

***Commerce & Labor Committee***

***HB 1133***

***Brief Description:*** *Limiting liability for donated labor on community projects.*

***Sponsors:*** *Representatives Carrell, Lantz, Lambert, Hurst, Casada, Morell, Kagi, Marine, Cox, Talcott, Tokuda, Fisher, Bush, Edwards, O'Brien, Darneille, Edmonds, Esser and Haigh.*

***Brief Summary of Bill***

- *Establishes criteria for limiting industrial insurance liability when labor is donated on community projects benefitting a public entity.*

***Hearing Date:*** *1/30/01*

***Staff:*** *Chris Cordes (786-7103).*

***Background:***

*Washington's industrial insurance law requires most employers to cover their workers for medical benefits and lost wages when the workers are injured or develop occupational diseases in the course of employment. The law defines "employer" and "worker" but does not specify when an employment relationship exists.*

*In interpreting this law, the courts have developed a two-part test to determine whether an employment relationship exists: (1) the employer has the right to control the worker's physical conduct in the performance of duties; and (2) the employee consents to this relationship. In litigation, whether an employment relationship exists is a question of fact that must be submitted to the jury.*

*One exception to the general requirement for an employment relationship involves*

*volunteers providing services to a governmental entity. "Volunteers" are those who perform assigned or authorized duties by their own free choice, who receive no wages, and who are accepted as volunteers by the governmental entity. The industrial insurance law requires state agencies to cover all of their volunteers, while local governments may elect to have volunteer coverage programs. Covered volunteers receive medical benefits only.*

*Employers subject to the industrial insurance law are not liable in personal injury lawsuits brought by their workers for unintentional workplace injuries or illnesses covered by the industrial insurance law.*

***Summary of Bill:***

*If a community improvement project benefitting a public entity uses donated labor, materials, or equipment, a contractor or employer that donates materials or equipment is not the employer of a person donating labor if:*

- the person donates labor as a result of his or her free choice documented in writing; and*
- the person receives no wages.*

*These criteria apply whether the contractor or employer provides the person information about the project or solicits labor for the project, whether the person uses the donated materials or equipment, or whether the person is reimbursed for actual expenses incurred in working on the project.*

*Except when applicable to covered governmental volunteers, the contractor or employer is not liable for industrial insurance premiums for donated labor on these projects and the person donating labor is not entitled to industrial insurance benefits.*

*A community improvement project includes repairing, restoring, or preserving historic public property.*

***Rules Authority:*** *The bill does not contain provisions addressing the rule-making powers of an agency.*

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

***Appropriation:*** *None.*

***Fiscal Note:*** *Not Requested.*