

SENATE BILL REPORT

SHB 1133

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, March 27, 2001

Title: An act relating to limiting liability for donated labor on community projects.

Brief Description: Determining liability for donated labor on community projects.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Carrell, Lantz, Lambert, Hurst, Casada, Morell, Kagi, Marine, Cox, Talcott, Tokuda, Fisher, Bush, Edwards, O'Brien, Darneille, Edmonds, Esser and Haigh).

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 3/26/01, 3/27/01 [DP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Hochstatter, Honeyford, Rasmussen, Regala, West and Winsley.

Staff: Jack Brummel (786-7428)

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: A public entity, including the state and local governments, seeking partnerships on community improvement projects with volunteer groups and businesses must (1) provide prospective donors and participants with written notice of the risks and responsibilities to be assumed by the parties, (2) require volunteers, before beginning work, to document that they received the notice and are donating labor by their free choice, and (3) pay industrial insurance premiums to provide medical aid benefits to volunteers donating labor.

A contractor or employer donating equipment or materials for the project is not considered the employer, for industrial insurance purposes, of a person donating labor to the project unless the contractor or employer pays the person wages or makes working on the project a condition of employment.

A community improvement project means a project sponsored by a public entity using donated labor, materials, or equipment.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill may not exempt an employer from tort liability but it is a good idea and reduces the risk of litigation.

Testimony Against: None.

Testified: Suzanne Mager, L&I.