

SENATE BILL REPORT

SB 5576

As of January 13, 2018

Title: An act relating to compliance with apprenticeship utilization requirements.

Brief Description: Addressing compliance with apprenticeship utilization requirements.

Sponsors: Senators Keiser, Fortunato, Conway, Miloscia, Hobbs, Takko, Hasegawa, Wellman and Saldaña.

Brief History:

Committee Activity: Commerce, Labor & Sports: 2/09/17, 6/28/17.
Labor & Commerce: 1/11/18.

Brief Summary of Bill

- Provides that apprenticeship utilization requirements apply to each and every contractor and subcontractor on a public works project and that labor hours are measured on a per contractor basis.
- Provides that noncompliance with apprenticeship utilization requirements is one of the violations that count toward debarring a contractor from bidding on public works.
- Provides that, for the purposes of meeting the responsible bidder criteria, the bidder must not have been found out of compliance with apprenticeship utilization requirements.
- Requires awarding agencies to monitor compliance with apprenticeship utilization requirements.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Staff: Jarrett Sacks (786-7448)

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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.

Background: Apprenticeship Programs. Apprenticeship programs offer on-the-job training under the supervision of journey-level workers and require a certain number of instructional hours. The Washington State Apprenticeship and Training Council (Council), which is part of the Department of Labor and Industries (L&I), establishes standards for apprenticeship programs and approves training programs. Standards set by the Council address the allowable ratios of apprentices to journey-level workers, the type of work apprentices may do, and the required supervision of apprentices. An employer may partner with an approved apprenticeship program or develop its own, subject to approval of the Council.

The Supervisor of Apprenticeship (Supervisor) is appointed by the director of L&I. The Supervisor's duties include:

- encouraging and promoting apprenticeship programs that conform to state and federal standards;
- acting as secretary of the Council;
- registering, keeping record of, and terminating apprenticeship agreements; and
- issuing certificates of completion of apprenticeships.

Apprenticeship Utilization Requirements. In general, all public works that are estimated to cost \$1 million or more must require at least 15 percent of the labor hours be performed by apprentices enrolled in approved apprenticeship training programs. This requirement applies to contracts awarded by the state, school districts, and state four-year institutions of higher education. For the Department of Transportation (DOT), apprenticeship utilization requirements apply to projects of \$3 million or more until 2020. After 2020, the utilization requirements for DOT apply to projects of \$2 million or more.

Labor hours are the total hours of workers receiving an hourly wage who are directly employed upon the public works project. Labor hours include hours performed by workers employed by the contractor and all subcontractors working on the project. It does not include hours worked by foremen, superintendents, owners, and workers not required to be paid prevailing wage.

Awarding agencies may adjust apprenticeship utilization requirements for certain reasons, such as an insufficient number of apprentices in a certain geographic area.

The Department of Enterprise Services (DES) must provide information and technical assistance and collect certain data from agencies regarding apprenticeship utilization requirements.

Responsibility Criteria. A contractor bidding on a public works project must meet certain criteria, known as responsible bidder criteria, in order to be awarded a public works contract. One of the criteria is that the contractor must not have been found to be out of compliance for working apprentices out of ratio, without supervision, or outside their approved work processes, for the one-year period preceding the date of the bid solicitation.

Debarment. A contractor is debarred from bidding on any public works contract for one year if the contractor has committed any two of the following violations in a five-year period:

- filing a false payroll report;
- failing to obtain industrial insurance coverage;

- failing to register as a contractor; or
- working apprentices out of ratio, without supervision, or outside their approved work processes.

Summary of Bill: The definition of apprenticeship utilization requirement is changed to apply to each and every contractor and subcontractor on a public works project. The definition of labor hours is changed to specify that labor hours are measured on a per contractor basis.

Apprenticeship utilization is added to the responsibility criteria a bidder must meet in order to be awarded a public works contract. Noncompliance with apprenticeship utilization requirements is added to the list of violations that make a contractor eligible for debarment.

Awarding agencies are responsible for monitoring compliance with requirements regarding apprenticeship utilization hours and must report noncompliance to the Supervisor. Public works contracts are required to specify that contractors and subcontractors may not be required to exceed apprenticeship utilization requirements.

The Supervisor must verify compliance by contractors, subcontractors, and awarding agencies and may coordinate with DES, DOT, the Office of the Superintendent of Public Instruction, and other agencies to track compliance. Compliance information must be made available to the Council and used to determine compliance for the purposes of the responsibility criteria and debarment.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony (Commerce, Labor & Sports): *Testimony from 2017 Regular Session.* PRO: Apprenticeships ensure there are plenty of good workers available in the state and trains the new crop of skilled workers. Apprenticeship utilization is good public policy. Apprenticeship utilization requirements are frequently not met. The bill increases accountability on subcontractors and contractors who sometimes free ride on certain trades or other contractors. The bill puts contract monitoring in the proper place.

CON: The bill would make it even more difficult to find workers in an already difficult climate. In some circumstances, apprenticeship requirements are impossible to meet, this bill would punish those contractors. The bill is too rigid and does not allow flexibility on projects. The bill would make it impossible for small contractors to do business. The Legislature should give incentives instead of punishing contractors.

Persons Testifying (Commerce, Labor & Sports): PRO: Senator Karen Keiser, Prime Sponsor; Neil Hartman, Washington State Building and Construction Trades Council; Scott Middleton, Mechanical Contractors Association of Western Washington.

CON: Jerry VanderWood, Associated General Contractors; Gary Smith, Independent Business Association.

Persons Signed In To Testify But Not Testifying (Commerce, Labor & Sports): No one.

Staff Summary of Public Testimony (Labor & Commerce): PRO: Apprenticeships are good for industry and grow the worker pool, helping with the shortage of workers. Proponents are working with industry on providing incentives rather than punishments and putting better data collection provisions into the bill.

CON: Smaller contractors have concerns about the bill because it would be impossible for them to meet the apprenticeship thresholds in the bill.

OTHER: General contractors are working with proponents on possible changes, but have concerns about the original bill.

Persons Testifying (Labor & Commerce): PRO: Senator Karen Keiser, Prime Sponsor; Neil Hartman, Washington State Building & Construction Trades Council; Chris McClain, Business Manager/Iron Workers; Michael Transue, Mechanical Contractors Association of Western Washington.

CON: Gary Smith, Independent Business Association.

OTHER: Jerry VanderWood, AGC of Washington.

Persons Signed In To Testify But Not Testifying (Labor & Commerce): No one.