

SENATE BILL REPORT

SB 5572

As Reported by Senate Committee On:
Labor & Commerce, February 21, 2025

Title: An act relating to promoting the efficient administration of school construction assistance program projects.

Brief Description: Promoting the efficient administration of school construction assistance program projects.

Sponsors: Senators Conway, Hasegawa, Nobles and Wilson, C.; by request of Superintendent of Public Instruction.

Brief History:

Committee Activity: Labor & Commerce: 2/17/25, 2/21/25 [DP-WM, DNP, w/oRec].

Brief Summary of Bill

- Requires project labor agreements for school construction assistance program projects over \$35 million.

SENATE COMMITTEE ON LABOR & COMMERCE

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

Signed by Senators Saldaña, Chair; Conway, Vice Chair; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

Signed by Senators MacEwen and Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator King, Ranking Member.

Staff: Jarrett Sacks (786-7448)

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: School Construction Assistance Program. The School Construction Assistance Program (SCAP), administered by the Office of the Superintendent of Public Instruction (OSPI), provides school districts with financial assistance to construct new schools and modernize existing facilities. Through SCAP, the state contributes funding, as well as technical assistance for facility planning, construction, and contracting. State funding assistance is determined using a funding formula based on three main factors: eligible area, construction cost allocation, and the funding assistance percentage.

To receive state funding assistance under SCAP, school districts must raise local revenue to demonstrate local support for the proposed project. Districts may obtain local funds to finance capital improvements through a variety of methods, including bonds, levies, investment proceeds, and mitigation and impact fees. The most common method used to finance the local portion of large capital projects is through the sale of bonds.

Project Labor Agreements. The National Labor Relations Act (NLRA) gives most private sector workers the right to join or form a union and to bargain over wages, hours, and working conditions. The NLRA prohibits an employer and union entering into a collective bargaining agreement prior to the hiring of employees. However, the NLRA allows employers and unions in the construction industry to enter into prehire agreements under certain conditions. A project labor agreement (PLA) is one type of prehire agreement that applies to a specific construction project and lasts only for the duration of the project.

Summary of Bill: For school construction assistance program projects over \$35 million, school districts must require every contractor or subcontractor on the project to agree to negotiate, or become a party to, a PLA with one or more appropriate labor organizations.

A project labor agreement reached must:

- bind all contractors and subcontractors on the project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;
- allow all contractors and subcontractors to compete for contracts and subcontracts regardless of whether they are parties to collective bargaining agreements;
- contain guarantees against strikes, lockouts, and similar disruptions;
- set forth mutually binding procedures for resolving labor disputes arising during the term of the PLA;
- provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and
- fully conform to state laws and regulations.

Contractors and subcontractors entering into a PLA may not be required to do so with any particular labor organization.

The bill does not apply to projects funded through:

- school seismic safety and planning grants; and

- small district and tribal compact schools modernization grants.

A PLA is a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is described in the National Labor Relations Act. To establish the terms and conditions of employment on a single project, the PLA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and all contractors and subcontractors working on the project.

L&I may grant exceptions to the PLA requirements for a contract under certain circumstances, including if requiring a PLA would not advance the state's interests in achieving economy and efficiency in state procurement because the project:

- is of short duration and lacks operational complexity;
- involves only one craft or trade;
- involves specialized construction work only available from a limited number of contractors;
- is of unusual and compelling urgency that a PLA would be impracticable; or
- implicates other similar factors deemed appropriate by regulation or guidance.

L&I may also grant exceptions when:

- based on an inclusive market analysis, requiring a PLA would substantially reduce the number of potential bidders so as to frustrate full and open competition; and
- requiring a PLA would otherwise be inconsistent with state laws and regulations.

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: PRO: A study on the use of PLAs in the Port of Seattle showed that there were more bidders and projects were more likely to cost less. PLAs can require local hiring and can lead to more diverse hiring on projects. The bill will ensure more access to apprentices for school construction projects. PLAs establish clear standards and ensure projects end on time. The Seattle School District uses community workforce agreements to ensure people in the school district have priority to work on projects.

CON: State law already requires apprenticeship utilization and payment of prevailing wage. The bill creates barriers for nonunion contractors to work on projects in their local areas. Most studies on PLAs show an increase in project costs. The threshold is low enough that it covers all new school construction. A lot of local contractors are nonunion and they cannot

afford to bid on PLA projects.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Tyler Muench, Office of Superintendent of Public Instruction; Heather Kurtenbach, Washington State Building and Construction Trades; Sam Hem, Sheet Metal Workers Local 66; Bryan Johnson, Ironworkers Local 86; Monty Anderson, Seattle Building Trades.

CON: Jerry VanderWood, AGC and WA Construction Industry Council (WCIC); Charlie Brown, Schools Coalition; Carolyn Logue, Associated Builders and Contractors Inland Pacific Chapter; Paula Sardinas, WBBA/FMSGs.

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