

SENATE BILL REPORT

SB 6600

As Reported By Senate Committee On:
Judiciary, February 5, 2004

Title: An act relating to construction liability.

Brief Description: Revising construction liability provisions.

Sponsors: Senators Brandland, T. Sheldon, Hale, Stevens and Murray.

Brief History:

Committee Activity: Judiciary: 2/4/04, 2/5/04 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6600 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: Under current industrial insurance law, if a third person, working for a separate employer, is or may become liable to pay damages for a worker's injury, the worker may elect to seek damages from the third person. If the injured worker elects not to seek damages from the third person, the Department of Labor and Industries or self-insurer may require the injured worker to elect to seek the damages or request that the court assign the cause of action to the department. If damages are paid by the third person, the department is entitled to reimbursement for the amounts it has paid to the injured worker. The injured worker, however, must be paid at least 25 percent of the award after costs and attorney's fees are deducted.

An exception to the ability to elect to seek damages from a third party exists for design professionals and their employees. An injured worker or beneficiary may not seek damages against third party design professionals or their employees who have been retained to perform professional services on a construction project, unless responsibility for safety practices is specifically assumed by contract or the design professional actually exercised control over the portion of the premises where the worker was injured. This immunity does not apply to the negligent preparation of design plans and specifications.

Summary of Substitute Bill: There is a six-year statute of limitations for all claims or causes of action of any kind against any person, arising from the person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This applies only to

persons having performed work for which the persons must be registered or licensed as architects, contractors, engineers, surveyors, landscape architects, or electricians.

Substitute Bill Compared to Original Bill: The substitute restores the ability of workers to sue third parties working for a separate employer and for the Department of Labor and Industries to recover benefits paid to the worker if the suit is successful.

Appropriation: None.

Fiscal Note: Requested on January 29, 2004

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

Testimony For: Workers' compensation is meant to benefit workers and employers. Contractors should not be held responsible for post-construction injuries.

Testimony Against: Labor and Industries benefits are an inadequate remedy for the injuries that workers are sustaining. This extends workers' compensation to non-employers (addressed by proposed substitute bill).

Testified: PRO: Duke Schaub, AGC of Washington; Rick Slunaker, AGC of Washington; Trent Matson, BIAW; CON: Robby Stern, WSLC; Suzanne Maper, L&I; Larry Shannon, WSTLA; John Budlong, WSTLA.