

# HOUSE BILL REPORT

## HB 1064

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### As Passed Legislature

**Title:** An act relating to correcting unconstitutional provisions relating to resident employees on public works.

**Brief Description:** Correcting unconstitutional provisions relating to resident employees on public works.

**Sponsors:** Representatives Padden and Appelwick; by request of Law Revision Commission.

**Brief History:**

**Committee Activity:**

Law & Justice: 1/17/95, 1/24/95 [DP].

**Floor Activity:**

Passed House: 2/3/95, 96-0.

Passed Legislature.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 15 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith and Veloria.

**Staff:** Bill Perry (786-7123).

**Background:** With some exceptions, an existing statute requires a certain percentage of employees on all public works contracts to be Washington residents. RCW 39.16.005 provides in part:

In all contracts let by the state . . . or any county, city . . . for the erection, construction, alteration, demolition, or repair of any public building . . . or any other kind of public work or improvement, the contractor or subcontractor shall employ ninety-five percent or more bona fide Washington residents as employees where more than forty persons are employed, and ninety percent or more bona fide Washington residents as employees where forty or less persons are employed . . .

The United States Supreme Court and Washington Supreme Court have held that residency requirements are constitutional only if nonresidents constitute a "peculiar source of evil" the legislation is reasonably designed to overcome. Economic protectionism is an insufficient reason for such legislation.

In 1982, the Washington Supreme Court declared this state's public works statute unconstitutional. Laborers Local 374 v. Felton Construction, 98 Wn.2d 121 (1982).

As part of its duties, the Law Revision Commission is directed "[t]o recommend the express repeal of all statutes repealed by implication, or held unconstitutional by the supreme court of the state or the supreme court of the United States." (RCW 1.30.040) The commission is recommending the repeal of the public works laws containing residency requirements.

**Summary of Bill:** Residency requirements for employees on public works contracts are repealed.

A cross-reference to the repealed requirements is removed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** None.

**Testimony Against:** None.

**Testified:** None.