

2 **SHB 2312** - S AMD - 863

3 By Senators Snyder, Schow and Heavey

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that a competitive
8 disadvantage exists in the construction industry because of a
9 disparity in workers' compensation coverage requirements among the
10 states. The intent of this act is (1) to provide an equal footing for
11 all contractors bidding on or engaging in construction work in this
12 state, (2) to ensure that all workers injured while in the course of
13 employment in this state receive the benefits to which they are
14 entitled, and (3) to not create disincentives for employers to hire
15 workers in this state.

16 **Sec. 2.** RCW 51.12.120 and 1995 c 199 s 1 are each amended to read
17 as follows:

18 (1) If a worker, while working outside the territorial limits of
19 this state, suffers an injury on account of which he or she, or his or
20 her beneficiaries, would have been entitled to compensation under this
21 title had (~~such~~) the injury occurred within this state, (~~such~~) the
22 worker, or his or her beneficiaries, shall be entitled to compensation
23 under this title(~~:- PROVIDED, That~~) if at the time of (~~such~~) the
24 injury:

25 (a) His or her employment is principally localized in this state;
26 or

27 (b) He or she is working under a contract of hire made in this
28 state for employment not principally localized in any state; or

29 (c) He or she is working under a contract of hire made in this
30 state for employment principally localized in another state whose
31 workers' compensation law is not applicable to his or her employer; or

32 (d) He or she is working under a contract of hire made in this
33 state for employment outside the United States and Canada.

34 (2) The payment or award of compensation or other recoveries,
35 including settlement proceeds, under the workers' compensation law of

1 another state, territory, province, or foreign nation to a worker or
2 his or her beneficiaries otherwise entitled on account of such injury
3 to compensation under this title shall not be a bar to a claim for
4 compensation under this title(~~(:—PROVIDED,)~~) if that claim under this
5 title is timely filed. If compensation is paid or awarded under this
6 title, the total amount of compensation or other recoveries, including
7 settlement proceeds, paid or awarded the worker or beneficiary under
8 such other workers' compensation law shall be credited against the
9 compensation due the worker or beneficiary under this title.

10 (3)(a) An employer not domiciled in this state who is employing
11 workers in this state in work for which the employer must be registered
12 under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or
13 prequalified under RCW 47.28.070, must secure the payment of
14 compensation under this title by:

15 (i) Insuring the employer's workers' compensation obligation under
16 this title with the department;

17 (ii) Being qualified as a self-insurer under this title; or

18 (iii) For employers domiciled in a state or province of Canada
19 subject to an agreement entered into under subsection (7) of this
20 section, as permitted by the agreement, filing with the department a
21 certificate of coverage issued by the agency that administers the
22 workers' compensation law in the employer's state or province of
23 domicile certifying that the employer has secured the payment of
24 compensation under the other state's or province's workers'
25 compensation law.

26 (b) The department shall adopt rules to implement this subsection.

27 (4) If a worker or beneficiary is entitled to compensation under
28 this title by reason of an injury sustained in this state while in the
29 employ of an employer who is domiciled in another state or province of
30 Canada and the employer:

31 (a) Is not subject to subsection (3) of this section and ((who))
32 has neither opened an account with the department nor qualified as a
33 self-insurer under this title, ((such an)) the employer or his or her
34 insurance carrier shall file with the director a certificate issued by
35 the agency ((which)) that administers the workers' compensation law in
36 the state of the employer's domicile, certifying that ((such)) the
37 employer has secured the payment of compensation under the workers'
38 compensation law of ((such)) the other state and that with respect to
39 ((said)) the injury ((such)) the worker or beneficiary is entitled to

1 the benefits provided under ~~((such))~~ the other state's law. ~~((In such~~
2 ~~event:~~

3 ~~(a))~~ (b) Has filed a certificate under subsection (3)(a)(iii) of
4 this section or (a) of this subsection (4):

5 (i) The filing of ~~((such))~~ the certificate ~~((shall))~~ constitutes
6 appointment by the employer or his or her insurance carrier of the
7 director as its agent for acceptance of the service of process in any
8 proceeding brought by any claimant to enforce rights under this title;

9 ~~((b))~~ (ii) The director shall send to such employer or his or her
10 insurance carrier, by registered or certified mail to the address shown
11 on such certificate, a true copy of any notice of claim or other
12 process served on the director by the claimant in any proceeding
13 brought to enforce rights under this title;

14 ~~((c)(i))~~ (iii) If ~~((such))~~ the employer is a self-insurer under
15 the workers' compensation law of ~~((such))~~ the other state or province
16 of Canada, ~~((such))~~ the employer shall, upon submission of evidence or
17 security, satisfactory to the director, of his or her ability to meet
18 his or her liability to ~~((such))~~ the claimant under this title, be
19 deemed to be a qualified self-insurer under this title; and

20 ~~((ii))~~ (iv) If ~~((such))~~ the employer's liability under the
21 workers' compensation law of ~~((such))~~ the other state or province of
22 Canada is insured~~((, such))~~:

23 (A) The employer's carrier, as to such claimant only, shall be
24 deemed to be subject to this title~~((: PROVIDED, That))~~. However,
25 unless ~~((its))~~ the insurer's contract with ~~((said))~~ the employer
26 requires ~~((it))~~ the insurer to pay an amount equivalent to the
27 compensation benefits provided by this title, the insurer's liability
28 for compensation shall not exceed ~~((its))~~ the insurer's liability under
29 the workers' compensation law of ~~((such))~~ the other state or province;
30 and

31 ~~((d))~~ (B) If the total amount for which ~~((such))~~ the employer's
32 insurer is liable under ~~((c)(ii) above)~~ (b)(iv)(A) of this subsection
33 is less than the total of the compensation to which ~~((such))~~ the
34 claimant is entitled under this title, the director may require the
35 employer to file security satisfactory to the director to secure the
36 payment of compensation under this title~~((;))~~.

37 ~~((e))~~ (c) If ~~((such employer))~~ subject to subsection (3) of this
38 section, has not complied with subsection (3) of this section or, if
39 not subject to subsection (3) of this section, has neither qualified as

1 a self-insurer nor secured insurance coverage under the workers'
2 compensation law of another state or province of Canada, ((such)) the
3 claimant shall be paid compensation by the department((+)) and
4 ((~~(f)~~ Any such)) the employer shall have the same rights and
5 obligations, and is subject to the same penalties, as other employers
6 subject to this title ((and where he or she has not provided coverage
7 or sufficient coverage to secure the compensation provided by this
8 title to such claimant, the director may impose a penalty payable to
9 the department of a sum not to exceed fifty percent of the cost to the
10 department of any deficiency between the compensation provided by this
11 title and that afforded such claimant by such employer or his or her
12 insurance carrier if any)).

13 ((~~(4)~~) (5) As used in this section:

14 (a) A person's employment is principally localized in this or
15 another state when: (i) His or her employer has a place of business in
16 this or ((such)) the other state and he or she regularly works at or
17 from ((such)) the place of business((~~(7)~~); or (ii) if ((~~clause (i)~~
18 ~~foregoing~~)) (a)(i) of this subsection is not applicable, he or she is
19 domiciled in and spends a substantial part of his or her working time
20 in the service of his or her employer in this or ((such)) the other
21 state;

22 (b) "Workers' compensation law" includes "occupational disease law"
23 for the purposes of this section.

24 ((~~(5)~~) (6) A worker whose duties require him or her to travel
25 regularly in the service of his or her employer in this and one or more
26 other states may agree in writing with his or her employer that his or
27 her employment is principally localized in this or another state, and,
28 unless ((such)) the other state refuses jurisdiction, ((such)) the
29 agreement shall govern as to any injury occurring after the effective
30 date of the agreement.

31 ((~~(6)~~) (7) The director ((~~shall be~~)) is authorized to enter into
32 agreements with the appropriate agencies of other states and provinces
33 of Canada ((which)) that administer their workers' compensation law
34 with respect to conflicts of jurisdiction and the assumption of
35 jurisdiction in cases where the contract of employment arises in one
36 state or province and the injury occurs in another((~~(7)~~ and)). If the
37 other state's or province's law requires Washington employers to secure
38 the payment of compensation under the other state's or province's
39 workers' compensation laws for work that in Washington requires the

1 employer to be registered under chapter 18.27 RCW or licensed under
2 chapter 19.28 RCW, or prequalified under RCW 47.28.070, then employers
3 domiciled in that state or province must purchase compensation covering
4 their workers engaged in that work in this state under this state's
5 industrial insurance law. When ~~((any such))~~ an agreement under this
6 subsection has been executed and ~~((promulgated))~~ adopted as a
7 ~~((regulation))~~ rule of the department under chapter 34.05 RCW, it
8 ~~((shall))~~ binds all employers and workers subject to this title and the
9 jurisdiction of this title ~~((shall be))~~ is governed by this
10 ~~((regulation))~~ rule.

11 **Sec. 3.** RCW 18.27.030 and 1997 c 314 s 4 are each amended to read
12 as follows:

13 (1) An applicant for registration as a contractor shall submit an
14 application under oath upon a form to be prescribed by the director and
15 which shall include the following information pertaining to the
16 applicant:

17 (a) Employer social security number.

18 (b) ~~((As applicable: (i) The industrial insurance account number~~
19 ~~covering employees domiciled in Washington; and (ii) evidence of~~
20 ~~workers' compensation coverage in the applicant's state of domicile for~~
21 ~~the applicant's employees working in Washington who are not domiciled~~
22 ~~in Washington)) Evidence of workers' compensation coverage for the~~
23 applicant's employees working in Washington, as follows:

24 (i) The applicant's industrial insurance account number issued by
25 the department;

26 (ii) The applicant's self-insurer number issued by the department;
27 or

28 (iii) For applicants domiciled in a state or province of Canada
29 subject to an agreement entered into under RCW 51.12.120(7), as
30 permitted by the agreement, filing a certificate of coverage issued by
31 the agency that administers the workers' compensation law in the
32 applicant's state or province of domicile certifying that the applicant
33 has secured the payment of compensation under the other state's or
34 province's workers' compensation law.

35 (c) Employment security department number.

36 (d) State excise tax registration number.

37 (e) Unified business identifier (UBI) account number may be
38 substituted for the information required by (b)~~((7))~~ of this subsection

1 if the applicant will not employ employees in Washington, and by
2 (c)((7)) and (d) of this subsection.

3 (f) Type of contracting activity, whether a general or a specialty
4 contractor and if the latter, the type of specialty.

5 (g) The name and address of each partner if the applicant ((be)) is
6 a firm or partnership, or the name and address of the owner if the
7 applicant ((be)) is an individual proprietorship, or the name and
8 address of the corporate officers and statutory agent, if any, if the
9 applicant ((be)) is a corporation. The information contained in such
10 application ((shall be)) is a matter of public record and open to
11 public inspection.

12 (2) The department may verify the workers' compensation coverage
13 information provided by the applicant under subsection (1)(b) of this
14 section, including but not limited to information regarding the
15 coverage of an individual employee of the applicant. If coverage is
16 provided under the laws of another state, the department may notify the
17 other state that the applicant is employing employees in Washington.

18 (3) The department shall deny an application for registration if
19 the applicant has been previously registered as a sole proprietor,
20 partnership, or corporation and the applicant has an unsatisfied final
21 judgment against him or her in an action based on this chapter that was
22 incurred during a previous registration under this chapter.

23 **Sec. 4.** RCW 19.28.120 and 1992 c 217 s 2 are each amended to read
24 as follows:

25 (1) It is unlawful for any person, firm, partnership, corporation,
26 or other entity to engage in, conduct, or carry on the business of
27 installing or maintaining wires or equipment to convey electric
28 current, or installing or maintaining equipment to be operated by
29 electric current as it pertains to the electrical industry, without
30 having an unrevoked, unsuspended, and unexpired electrical contractor
31 license, issued by the department in accordance with this chapter. All
32 electrical contractor licenses expire twenty-four calendar months
33 following the day of their issue. The department may issue an
34 electrical contractors license for a period of less than twenty-four
35 months only for the purpose of equalizing the number of electrical
36 contractor licenses ((which)) that expire each month. Application for
37 an electrical contractor license shall be made in writing to the

1 department, accompanied by the required fee. The application shall
2 state:

3 (a) The name and address of the applicant; in case of firms or
4 partnerships, the names of the individuals composing the firm or
5 partnership; in case of corporations, the names of the managing
6 officials thereof;

7 (b) The location of the place of business of the applicant and the
8 name under which the business is conducted;

9 (c) Employer social security number;

10 (d) (~~(As applicable: (i) The industrial insurance account number~~
11 ~~covering employees domiciled in Washington; and (ii) evidence of~~
12 ~~workers' compensation coverage in the applicant's state of domicile for~~
13 ~~the applicant's employees working in Washington who are not domiciled~~
14 ~~in Washington)) Evidence of workers' compensation coverage for the
15 applicant's employees working in Washington, as follows:~~

16 (i) The applicant's industrial insurance account number issued by
17 the department;

18 (ii) The applicant's self-insurer number issued by the department;
19 or

20 (iii) For applicants domiciled in a state or province of Canada
21 subject to an agreement entered into under RCW 51.12.120(7), as
22 permitted by the agreement, filing a certificate of coverage issued by
23 the agency that administers the workers' compensation law in the
24 applicant's state or province of domicile certifying that the applicant
25 has secured the payment of compensation under the other state's or
26 province's workers' compensation law;

27 (e) Employment security department number;

28 (f) State excise tax registration number;

29 (g) Unified business identifier (UBI) account number may be
30 substituted for the information required by (d)(~~7~~) of this subsection
31 if the applicant will not employ employees in Washington, and by
32 (e)(~~7~~) and (f) of this subsection; and

33 (h) Whether a general or specialty electrical contractor license is
34 sought and, if the latter, the type of specialty. Electrical
35 contractor specialties include, but are not limited to: Residential,
36 domestic appliances, pump and irrigation, limited energy system, signs,
37 nonresidential maintenance, and a combination specialty. A general
38 electrical contractor license shall grant to the holder the right to
39 engage in, conduct, or carry on the business of installing or

1 maintaining wires or equipment to carry electric current, and
2 installing or maintaining equipment, or installing or maintaining
3 material to fasten or insulate such wires or equipment to be operated
4 by electric current, in the state of Washington. A specialty
5 electrical contractor license shall grant to the holder a limited right
6 to engage in, conduct, or carry on the business of installing or
7 maintaining wires or equipment to carry electrical current, and
8 installing or maintaining equipment; or installing or maintaining
9 material to fasten or insulate such wires or equipment to be operated
10 by electric current in the state of Washington as expressly allowed by
11 the license.

12 (2) The department may verify the workers' compensation coverage
13 information provided by the applicant under subsection (1)(d) of this
14 section, including but not limited to information regarding the
15 coverage of an individual employee of the applicant. If coverage is
16 provided under the laws of another state, the department may notify the
17 other state that the applicant is employing employees in Washington.

18 (3) The application for a contractor license shall be accompanied
19 by a bond in the sum of four thousand dollars with the state of
20 Washington named as obligee in the bond, with good and sufficient
21 surety, to be approved by the department. The bond shall at all times
22 be kept in full force and effect, and any cancellation or revocation
23 thereof, or withdrawal of the surety therefrom, suspends the license
24 issued to the principal until a new bond has been filed and approved as
25 provided in this section. Upon approval of a bond, the department
26 shall on the next business day deposit the fee accompanying the
27 application in the electrical license fund and shall file the bond in
28 the office. The department shall upon request furnish to any person,
29 firm, partnership, corporation, or other entity a certified copy of the
30 bond upon the payment of a fee that the department shall set by rule.
31 The fee shall cover but not exceed the cost of furnishing the certified
32 copy. The bond shall be conditioned that in any installation or
33 maintenance of wires or equipment to convey electrical current, and
34 equipment to be operated by electrical current, the principal will
35 comply with the provisions of this chapter and with any electrical
36 ordinance, building code, or regulation of a city or town adopted
37 pursuant to RCW 19.28.010(~~(+2)~~) (3) that is in effect at the time of
38 entering into a contract. The bond shall be conditioned further that
39 the principal will pay for all labor, including employee benefits, and

1 material furnished or used upon the work, taxes and contributions to
2 the state of Washington, and all damages that may be sustained by any
3 person, firm, partnership, corporation, or other entity due to a
4 failure of the principal to make the installation or maintenance in
5 accordance with this chapter or any applicable ordinance, building
6 code, or regulation of a city or town adopted pursuant to RCW
7 19.28.010(~~(+2)~~) (3). In lieu of the surety bond required by this
8 section the license applicant may file with the department a cash
9 deposit or other negotiable security acceptable to the department. If
10 the license applicant has filed a cash deposit, the department shall
11 deposit the funds in a special trust savings account in a commercial
12 bank, mutual savings bank, or savings and loan association and shall
13 pay annually to the depositor the interest derived from the account.

14 (4) The department shall issue general or specialty electrical
15 contractor licenses to applicants meeting all of the requirements of
16 this chapter. The provisions of this chapter relating to the licensing
17 of any person, firm, partnership, corporation, or other entity
18 including the requirement of a bond with the state of Washington named
19 as obligee therein and the collection of a fee therefor, are exclusive,
20 and no political subdivision of the state of Washington may require or
21 issue any licenses or bonds or charge any fee for the same or a similar
22 purpose. No person, firm, partnership, corporation, or other entity
23 holding more than one specialty contractor license under this chapter
24 may be required to pay an annual fee for more than one such license or
25 to post more than one four thousand dollar bond, equivalent cash
26 deposit, or other negotiable security.

27 (5) To obtain a general or specialty electrical contractor license
28 the applicant must designate an individual who currently possesses an
29 administrator's certificate as a general electrical contractor
30 administrator or as a specialty electrical contractor administrator in
31 the specialty for which application has been made. Administrator
32 certificate specialties include but are not limited to: Residential,
33 domestic, appliance, pump and irrigation, limited energy system, signs,
34 nonresidential maintenance, and combination specialty. To obtain an
35 administrator's certificate an individual must pass an examination as
36 set forth in RCW 19.28.123 unless the applicant was a licensed
37 electrical contractor at any time during 1974. Applicants who were
38 electrical contractors licensed by the state of Washington at any time
39 during 1974 are entitled to receive a general electrical contractor

1 administrator's certificate without examination if the applicants apply
2 prior to January 1, 1984. The board of electrical examiners shall
3 certify to the department the names of all persons who are entitled to
4 either a general or specialty electrical contractor administrator's
5 certificate.

6 NEW SECTION. **Sec. 5.** The workers' compensation advisory committee
7 established under RCW 51.04.110 shall appoint a subcommittee to review
8 section 2 of this act and related issues, as determined by the
9 committee, and report its findings and recommendations to the
10 committee. The committee shall make a final report to the department
11 of labor and industries by December 15, 1998. The department shall
12 report on the study to the appropriate committees of the legislature by
13 January 15, 1999."

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17 On page 1, line 2 of the title, after "Washington;" strike the
18 remainder of the title and insert "amending RCW 51.12.120, 18.27.030,
19 and 19.28.120; and creating new sections."

--- END ---