

SENATE BILL REPORT

SSB 5904

As Passed Senate, March 7, 2009

Title: An act relating to defining independent contractor for purposes of prevailing wage.

Brief Description: Defining independent contractor for purposes of prevailing wage.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Prentice, Keiser, Franklin, Hobbs and Kline).

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/17/09, 2/19/09 [DPS, DNP].

Passed Senate: 3/07/09, 27-15.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5904 be substituted therefor, and the substitute bill do pass.

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: Mac Nicholson (786-7445)

Background: Laborers, workers, and mechanics on all public works and public building service maintenance contracts must be paid prevailing wages. Prevailing wage is the rate of hourly wage, usual benefits, and overtime paid in the locality, or largest city in the county where the work is being performed. The prevailing wage is determined by the industrial statistician at the Department of Labor and Industries.

Summary of Substitute Bill: Independent contractor is defined for prevailing wage purposes. An individual employed on a public works project is not considered to be a laborer, worker, or mechanic when:

- the individual has been and is free from control or direction over the performance of services;
 - the service is outside the usual course of business for the contractor for whom the individual performs services;
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- the individual is customarily engaged in an independently established trade;
- the individual is responsible for filing paperwork with the Internal Revenue Service;
- the individual has an active and valid certificate of registration with the Department of Revenue for the business the individual is conducting;
- the individual maintains separate books and records; and
- the individual has a valid contractor registration or license if the nature of the work requires registration or licensure.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: This bill is a recommendation of the Underground Economy Task Force. Substitute language has been worked out. The problem that exists is that there is a consistent test for independent contractors for unemployment insurance and workers compensation, but it hasn't been applied in the prevailing wage context.

Persons Testifying: PRO: David Johnson, Washington State Building Trades; Rick Slunaker, Associated General Contractors; Bob Abbott, Laborers District Council.