

# HOUSE BILL REPORT

## HB 2439

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### As Reported by House Committee On:

Commerce & Labor

**Title:** An act relating to apprenticeship utilization requirements on public works projects.

**Brief Description:** Providing for apprenticeship utilization requirements on public works projects.

**Sponsors:** Representatives Conway, Hankins, Campbell, Cooper, Kenney, Wood, Simpson, D., Chase, Simpson, G., Moeller, Morrell, Hudgins and Dickerson; by request of Governor Locke and Washington State Apprenticeship and Training Council.

### Brief History:

#### Committee Activity:

Commerce & Labor: 1/21/04, 1/22/04 [DPS].

#### Brief Summary of Substitute Bill

- Requires that no less than 15 percent of total labor hours on state public works projects that are estimated to cost \$1 million or more be performed by apprentices.
- Permits awarding agencies to adjust apprentice utilization requirements for specified reasons.

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### 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; Hudgins, Kenney and McCoy.

**Minority Report:** Do not pass. Signed by 4 members: Representatives McMorris, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse and Holmquist.

**Staff:** Jill Reinmuth (786-7134).

### Background:

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

#### Requirements for Apprentice Utilization

The requirements for apprentice utilization are 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; and
- Fifteen percent of total labor hours for contracts of more than \$1 million awarded from January 1, 2004, forward.

#### Adjustments to Utilization Requirements

The Governor permitted agency directors to adjust these requirements for specific projects for 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; or
- Other criteria the agency director deems appropriate, subject to prior review by the Office of the Governor.

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#### **Summary of Substitute Bill:**

The requirement for apprentice utilization in public works projects and reasons for adjusting the requirement, as set forth in Governor Locke's Executive Order, are codified.

#### Requirement for Apprentice Utilization

For public works estimated to cost \$1 million or more, the specifications must require that no less than 15 percent of the labor hours be performed by apprentices enrolled in state-approved apprenticeship training programs. This apprentice utilization requirement

applies to public works contracts awarded by state agencies except for state four-year institutions of higher education, state agencies headed by a separately elected public official, and the Department of Transportation. This apprentice utilization requirement is consistent with the requirement in Governor Locke's Executive Order.

#### Adjustments to Utilization Requirement

Awarding agencies may adjust this apprentice utilization requirement for specific projects for the same reasons as specified in Governor Locke's Executive Order.

#### Reporting Requirements

The Department of General Administration, with the assistance of the Department of Labor and Industries, must provide information and technical assistance to affected agencies. The Department of General Administration also must collect certain data on covered projects from affected agencies.

At the request of certain legislative committees or the Governor, the Department of General Administration and the Department of Labor and Industries must compile and summarize the data and provide a joint report. The report must include recommendations on modifications or improvements to the apprentice utilization program, and information on skill shortages in each trade or craft.

#### **Substitute Bill Compared to Original Bill:**

The state agencies subject to the apprentice utilization requirement are modified to exclude state four-year institutions of higher education. Technical corrections are made.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** We need to invest in the construction workforce of the future. Apprenticeship is the most effective training program for these workers.

Statistics show worker shortages now and in the future. The Workforce Training Board found that 65 percent of surveyed employers have trouble finding qualified workers. This bill will help create an adequate supply of construction workers for the future. The utilization requirement creates thousands of hours of demand, and thus, steadier employment for apprentices. It expands opportunities for existing apprentices. These

opportunities are key to ensuring completion of apprenticeships. It will also help the Apprenticeship Council when deciding whether there is sufficient demand to approve new training programs.

The apprentice utilization requirements in the Executive Order and in this bill were set after examining the requirements in other jurisdictions, including the City of Seattle, King County, and the Port of Seattle. Since the Executive Order took effect, nearly all contractors have exceeded the apprentice utilization requirements. Also, these requirements can be adjusted.

Thirteen thousand individuals currently participate in apprenticeship programs. Seventy programs are construction-related. These programs can change lives.

This bill differs from last year's bill. This bill does not include the Department of Transportation or four-year state institutions of higher education. Like last year's bill, it also does not include agencies headed by separately-elected officials.

The Department of General Administration has not had any problems with the utilization requirement. The contractors are meeting the goals and are not complaining about them. The key is that contractors make a good faith effort. The Department recently completed a report on the requirement, including all projects to date.

**Testimony Against:** We agree that apprenticeship is valuable and that investment in workforce training is good. However, this is not the time for this bill. Furthermore, the bill does not do what it purports to do.

Labor continues to put up obstacles for approval of open shop apprenticeship programs. Even though the Department of Labor and Industries has tried to comply with the Bureau of Apprenticeship Training's requirements, labor continues to oppose open shop programs. Because of objectives by organized labor, our organization has incurred significant litigation and other costs. They are using delay tactics. They want to reopen and relitigate issues previously approved. They are getting a second bite of the apple. We cannot support this bill until there is a level playing field and equal access to apprenticeship.

The apprenticeship utilization requirement is impractical. It interferes with collective bargaining. It excludes open shop contractors from bidding on these projects. (Seventy percent of construction contractors are open shop, and 90 percent of minority- and women-owned businesses are open shop.) It ignores training available at community and technical colleges.

There are already financial incentives for using apprentices on public works projects. Contractors are permitted to pay apprentices less than prevailing wage rates.

This bill differs from last year's bill. The adjustments to utilization requirements are permissive, not mandatory. It also drops the burden of proof, and the directive to spread utilization throughout the crafts. It adds other criteria not specified in the bill. It increases reporting requirements, including the name and number of each apprentice. It permits committees to request reports, but does not require them on a regular basis.

Some contractors do not bid on state public works projects anymore because of the apprentice utilization requirement. Decreased competition for this work results in increased costs.

Small businesses have less opportunity because they are mostly open shop. On average, these businesses have six or fewer employees. Only 4.1 percent use apprenticeship, while 84 percent use on the job training. Despite efforts to improve the bill, the underlying mandate still exists.

**Persons Testifying:** (In support) Jamila Thomas-Roberts, Office of the Governor; Melinda Nichols and Dave Johnson, Washington State Apprenticeship Training Council; John Lynch, Department of General Administration; Ed Triezenberg, Pacific Northwest Regional Council of Carpenters; and Brian Carpenter, Pierce County Building and Construction Trades Council.

(Opposed) Rick Slunaker, Associated General Contractors and Washington Construction Industry Council; Sandra Olson, Construction Industry Training Council; Gary Smith, Independent Business Association; Mark Johnson, National Federation of Independent Business; and Larry Stevens, National Electrical Contractors Association and Mechanical Contractors Association.

**Persons Signed In To Testify But Not Testifying:** None.