

SENATE BILL REPORT

SB 6732

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, January 31, 2008
Ways & Means, February 12, 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: Senators Kohl-Welles, Kline, Keiser, Marr, Murray, Hobbs, Regala, Tom, Oemig and Fairley.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 1/22/08, 1/31/08 [DPS-WM].

Ways & Means: 2/11/08, 2/12/08 [DP2S].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6732 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6732 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, 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 bill created the Joint Legislative Task Force on the

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.

Underground Economy in the Construction Industry (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.

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 Second Substitute): 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 ten thousand dollars.

A contractor is prohibited from bidding on public works projects for one year if, within a five year period, he or she 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.

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.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Removes the requirement that additional staff must be hired to serve on L&I's fraud audit infraction and revenue contractor team and additional auditors must be hired for both L&I and the Employment Security Department (ESD). Also removes the requirement that more funding must be provided to the Attorney General's office to use in the enforcement of contractor compliance cases.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended First Substitute): Technical corrections are made including clarifying use of the terms applicant and registrant. The requirement that an employer willfully violate the provision relating to knowingly misrepresenting payroll or employee hours in order to be prohibited from bidding on public works projects is removed. Adds benchmark language that parallels language in the Findings

and Recommendations of the Task Force on the Underground Economy in the Construction Industry.

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 Original Bill (Labor, Commerce, Research & Development): PRO: The underground economy equals lost tax revenue. This bill is the result of labor and business working towards a common goal. Bringing the agencies together to work on this subject was a positive step. Both bills reflect subcommittee and task force recommendations. It is estimated that underreporting and nonreporting results in 100 million dollars a year in lost revenue. The issue of unregistered contractors is a consumer protection issue. The task force explored ways to retain agency auditors; one suggestion was to increase their pay scales, but this suggestion was not included in the bill.

OTHER: The responsibility for the underground economy comes from both sides; this is a supply and demand issue. The solutions in the legislation must address this. Changes need to be made to support enhancement.

Persons Testifying (Labor, Commerce, Research & Development): PRO: Brian Minnich, Building Industry Association of Washington; David Johnson, Washington State Building Trades; Bob Abbott, Laborers District Council; John Littel, Northwest Carpenters.

OTHER: Carl Hammersburg, L&I; Lisa Marsh, ESD; Drew Shirk, DOR; Rick Slunaker, Associated General Contractors.

Signed in, Unable to Testify & Submitted Written Testimony: Charlie Brown, Paladin Data Systems.

Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means): PRO: The Washington State Institute for Public Policy gave a conservative estimate that Washington state loses \$109 million every year in unpaid worker's compensation premiums, unemployment compensation premiums, and taxes. The additional auditors noted in the bill are recommended by the Joint Legislative Task Force on the Underground Economy in the Construction Industry because, when asked, the departments stated that they could do more audits if they had more staff. The social marketing campaign is also an important element for educating consumers. This bill will go a long way to providing the financial resources to start the process of going after those individuals who are not abiding by the laws of the state.

Persons Testifying (Ways & Means): PRO: David Johnson, Washington State Building Trades; Carolyn Logue, Contractor Bonding and Insurance.