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HOUSE BILL 3059

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Conway, Wood, McCoy, Kenney and Chase; by request of Department of Labor & Industries

Read first time 01/27/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to liability for industrial insurance premiums;  
2 amending RCW 51.08.177 and 51.12.070; and adding a new section to  
3 chapter 51.48 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.08.177 and 1986 c 9 s 3 are each amended to read as  
6 follows:

7 "Successor" means any person to whom a taxpayer quitting, selling  
8 out, exchanging, or disposing of a business sells or otherwise conveys,  
9 directly or indirectly, in bulk and not in the ordinary course of the  
10 taxpayer's business, a major part of the ~~((materials, supplies,  
11 merchandise, inventory, fixtures, or equipment))~~ taxpayer's property,  
12 whether real or personal, tangible or intangible, of the taxpayer.

13 **Sec. 2.** RCW 51.12.070 and 1981 c 128 s 4 are each amended to read  
14 as follows:

15 The provisions of this title ~~((shall))~~ apply to all work done by  
16 contract; the person, firm, or corporation who lets a contract for such  
17 work ~~((shall be))~~ is responsible primarily and directly for all  
18 premiums upon the work. The contractor and any subcontractor ~~((shall~~

1 ~~be~~) are subject to the provisions of this title and the person, firm,  
2 or corporation letting the contract (~~shall be~~) is entitled to collect  
3 from the contractor the full amount payable in premiums and the  
4 contractor in turn (~~shall be~~) is entitled to collect from the  
5 subcontractor his or her proportionate amount of the payment.

6 For the purposes of this section, a contractor registered under  
7 chapter 18.27 RCW or licensed under chapter 19.28 RCW (~~shall not be~~)  
8 is not responsible for any premiums upon the work of any subcontractor  
9 if:

10 (1) The subcontractor is currently engaging in a business which is  
11 registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

12 (2) The subcontractor has a principal place of business which would  
13 be eligible for a business deduction for internal revenue service tax  
14 purposes other than that furnished by the contractor for which the  
15 business has contracted to furnish services;

16 (3) The subcontractor maintains a separate set of books or records  
17 that reflect all items of income and expenses of the business; (~~and~~)

18 (4) The subcontractor has contracted to perform:

19 (a) The work of a contractor as defined in RCW 18.27.010; or

20 (b) The work of installing wires or equipment to convey electric  
21 current or installing apparatus to be operated by such current as it  
22 pertains to the electrical industry as described in chapter 19.28 RCW;  
23 and

24 (5) The subcontractor, if an employer, has an industrial insurance  
25 account in good standing with the department when the contract is let.

26 It (~~shall be~~) is unlawful for any county, city, or town to issue  
27 a construction building permit to any person who has not submitted to  
28 the department an estimate of payroll and paid premium thereon as  
29 provided by chapter 51.16 RCW of this title or proof (~~that such person~~  
30 ~~has qualified~~) of qualification as a self-insurer.

31 NEW SECTION. Sec. 3. A new section is added to chapter 51.48 RCW  
32 to read as follows:

33 (1) Upon termination, dissolution, or abandonment of a corporate or  
34 limited liability company business, any officer, member, manager, or  
35 other person having control or supervision of payment and/or reporting  
36 of industrial insurance, or who is charged with the responsibility for  
37 the filing of returns, is personally liable for any unpaid premiums and

1 interest and penalties on those premiums if such officer or other  
2 person willfully fails to pay or to cause to be paid any premiums due  
3 the department under chapter 51.16 RCW.

4 For purposes of this subsection "willfully fails to pay or to cause  
5 to be paid" means that the failure was the result of an intentional,  
6 conscious, and voluntary course of action.

7 (2) The officer, member, manager, or other person is liable only  
8 for premiums that became due during the period he or she had the  
9 control, supervision, responsibility, or duty to act for the  
10 corporation described in subsection (1) of this section, plus interest  
11 and penalties on those premiums.

12 (3) Any person having been issued a notice of assessment under this  
13 section is entitled to the appeal procedures under RCW 51.48.131.

14 (4) This section does not relieve the corporation or limited  
15 liability company of other tax liabilities or otherwise impair other  
16 tax collection remedies afforded by law.

17 (5) Collection authority and procedures prescribed in this chapter  
18 apply to collections under this section.

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