to certain legislative committees. The Department of Labor and Industries must provide information on skill shortages in each trade or craft to certain legislative committees.

Substitute Bill Compared to Original Bill:

The apprentice utilization requirements apply to public works done by state agencies and higher education institutions, but not state agencies headed by a separately elected public official, the Department of Transportation, or local governments. Contractors must make reasonable efforts to apply the requirements so that the appropriate percentage of labor hours is performed by apprentices within each separate craft or trade. Reasons for adjusting the requirements are the reasons listed in the original bill and because participating contractors have demonstrated a good faith effort to comply with the requirements. Awarding agency directors are required to adjust the requirements if a bidder asserts one of these reasons. Awarding agency directors that dispute the validity of the asserted reason must establish the invalidity of that reason. Contractors and subcontractors are not required to provide monthly payroll reports to the awarding agencies. The failure to comply may not be considered evidence bearing on a contractor's qualification for award of future contracts. The Department of General Administration must provide information and technical assistance to affected agencies, collect certain data on covered projects from those agencies, and make annual reports to certain legislative committees. The Department of Labor and Industries must provide information on skill shortages in each trade or craft to certain legislative committees.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The Governor's executive order should be expanded to include all state agencies. Apprenticeship is the most effective and underutilized workforce training program in the state. A highly-skilled workforce is essential to the state's economic vitality. Apprenticeship is essential for a skilled workforce in the building trades. We need skilled work, especially on projects funded with tax dollars. Training for high-wage jobs like these can transform lives. Apprenticeships open doors to the trades and helps

citizens earn a living wage.

Using apprentices on public works projects is key to competitively bidding for such projects. Other cities, counties, and school districts have used apprentice utilization programs. Large public projects like the King County Justice Center and Seahawk Stadium have successfully implemented such requirements.

Concerns about an insufficient supply of apprentices are unfounded. On the Yakima Firing Range project, apprentice utilization goals were far exceeded. People are turned away from apprenticeship programs because there are insufficient jobs for them. This bill will make more work available to them. The slowdown in the economy is an important opportunity to get ready and address the skills gap of the future.

State law requires that apprenticeships be open to everyone, both union and non-union.

Testimony Against: (Opposed) The construction industry is not opposed to training. This bill is not the executive order. It mandates the same requirements for a wide variety of projects. It does not have the same degree of flexibility that other programs have had. This bill sets quotas rather than goals, and imposes the requirements by craft rather than by job. It requires excessive documentation and reporting. Don't collect data to tell us what we already know. Noncompliance could result in debarment, even for the lowest responsible bidders.

There are not enough apprentices and not enough training programs to meet these quotas. This bill does nothing to address the problem of a sufficient supply of qualified apprentices.

The construction industry is contracting. There is already a surplus of skilled workers. Contractors may be forced to lay off skilled workers to hire apprentices to meet apprentice utilization requirements. In some contexts, like asphalt paving, there is no room to artificially increase labor costs on public works projects. The bill is not necessary because the market will encourage apprenticeship when the economy recovers.

The construction industry is still working on parity for open shop contractors. The federal audit of the apprenticeship program prompted changes to laws and rules, but there is still discrimination against open shop contractors.

Testified: (In support) Roger Boatwright, Washington State Building and Construction Trades Council; Randy Loomans, Washington State Labor Council; Kevin Koester, Iron Workers Local 86; John Little, Seattle-King County Building and Construction Trades Council; Evelyn O'Conner, apprentice carpenter; Jennifer Coyle, apprentice carpenter and Carpenters Local 502; Don McLeod and Dave Johnson, Iron Workers and Laborers Local 252; Bob Abbott, Washington and Northern Idaho District Council of Laborers;

Robert Elliott, Regional Council of Carpenters; and Lonnie Wangen, Pile Drivers Local 2396.

(Neutral) Tom Baker and Marvin Jenkins, Department of Transportation.

(With concerns) Peter Guzman, City of Tacoma.

(Opposed) Rick Slunaker, Associated General Contractors and Washington Construction Industry Council; Tom Gaetz, Mowat Construction Company; Chris Buchanan, Charter Construction, Inc.; David Spivey, Asphalt Pavement Association; David Gent, ICON Materials; Tom Dikeman, Wilder Construction Company; Timothy Lee, Lakeside Industries; Kathleen Garrity, Associated Builders and Contractors of Western Washington and Washington Electrical Contractors Association; Steve Cofchin, Air Systems Engineering; Don Backstrom, Backstrom Curb and Sidewalk; Jake Jacobsen, Osborne Construction Company; Paulo Da Cruz, Northwest Erosion Control Inc.; and Gary Smith, Independent Business Association.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Labor. Signed by 13 members: Representatives Dunshee, Chair; Hunt, Vice Chair; Blake, Chase, Flannigan, Kirby, Lantz, McIntire, Morrell, Murray, O'Brien, Simpson and Veloria.

Minority Report: Without recommendation. Signed by 10 members: Representatives Alexander, Ranking Minority Member; Priest, Assistant Ranking Minority Member; Armstrong, Benson, Bush, Hankins, Hinkle, Newhouse, Orcutt and Schoesler.

Staff: Marziah Kiehn-Sanford (786-7349).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Commerce & Labor:

All specifications for public works done by certain state agencies and higher education institutions must require that apprentices enrolled in state-approved apprenticeship training programs participate in the projects as follows:

- No less than 12 percent of total labor hours for contracts estimated to cost \$2 million or more from July 1, 2003, through December 31, 2003; and
- No less than 15 percent of total labor hours for contracts estimated to cost \$1 million from January 1, 2004, forward.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: State public works projects are a significant part of economic recovery and apprenticeship programs. A highly skilled workforce is also essential to the state's economic vitality. This program will put skilled workers on public projects funded with tax dollars.

Testimony Against: The bill is a mandate and is overly intrusive into the construction business. Costs will be added to projects and as a result will diminish the bidding pool. This type of requirement has already caused some contractors to withdraw on bidding from public projects. The impact on the private sector is that applicants drawn into public projects will not be available for private programs. The requirements are counterproductive. There will be greater gains through offering incentives rather than making the program mandatory. Mandatory programs impose unnecessary costs. The bill is exclusionary and inflationary. More effort should be made to rechannel efforts to create more work for everyone and not just a single, selected group.

Testified: (In support) Roger Boatwright, Washington State Building and Construction Trades Council; and Bob Abbott, Washington and Northern Idaho District Council of Laborers.

(Opposed) Rick Slunaker, Associated General Contractors and Washington Construction Industry Council; Wilf Wainhouse, Contractor and Associated General Contractors; Kurt Hildebrand, contractor and Associated General Contractors; Hank Stamschror, Mountain State Construction Company; Doug Slager, Harmsen & Associates Inc.; and Tim Layton, Associated Builders and Contractors.