

SENATE BILL REPORT

SSB 5995

As Passed Senate, March 13, 2003

Title: An act relating to collective bargaining agreements in the construction trades concerning meal and rest periods.

Brief Description: Regarding collective bargaining agreements in the construction trades.

Sponsors: Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford and Keiser).

Brief History:

Committee Activity: Commerce & Trade: 2/27/03, 3/5/03 [DPS].

Passed Senate: 3/13/03, 46-0.

SENATE COMMITTEE ON COMMERCE & TRADE

Majority Report: That Substitute Senate Bill No. 5995 be substituted therefor, and the substitute bill do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

Staff: Jennifer Ziegler (786-7316)

Background: The Washington Industrial Welfare Act prohibits the employment of any person in any industry or occupation under conditions of labor that are detrimental to his or her health and at wages that are not adequate for his or her maintenance. RCW 49.12.187 provides that the act shall not be construed to interfere with the right of employees to collectively bargain concerning wages or conditions of employment.

In 2002, the Washington Supreme Court issued a decision in *Wingert v. Yellow Freight Systems, Inc.*, 146 Wn. 2d 841 (2002). Employees of Yellow Freight had a collective bargaining agreement requiring a 15-minute break after two hours of overtime work. No breaks were provided for less than two hours of overtime work.

Section 296-126-092(4) of the Washington Administrative Code prohibits employees from working longer than three consecutive hours without a paid rest period. The employees of Yellow Freight asserted that the administrative code provision required a ten-minute break during the first two hours of an overtime assignment.

The court concluded that state law creates minimum standards and the collective bargaining agreement may only enhance or exceed those minimum standards.

Summary of Bill: Rules adopted under the Industrial Welfare Act regarding meal periods and rest periods for construction employees may be modified by the terms of a collective bargaining agreement.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This legislation pertains to long-standing employment processes. Designated breaks during road construction will result in a significant loss of productivity. Some construction activities require the avoidance of breaks for safety purposes.

Testimony Against: None.

Testified: Rick Slunaker, AGC (pro); Tim Lee, Lakeside Industries (pro); David Mark, attorney (concerns); Robert Stern, WSLC (concerns); Roger Boatwright (pro); Bob Abbott, Laborers District Council (pro); Larry Archer, Operating Engineers (pro).

House Amendment(s): The House amended the bill to apply to all construction workers, not just those working with hot asphalt or other materials or processes that would not allow scheduled breaks. The House amendment also requires that for a collective bargaining agreement to supersede rules under the Industrial Welfare Act, the agreement must be negotiated under the National Labor Relations Act.