

SENATE BILL REPORT

SB 6085

As Reported by Senate Committee On:
Labor & Commerce, January 29, 2024

Title: An act relating to reestablishing the underground economy task force.

Brief Description: Reestablishing the underground economy task force.

Sponsors: Senators Conway, King, Hunt and Keiser.

Brief History:

Committee Activity: Labor & Commerce: 1/23/24, 1/29/24 [DP-WM, DNP, w/oRec].

Brief Summary of Bill

- Reestablishes the Joint Legislative Task Force on the Underground Economy to study the nature and scope of the underground economy and recommend policy changes.
- Requires the task force to report its findings and recommendations to the Legislature by October 31, 2025.

SENATE COMMITTEE ON LABOR & COMMERCE

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

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Hansen and Stanford.

Minority Report: Do not pass.

Signed by Senator Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and MacEwen.

Staff: Madeline Ralstin (786-7356)

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

Background: In 2007 the Legislature enacted SB 5926, which created a Joint Legislative Task Force on the Underground Economy (Task Force) 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. The Task Force met over a few years and developed findings and recommendations, which were incorporated into legislation that passed during the 2008 and 2009 sessions.

Washington State law requires the Department of Labor and Industries, the Employment Security Department, and the Department of Revenue to coordinate and report to the appropriate committees of the Legislature by December 1st of each year, the effectiveness of efforts implemented since July 1, 2008, to address the underground economy. These agencies use benchmarks and measures established by the Washington State Institute for Public Policy (WSIPP) and other measures it determines appropriate.

In 2023, WSIPP was directed by a budget proviso to undertake a study on the nature and scope of the underground economy and to recommend what policy changes, if any, are needed to address the underground economy in the construction industry, including whether greater cohesion and transparency among state agencies is needed. The report addressed the extent of and projected costs to the state and workers of the underground economy. WSIPP released a report with its findings in September 2023.

Summary of Bill: The Task Force is reestablished to study the nature and scope of the underground economy and recommends policy changes. Underground economy means contracting and construction activities in which payroll is unreported or underreported resulting in nonpayment of federal and state payroll taxes including nonpayment of workers' compensation and unemployment compensation taxes. The Task Force may contract with WSIPP or another outside entity to achieve this goal and to determine the extent of the projected costs to the state and workers of the underground economy in the construction industry.

The Task Force:

- consists of members from each caucus in the Senate and the House, four members each representing the construction business and construction laborers, and one representative from the Attorney General's Office;
- uses legislative facilities and staff support from Senate Committee Services and the Office of Program Research; and
- reports findings and recommendations to the Legislature by October 31, 2025.

The Employment Security Department, the Department of Labor and Industries, and the Department of Revenue must cooperate with the Task Force and maintain a Task Force liaison. Legislative members on the Task Force are reimbursed for travel expenses. The Senate and House of Representatives must jointly pay the expenses of the Task Force.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

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

Staff Summary of Public Testimony: PRO: There is a concern surrounding business practices undermining efforts to provide high-paying, livable wage construction jobs that afford employees the rights and protections that they deserve under collective bargaining and prevailing wage protections. Many of the practices utilized in the underground economy pose great risks in the forms of increased corporate liability, lowered revenues from similar work, and an inability to negotiate the scope of work for their projects. Additionally, the employees of contractors not following regulations are not afforded basic employment rights such as workers' compensation insurance, overtime pay, unemployment insurance, and employer provided healthcare. There is an advisory committee at Labor and Industries (L&I), which continues the conversation on the underground economy because there has been some unresolved issues since the Underground Economy Task Force last met. The recent report from the Washington State Institute of Public Policy provides data in relation to the underground economy and the negative implications it is posing to responsible business owners, employees and communities. There is a need for direct legislative involvement to help curb the underground economy. The task force will level the playing field for responsible business owners and make sure that Washington construction workers are paid fairly.

CON: None.

OTHER: There is agreement that the underground economy is bad for contractors that are in compliance with regulations and pay taxes. The underground economy harms their businesses. However, there is already the Construction Advisory Committee (CAC) at L&I. It includes representatives from L&I and their contractor registration department, Employment Security, Department of Revenue, and business and labor representatives. CAC has been relatively effective over the years. It is a place where people can share, ideas, issues and concerns about the underground economy and the agencies and their enforcement. Some of these ideas have been incorporated in legislation over the years. CAC has also provided accountability for the agencies. They come back and report their successes and failures. There is agreement with the goals of the bill but it is already being covered by CAC. One concern is that representatives with expertise would not be included on the proposed task force. There is concern that the good work being done at CAC could be delayed or derailed as L&I would require to shift its focus to staffing and educating a brand new task force that does not have the experience to deal with these issues. There is agreement that there are issues that need to be resolved. However, one issue with the existing committee is that it cannot recommend legislation.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Christopher Ellis,

Bricklayers & Allied Craftworkers Local 1; Adam Yoest, Washington State Conference of Mason Contractors; Mark Streuli, International Union of Painters and Allied Trades (IUPAT) DC 5; Susan Bittner, President and CEO of Fryer-Knowles, Inc.; Drew Payne, International Union of Painters and Allied Trades - DC 5.

OTHER: Tom Kwieciak, Building Industry Association of WA; Patrick Connor, NFIB.

Persons Signed In To Testify But Not Testifying: No one.