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**Commerce & Labor Committee**

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**HB 2750**

**Brief Description:** Releasing entities that let contracts for work from liability for certain industrial insurance premiums.

**Sponsors:** Representative Clements.

**Brief Summary of Bill**

- Requires the Department of Labor and Industries (Department) to release public agencies and private entities from liability for industrial insurance premiums for work performed by contractors if: (1) the agencies or entities submit certain information about the contracts to the Department; and (2) the Department determines that the work was properly classified and the premiums were paid.

**Hearing Date:** 2/3/04

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

**Background:**

Under the Industrial Insurance Act (Act), public agencies and many private entities that let contracts for work are responsible for payment of industrial insurance premiums owed on such work. (Registered contractors and licensed electrical contractors are not liable for premiums owed on work performed by certain subcontractors.) Public agencies and private entities are entitled to collect the full amount payable to the Accident Fund from the contractor, and the contractor is entitled to collect from a subcontractor a proportionate amount of that. Consequently, the person letting the contract functions as a surety for the industrial insurance premiums.

The state Court of Appeals has described these provisions as "facilitat[ing] and broaden[ing] the premium collection powers of the Department [of Labor and Industries]." The Court of Appeals also said that the rationale for giving the Department these collection powers is that "the more the [Act] facilitates full collection of premiums, the better it serves the accident fund from which compensation is paid."

Until recently, the Department issued premium liability release letters, upon request, to public agencies and private entities that let contracts for work. One form of these letters stated that "the Department of Labor and Industries does hereby release [the public agency or private entity] from any further liability for Industrial Insurance premiums pursuant to RCW 51.12.050 and RCW 51.12.070 as would otherwise incur in connection with a [particular] contract ..." This form also stated that "this certificate does not release [the agency or entity] from liability for additional

Industrial Insurance contributions which later may be determined to be due or for any other obligations under other statutes (e.g. Prevailing Wage) with respect to the above mentioned contract or any other contracts said contractor may have performed."

In [September] of 2003, the Department sent a letter to interested parties notifying them that the Department was changing the "procedures regarding premium liability releases provided for firms and organizations." The letter stated that "the Department of Labor and Industries is ending its practice of granting releases from liability to businesses and government agencies that let contracts for work" and indicated that "the cutoff date for requesting release letters [was] [October] 27, 2003."

**Summary of Bill:**

If two criteria are satisfied, the Department of Labor and Industries (Department) must release public agencies and private entities from liability for industrial insurance premiums on work performed by their contractors and subcontractors.

The first criteria is that the agency or entity that wishes to be released from liability must submit certain information about the contract to the Department. This information includes the following:

- The name, address, and Unified Business Identifier (UBI) number of the contractor;
- The name, number, location, and amount of the contract;
- A description and the dates of the work;
- The number of hours anticipated to perform the work; and
- The same information about any subcontractors.

The second criteria is that the Department must determine that the work performed under the contract was properly classified, and the premiums due for the work performed under the contract have been paid.

**Rules Authority:** The Department of Labor and Industries must adopt rules to implement this section.

**Appropriation:** None.

**Fiscal Note:** Requested on January 28, 2004.

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