

SENATE BILL REPORT

2SHB 3121

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 25, 2008
Ways & Means, March 03, 2008

Title: An act relating to implementing the recommendations of the joint legislative task force on the underground economy in the construction industry.

Brief Description: Implementing the recommendations of the joint legislative task force on the underground economy in the construction industry.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Conway, Green, Hunt, Kenney, Roberts, Haler, Morrell, Hankins, Ericks, Appleton, Eddy, Wood, Sells, Chase, Ormsby, Hasegawa, Williams, Moeller, Campbell, Simpson, Rolfes, McIntire and Darneille).

Brief History: Passed House: 2/14/08, 92-2.

Committee Activity: Labor, Commerce, Research & Development: 2/25/08 [DPA-WM].
Ways & Means: 2/29/08, 3/3/08 [DPA(LCRD)].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist, Ranking Minority Member; Franklin, King, Murray and Prentice.

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Labor, Commerce, Research & Development.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Parlette, Rasmussen, Regala, Rockefeller, Schoesler and Tom.

Staff: Maria Hovde (786-7710)

Background: In 2007 the Legislature enacted SB 5926 relating to the underground economy in the construction industry. The Joint Legislative Task Force on the Underground Economy

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

in the Construction Industry (Task Force) was created to formulate a state policy to establish cohesion and transparency between state agencies to increase oversight and regulation of the underground economy practices in the construction industry.

At its final meeting in 2007, the Task Force developed a list of recommendations for Legislative and Budgetary action during the 2008 Legislative Session. The recommendations included items relating to penalties, data-sharing and detection, enforcement, and education and outreach activities. A report listing the Task Force's findings and recommendations will be distributed to the Legislature in January 2008.

Summary of Bill (Recommended Amendments): Applicants for registration as a contractor must submit a unified business identifier (UBI) number. The Department of Labor and Industries (L&I) must deny an application for registration as a contractor and suspend an active registration if L&I determines that the applicant has falsified information on the application or the applicant does not have an active and valid certificate of registration with the Department of Revenue (DOR). Additionally, a person who submits false information on an application for registration is subject to a penalty of up to \$10,000.

A contractor is prohibited from bidding on public works projects for one year if, within a five year period, that person commits two violations of any of the following: willfully violates contractor registration laws; knowingly misrepresents the amount of his or her payroll or employee hours to L&I; engages in business without a certificate of coverage under the industrial insurance provisions; or commits a second violation of the contractor registration laws.

Employers must keep records of the compensation paid to contractors and electricians with whom they contract. Government agencies may disclose records between themselves if the agencies would be otherwise permitted to obtain that information.

L&I must add three employees to its fraud audit infraction and revenue contractor team. Both L&I and the Employment Security Department (ESD) are directed to hire more auditors to assist with their enforcement activities, with L&I directed to hire at least three more auditors. Money must be dedicated to the Attorney General's office to be used in the enforcement of contractor compliance cases.

An expanded social marketing campaign must be created to warn consumers of the risks and potential consequences of hiring unregistered contractors.

A pilot project must be established between L&I and local jurisdictions to explore ways to improve the collection and sharing of building permit information.

The term of the Task Force is extended to December 31, 2008.

The bill is null and void unless funded in the budget.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended Amendments): Removes the requirement that violations be "willfully" made, and retains the standard that they be "knowingly" made.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Second Substitute Bill (Labor, Commerce, Research & Development): PRO: The funding for additional auditors is important and it is critical that this funding remain in the bill. The concern is that funding was removed from the companion bill in the Senate. During task force meetings, a critical issue that was discussed was enforcement and there is broad business and labor agreement in ensuring that there is direct enforcement of current law. This enforcement requires additional auditors for both L&I and ESD. The bill before you includes full funding for the additional auditors. Money going out equals money coming in, and more enforcement may generate more money for these agencies. We want to catch cheaters and punish those who deserve to be punished.

OTHER: Although a requirement for an additional ESD auditor is in the House budget, funding is not provided for the auditor. If no additional funding is provided, ESD will have to hire the auditor within current resources and this will affect current ESD activities.

Persons Testifying (Labor, Commerce, Research & Development): PRO: Representative Conway, prime sponsor; Bob Abbott, Laborers District Council; Rick Slunaker, Associated General Contractors.

OTHER: Lisa Marsh, ESD; Carl Hammersburg, L&I.

Staff Summary of Public Testimony on Recommended Amendments (Ways & Means): PRO: This bill represents the unanimous recommendations of the construction industry. We have a large underground economy in our state that impacts the contractors who are playing by the rules. The Washington State Institute for Public Policy gave a conservative estimate that the state is losing approximately \$109 million annually as a direct result of this underground economy. This bill goes a long way toward recovering that revenue and investing in our economy.

Persons Testifying (Ways & Means): PRO: Representative Conway, prime sponsor; Carolyn Logue, Contractors Bonding and Insurance Company; Dave Johnson, Washington State Building Trades.