

HOUSE BILL REPORT

HB 2630

As Reported by House Committee On:
Commerce & Labor
Capital Budget

Title: An act relating to apprenticeship utilization requirements.

Brief Description: Establishing apprenticeship utilization requirements for public works.

Sponsors: Representatives Conway, Cairnes, Cooper, Wood, Lantz, Sullivan, Berkey, Edwards, Tokuda, Chase, Ogden, Santos and Simpson.

Brief History:

Committee Activity:

Commerce & Labor: 1/31/02, 2/7/02 [DPS];
Capital Budget: 2/12/02 [DP2S].

Brief Summary of Second Substitute Bill

- Directs that contracts for public works awarded by certain state agencies require that apprentices enrolled in state-approved apprenticeship training programs participate in those projects at specified levels.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Clements, Ranking Minority Member; Kenney and Lysen.

Minority Report: Do not pass. Signed by 1 member: Representative Chandler.

Staff: Siovhan Sheridan-Ayala (786-7119); Chris Cordes (786-7103).

Background:

Public Works

Public works projects are work, construction, alteration, repair, or improvements, other than regular maintenance, that are done for state agencies or local governments.

Depending on a number of factors, public works projects may be performed by public employees or performed under contracts with private sector contractors.

Apprenticeship Training Programs

Washington has an apprenticeship council. The council is appointed by the director of the Department of Labor and Industries and is composed of three members from employer organizations and three members from labor organizations. Members serve three-year staggered terms of office. The apprenticeship council establishes standards for apprenticeship training programs, adopts rules related to apprenticeship training programs, and approves apprenticeship training programs.

Apprentice Utilization

Under Executive Order 00-01, Governor Locke directed state agencies under his authority to require apprentices enrolled in state-approved apprenticeship training programs to participate in public works projects as follows:

- Ten percent of total labor hours for contracts of more than \$2 million awarded from July 1, 2000, through December 31, 2002.
- Twelve percent of total labor hours for contracts of more than \$2 million awarded from January 1, 2003, through December 31, 2003.
- Fifteen percent of total labor hours for contracts of more than \$1 million awarded from January 1, 2004, forward.

The Governor permitted agency directors to adjust these requirements for specific projects for any of the following reasons:

- A demonstrated lack of availability of apprentices in specific geographic areas.
- A disproportionately high ratio of material costs to labor hours.
- A demonstrated good faith effort by participating contractors to comply with the requirements of Executive Order 00-01.
- Other criteria the agency director deems appropriate, subject to prior review by the Office of the Governor.

Under local ordinances or policies, certain public works contracts awarded by the city of Seattle, the city of Tacoma, the Port of Seattle, and King County also must require utilization of apprentices.

Summary of Substitute Bill:

Requirements for apprentice utilization in public works projects and permissible reasons for adjusting the requirements, as set forth in Governor Locke's Executive Order, are codified. The requirements apply to state agencies, other than agencies headed by a separately elected public official, the Department of Transportation, and institutions of higher education.

Requirements for Apprentice Utilization

All contracts for public works awarded by covered state agencies must require that apprentices enrolled in state-approved apprenticeship training programs participate in the projects as follows:

- No less than 10 percent of total labor hours must be performed by apprentices for contracts estimated to cost \$2 million or more from July 1, 2002, through December 31, 2002.
- No less than 12 percent of total labor hours must be performed by apprentices for contracts estimated to cost \$2 million or more from January 1, 2003, through December 31, 2003.
- No less than 15 percent of total labor hours must be performed by apprentices for contracts estimated to cost \$1 million from January 1, 2004, forward.

Adjustments to Utilization Requirements

Awarding agency directors must adjust the apprenticeship utilization requirements for specific projects for any of the following reasons:

- A lack of availability of apprentices in specific geographic areas demonstrated by the failure to fill the job. A contractor may apply for an adjustment if the jobs are not filled within 30 days after the work begins.
- A disproportionately high ratio of material costs to labor hours.
- Participating contractors demonstrate a good faith effort to comply.
- Other criteria the awarding agency director deems appropriate, subject to prior review by the apprenticeship program manager of the Department of Labor and Industries.

Reports

The Department of General Administration must provide information and technical assistance to affected agencies, and must collect data and provide reports on this data to the Legislature and the Governor. The Department of Labor and Industries must report to the Senate, the House, and the Governor regarding skill shortages in each craft.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes: (1) adds that the apprentice utilization requirements only apply to contracts awarded by the state. However, the requirements do not apply to contracts awarded by agencies headed by a separately elected public official, the Department of Transportation, and institutions of higher education; (2) changes the apprentice utilization percentage for each of the crafts from a requirement to a "reasonable effort" to apply the requirements; (3) adds that an agency must adjust the apprentice requirements for a specific project based on a contractor's good faith effort; (4) deletes the breach of contract consequence for failing to comply with the apprentice utilization requirements; (5) makes the adjustments of percentages mandatory, rather than discretionary, upon the showing of an exception; (6) modifies the apprentice utilization percentages based on limited supply of workers in a geographical region. Under this exception, the contractor may apply for an adjustment of the apprentice utilization percentages after the employment solicitations have been insufficient for 30 days after the initiation of work; (7) requires the Department of General Administration (GA) to provide information and technical assistance to affected agencies. The GA must also report to the Legislature and the Governor on specific project data collected from affected agencies; and (8) adds a requirement that the Department of Labor and Industries must report to the Senate, the House, and the Governor regarding skill shortages in each craft.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The shortage of skilled craft workers is a critical issue for contractors. Requiring apprentices on public works assures that more skilled workers are trained and more job openings are available to increase the number of apprentices that can be trained. This will help preserve the construction industry. This bill follows the Governor's lead in issuing an executive order covering state agencies. The bill expands to all the public sector and corrects some issues raised by the Governor's executive order. Many local governments are already successfully applying apprenticeship goals in their public works contracts. Besides providing apprentice jobs, it saves money on the overall construction costs. Since state agencies already do this under the executive order, it is unclear why there is a fiscal note. The local jurisdictions that have this program do not see increased

costs as a result. These jurisdictions should be exempt from the bill if their programs substantially comply. Keeping the construction industry healthy is important in regions of the state already facing severe economic conditions.

Testimony Against: There is broad support for apprenticeship programs, but mandating utilization rates is not healthy for the industry. It artificially forces a determination of where labor will be placed on a project without regard to the needs. This will also result in pulling apprentices off private sector jobs to meet the needs on public works jobs. It might also result in layoffs for journey level workers who are replaced by apprentices. Some crafts are not experiencing labor shortages, but instead are having to lay off workers. The bill reduces flexibility and creates administrative problems for public works projects. Some of the conditions listed in the bill are not clear and won't help contractors comply. Nothing that this bill does will increase the supply of apprentices. What is needed is to raise the awareness of potential workers in the industry and increase financial aid so that the pool of apprentices can be increased. More work needs to be done to increase training programs in the nonunion sector. These issues can be addressed in collective bargaining.

Testified: (In support) Roger Boatwright, Washington State Building and Construction Trades Council; Alan Darr, International Union of Operating Engineers; David Johnson, International Union of Ironworkers; and Grant Alexander, Olympic Peninsula Building and Construction Trade Council.

(In support with amendment) Peter Guzman, city of Tacoma.

(Opposed) Larry Stevens, Mechanical Contractors Association and National Electrical Contractors Association; Rick Slunaker, Associated General Contractors of Washington; Gary Smith, Independent Business Association; David Spivey, Asphalt Paving Association; Mike Lee, Lakeside Industries; and Dave Jent, Wilder Construction.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 9 members: Representatives Murray, Chair; McIntire, Vice Chair; Chase, Hunt, Lantz, O'Brien, Ogden, Reardon and Veloria.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Armstrong, Bush, Casada, Esser, Hankins, Schoesler and Woods.

Staff: Susan Howson (786-7142).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Commerce & Labor:

Institutions of higher education are added to the list of state agencies that must comply with the requirements for apprentice utilization in public works projects.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Apprenticeship is the most effective and most underutilized form of training for our workforce. While there is an availability of people and the training capacity to educate apprentices, there is a lack of apprenticeship jobs available on public works projects. The Governor's Executive Order 00-01 and this bill take a large step towards meeting the need for additional apprenticeship opportunities. To date, nine public jurisdictions in Washington have addressed the problem of a declining construction workforce by implementing apprenticeship utilization programs. None of these jurisdictions have reported cost increases due to the utilization of apprentices.

Testimony Against: This bill will reduce competition for public works projects, as has happened under the Governor's Executive Order 00-01, resulting in increased project costs. Many small businesses have been unable to bid on public works projects under the Governor's Executive Order due to the apprenticeship requirements. In-house apprenticeship training programs are not cost effective for many small firms. In the two-year period since the Executive Order was issued, apprenticeship participation has actually decreased. The apprenticeship program has enrolled and graduated fewer apprentices during this two-year period, while the total number of participants has remained relatively the same.

Testified: (In support) Representative Conway, prime sponsor; Don McLeod, Laborers Union; David Johnson, Ironworkers Local Union #86; and Randy Loomans, Washington State Labor Council.

(Against) Gary Smith, Independent Business Association; Rick Slunaker, Associated General Contractors; Larry Stevens, Mechanical Contractors Association and National Electrical Contractors Association; Cliff Webster, Associated Builders and Contractors; and Mark Johnson, National Federation of Independent Business.