
Commerce & Labor Committee

HB 2055

Brief Description: Requiring the payment of industrial insurance premiums for certain construction work.

Sponsors: Representatives Conway and Chase.

Brief Summary of Bill

- Makes construction work performed by any natural person included under mandatory industrial insurance coverage, and establishes the liability for premiums for that work.

Hearing Date: 2/23/05

Staff: Chris Cordes (786-7103).

Background:

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers must insure with, and pay premiums to, the state fund operated by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Employers subject to the Industrial Insurance Act (Act) are immune from civil liability for nonintentional workplace injuries and diseases of their workers.

Most employment in the state is mandatorily covered for industrial insurance, and an employer covered by the state fund must pay premiums on that work. A person, firm, or corporation that lets a contract for work is also liable for payment of the premiums owed on such work. The entity letting the contract is entitled to collect the premium from the contractor, and the contractor is entitled to collect from a subcontractor a proportionate share of the premiums. Consequently, the person letting the contract functions as a surety for the industrial insurance premiums.

If certain requirements are satisfied, however, registered contractors and licensed electrical contractors are not liable for premiums owed on a subcontractor's work. To satisfy these requirements, a subcontractor must:

- be a registered contractor or a licensed electrical contractor;
- have a principal place of business that is eligible for a business deduction for IRS purposes;
- maintain separate records reflecting business income and expenses;
- have contracted to perform certain construction work, such as construction, alteration, or demolition of a structure, or electrical work; and
- have an industrial insurance account in good standing with the Department.

In Washington, a contractor performing construction work must be a registered contractor unless the contractor is, among other exemptions:

- a representative of a governmental agency or a public utility meeting certain requirements;
- a property owner who contracts with a registered contractor or a property owner working on his or her own property as long as the improvement is not with the intention of selling the improved property ;
- an owner of commercial property who uses its own employees to do maintenance, repair, and alteration work; and
- an entity that holds an electrical contractor license.

Likewise, most electrical work must be performed under a permit from the Department and under an electrical contractor license, using certified electricians or trainees. However, a license is not required for some electrical work, including:

- certain utilities, and work related to electrical transmission systems and street lighting;
- work on the electrical system of a motor vehicle or, as permitted by Department rule, on certain power generating equipment;
- incidental work performed by certified plumbers or trainees when replacing like-in-kind household appliances; and
- electrical work on a person's own residence, farm, or business property, unless the work is on the construction of a new building intended for sale or lease.

Summary of Bill:

Notwithstanding other provisions of the Industrial Insurance Act (Act), if construction work is performed by a natural person under contract, that employment is included within the mandatory coverage of the Act and the person is a "worker" while performing the work.

The industrial insurance premiums for this work are the responsibility of the registered contractor or licensed electrical contractor under whose registration or license the work was performed. If the work is performed without a registration or license, the premiums are the responsibility of the person contracting for the work. For the purposes of the Act, the person responsible for the premiums is the "employer" of the person performing the work.

"Construction work" means manual labor performed under circumstances that require either registration as a construction contractor or licensure as an electrical contractor, but does not include administrative or clerical work.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Requested on February 16, 2005.

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