

SENATE BILL REPORT

SHB 1555

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, March 30, 2009
Ways & Means, April 6, 2009

Title: An act relating to the recommendations of the joint legislative task force on the underground economy in the construction industry.

Brief Description: Addressing the recommendations of the joint legislative task force on the underground economy in the construction industry.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chase, Green, Dickerson, Rolfes, Goodman, Campbell, Morrell, Cody, Simpson, Ormsby, Van De Wege, Seaquist, Appleton, Miloscia, Hunt, Blake, Williams, Hudgins, Kenney, Sullivan, Priest, Eddy and Wood).

Brief History: Passed House: 3/05/09, 95-1.

Committee Activity: Labor, Commerce & Consumer Protection: 3/17/09, 3/30/09 [DPA-WM, DNP].

Ways & Means: 4/02/09, 4/06/09 [DPA, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Minority Report: Do not pass. Signed by Senators Holmquist, Ranking Minority Member; Honeyford and King.

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Parlette, Pflug, Pridemore, Regala and Rockefeller.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.

Signed by Senators Honeyford and Schoesler.

Staff: Michael Bezanson (786-7449)

Background: In 2007 the Legislature created the Joint Legislative Task Force on the Underground Economy in the Construction Industry (Task Force). The Task Force was directed to formulate a state policy to establish cohesion and transparency between state agencies to increase oversight and regulation of the underground economy practices in the construction industry. During the 2007 interim, the Task Force developed findings and recommendations and forwarded them to the Legislature. Many of these findings and recommendations were embodied in bills enacted during the 2008 Legislative Session. The Task Force's term was extended for an additional year and the Task Force was required to submit a final report to the Legislature by December 31, 2008.

In its final report, the Task Force issued a number of recommendations, including recommendations relating to contractor registration; education and outreach activities; defining the term independent contractor for prevailing wage purposes; unemployment insurance recordkeeping; establishing an interagency advisory committee; and benchmarks and measures.

Summary of Bill (Recommended Amendments): A contractor must maintain, and have available for inspection by the Department of Labor and Industries (L&I), a list of all direct subcontractors and a copy of their certificate of registration. Before issuing a business license to a person required to be registered as a contractor, a city, town, or county may verify that the person is registered. The Department of Licensing must conduct the verification for cities that participate in the Master License System.

L&I and the Employment Security Department (ESD) have a priority lien on retainage on public works projects following the Department of Revenue (DOR). L&I must conduct education and outreach to employers on workers' compensation requirements and premium responsibilities, including independent contractor issues. L&I must work with new employers on an individual basis and establish mass education campaigns.

A penalty is created for employers who fail to keep and preserve unemployment insurance records. The penalty may not exceed \$250 or 200 percent of the quarterly tax for each offense, whichever is greater.

The term of the Task Force is extended to conduct a continuing study of the underground economy. References limiting the scope of the Task Force to construction are removed and local government representatives are added to the Task Force. The Task Force must submit a report to the Legislature by December 1, 2009.

L&I, ESD, and DOR must annually report to the appropriate committees of the Legislature by December 1 on the effectiveness of efforts implemented since July 1, 2008, to address the underground economy. The agencies must use benchmarks and measures established by the Washington Institute for Public Policy, and other measures it determines appropriate.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): Technical amendment to fix references by deleting reference to RCW 60.28.020.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Amendments): The local government requirement is made permissive. The Advisory Committee is removed. The term of the Joint Legislative Task Force on the Underground Economy in the Construction Industry is extended to December 15, 2009, and language limiting the scope of the Task Force to the construction industry is removed. Representatives of local government are added to the Task Force.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for section 13 which takes effect October 1, 2009.

Staff Summary of Public Testimony on Substitute House Bill (Labor, Commerce & Consumer Protection): PRO: The requirements for cities could be phased in. The underground economy must be addressed on the local level, but cities could be given time to update their computer systems. It is important to retain the ongoing advisory committee. The committee would expand its activities beyond the construction industry to address other elements of the underground economy. The annual reporting requirements should remain in the bill and the benchmarking activities should continue. The education and outreach requirements should remain in the bill as well as the reporting and benchmarking section.

OTHER: The requirements for the cities should be permissive. Some cities are not set up to meet the duties set up by the bill and would have to overhaul their computer systems to come into compliance. The additional employees estimated in the fiscal note are to fulfill the education and outreach requirements, the advisory committee, and to assist with the retainage provisions.

Persons Testifying (Labor, Commerce & Consumer Protection): PRO: David Johnson, Washington State Building Trades; Rick Slunaker, Associated General Contractors; John Littel, Pacific NW Regional Council of Carpenters.

OTHER: Victoria Lincoln, Association of Washington Cities; Carl Hammersburg, L&I; Art Wang, ESD.

Staff Summary of Public Testimony on LCCP Recommended Amended Bill (Ways & Means): PRO: This is a moneymaker for the state. The more the underground economy is in the open the more revenue the state receives from taxes. There are several issues that the task force is working on and the changes made by the Labor and Commerce Committee

allowing the task force to continue is beneficial. The current task force sunsets in June and this bill will extend the sunset to next December.

The underground economy as it relates to construction makes up \$111 million per year that is lost to ESD, L&I, and DOR in the industry. This is estimated to be only 5 percent of the underground economy. The bill opens it up beyond just construction. The interest would be to find out what the state is losing and how to capture that revenue.

Persons Testifying (Ways & Means): PRO: Representative Conway, prime sponsor; David Johnson, Washington State Building Trades.