

SENATE BILL REPORT

SB 6302

As Reported by Senate Committee On:
Labor & Commerce, February 3, 2026

Title: An act relating to misclassification in the finishing trades on public works projects.

Brief Description: Concerning misclassification in the finishing trades on public works projects.

Sponsors: Senators Conway, Saldaña, Hasegawa, Orwall and Valdez.

Brief History:

Committee Activity: Labor & Commerce: 1/30/26, 2/03/26 [DPS, DNP].

Brief Summary of First Substitute Bill

- Prohibits a contractor or subcontractor from engaging more than two independent contractors to perform the same type of finishing work at the same time on a public works project.
- Provides that, if more than two independent contractors are engaged to perform the same type of finishing work at the same time on a public works project, all individuals performing finishing work are covered workers for the purposes of prevailing wage and workers' compensation.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6302 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

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.

Staff: Jarrett Sacks (786-7448)

Background: Prevailing Wage. State law requires prevailing wages be paid to laborers, workers, and mechanics employed upon all public works and under all public building service maintenance contracts. Public works means all work, construction, alteration, repair, or improvement other than ordinary maintenance executed at the cost of the state or any municipality.

An individual employed on a public works project is an independent contractor and not considered a laborer, worker, or mechanic when:

- the individual is free from control or direction over the performance of the service;
- the service is either outside the usual course of business for the contractor or contractors for whom the individual performs services, or the service is performed outside all of the places of business of the enterprise for which the individual performs services, or the individual is responsible for the costs of the principal place of business from which the service is performed;
- the individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes other than that furnished by the employer for which the business has contracted to furnish services;
- the individual is responsible for filing a schedule of expenses with the Internal Revenue Service for the type of business the individual is conducting;
- the individual has an active and valid certificate of registration with the Department of Revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state;
- the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; and
- the individual has the appropriate required contractor registration and contractor licenses.

Workers' Compensation. The Industrial Insurance Act provides that a worker who is injured in the course of employment or injured or disabled from an occupational disease is entitled to workers compensation benefits. Benefits may include medical, temporary time-loss, vocational rehabilitation benefits, and permanent disabilities benefits. The Department of Labor and Industries (L&I) administers the workers' compensation system.

With limited exceptions, all workers in the state are covered by mandatory industrial insurance. A person is not considered an employee or worker under, and is not covered for the purposes of workers' compensation, if:

- the individual is free from control or direction over the performance of the service;

- the service is either outside the usual course of business for the contractor or contractors for whom the individual performs services, or the service is performed outside all of the places of business of the enterprise for which the individual performs services, or the individual is responsible for the costs of the principal place of business from which the service is performed;
- the individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes other than that furnished by the employer for which the business has contracted to furnish services;
- the individual is responsible for filing a schedule of expenses with the Internal Revenue Service for the type of business the individual is conducting;
- the individual has an active and valid certificate of registration with the Department of Revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state; or
- the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting.

Underground Economy in Construction Task Force. The 2024 Supplemental Budget created an Underground Economy Task Force (Task Force) to investigate the underground economy in the construction industry and report its findings and recommendations to the Legislature. The Task Force published a report to the Legislature that included both consensus recommendations and majority recommendations. A consensus recommendation is one that received ten or more votes from the 12 voting members, while a majority recommendation received a majority of the 12 voting members.

One of the majority recommendations in the Task Force's report was that the Legislature should consider establishing a threshold of independent contractor usage on projects that would prompt L&I to review appropriate use of the independent contractor classifications.

Summary of Bill (First Substitute): No contractor or subcontractor may engage more than two independent contractors to perform the same type of covered finishing work at the same time on a public works project. If a contractor or subcontractor violates this prohibition, all individuals engaged by the contractor or subcontractor to perform the same type covered finishing work at the same time are a worker, laborer, or mechanic for the purposes of prevailing wage and an employee for the purposes of workers' compensation.

Covered finishing work is work in drywall, flooring, tiling, painting, and glazier and glasswork.

Changes are made to prevailing wage and workers' compensation statutes to conform with

the provisions of the bill.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Specifies that the limitations on independent contractors applies to independent contractors performing the same type of covered finishing work at the same time on a public works project.
- Specifies that, if a contractor violates the bill, all individuals, rather than any individual, engaged to perform the covered finishing work is a covered employee for the purposes of the prevailing wage and workers' compensation statutes.
- Conforms terminology used in the bill with the terminology used in the prevailing wage statute.
- Amends the workers' compensation independent contractor test that applies to registered contractors rather than the test that applies non-contractors.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Worker misclassification is a big issue. Oregon limits independent contractor usage for construction and this bill mirrors that. The bill allows two independent contractors in finishing. The finishing trades are disproportionately impacted by misclassification and it denies workers basic protections and reduces wages and benefits. Misclassification is a complex and entrenched problem.

CON: The bill removes flexibility to complete public projects on time and on budget. It also closes off a path to entry for small firms. Sometimes general contractors need to scale up with independent contractors to make up for lost time on projects. The bill does not address misclassification, instead, it bans using independent contractors. The bill choose an arbitrary limit. This will hurt small business.

OTHER: L&I has some clarifying questions it needs answered in order to implement the bill.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Heather Kurtenbach, Washington State Building & Construction Trades Council; Neil Hartman, Washington State Association of UA Plumbers, Pipefitters and HVAC/R Service Technicians; Chris Ellis, Bricklayers and Allied Craftworkers Local 1.

CON: Carolyn Logue, Associated Builders & Contractors Inland Pacific Chapter; Jerry VanderWood, Associated General Contractors (AGC).

OTHER: Tammy Fellin, Department of Labor & Industries.

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