
SENATE BILL 5873

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By Senators Kline, Keiser, Hobbs, Marr, Fairley, McAuliffe, Kohl-
Welles, and Shin

Read first time 02/05/09. Referred to Committee on Labor, Commerce &
Consumer Protection.

1 AN ACT Relating to apprentice utilization; amending RCW 39.04.320,
2 39.04.350, and 39.12.055; and adding a new section to chapter 49.04
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.04 RCW
6 to read as follows:

7 If the director of the department of labor and industries or his or
8 her authorized representative finds that a training agent has more than
9 one violation of a requirement of this chapter or any apprenticeship
10 rules adopted by the Washington state apprenticeship and training
11 council, the director may revoke the training agent's status. For the
12 purposes of this section, "training agent" means the employer of
13 registered apprentices approved by an apprenticeship program sponsor to
14 furnish on-the-job training to satisfy the approved apprenticeship
15 program standards who agrees to employ registered apprentices in that
16 work process.

17 **Sec. 2.** RCW 39.04.320 and 2007 c 437 s 2 are each amended to read
18 as follows:

1 (1)(a) Except as provided in (b) (~~and (c)~~) through (d) of this
2 subsection, from January 1, 2005, and thereafter, for all public works
3 estimated to cost one million dollars or more, all specifications shall
4 require that no less than fifteen percent of the labor hours of each
5 trade or craft be performed by apprentices.

6 (b)(i) This section does not apply to contracts advertised for bid
7 before July 1, 2007, for any public works by the department of
8 transportation.

9 (ii) For contracts advertised for bid on or after July 1, 2007, and
10 before July 1, 2008, for all public works by the department of
11 transportation estimated to cost five million dollars or more, all
12 specifications shall require that no less than ten percent of the labor
13 hours be performed by apprentices.

14 (iii) For contracts advertised for bid on or after July 1, 2008,
15 and before July 1, 2009, for all public works by the department of
16 transportation estimated to cost three million dollars or more, all
17 specifications shall require that no less than twelve percent of the
18 labor hours be performed by apprentices.

19 (iv) For contracts advertised for bid on or after July 1, 2009, for
20 all public works by the department of transportation estimated to cost
21 two million dollars or more, all specifications shall require that no
22 less than fifteen percent of the labor hours of each trade or craft be
23 performed by apprentices.

24 (c)(i) This section does not apply to contracts advertised for bid
25 before January 1, 2008, for any public works by a school district, or
26 to any project funded in whole or in part by bond issues approved
27 before July 1, 2007.

28 (ii) For contracts advertised for bid on or after January 1, 2008,
29 for all public works by a school district estimated to cost three
30 million dollars or more, all specifications shall require that no less
31 than ten percent of the labor hours be performed by apprentices.

32 (iii) For contracts advertised for bid on or after January 1, 2009,
33 for all public works by a school district estimated to cost two million
34 dollars or more, all specifications shall require that no less than
35 twelve percent of the labor hours of each trade or craft be performed
36 by apprentices.

37 (iv) For contracts advertised for bid on or after January 1, 2010,
38 for all public works by a school district estimated to cost one million

1 dollars or more, all specifications shall require that no less than
2 fifteen percent of the labor hours of each trade or craft be performed
3 by apprentices.

4 (d)(i) This section does not apply to contracts advertised for bid
5 before January 1, 2010, for any public works by a four-year institution
6 of higher education, or to any project funded in whole or in part by
7 bond issues approved before July 1, 2009.

8 (ii) For contracts advertised for bid on or after January 1, 2010,
9 for all public works by a four-year institution of higher education
10 estimated to cost three million dollars or more, all specifications
11 must require that no less than ten percent of the labor hours be
12 performed by apprentices.

13 (iii) For contracts advertised for bid on or after January 1, 2011,
14 for all public works by a four-year institution of higher education
15 estimated to cost two million dollars or more, all specifications must
16 require that no less than twelve percent of the labor hours of each
17 trade or craft be performed by apprentices.

18 (iv) For contracts advertised for bid on or after January 1, 2012,
19 for all public works by a four-year institution of higher education
20 estimated to cost one million dollars or more, all specifications must
21 require that no less than fifteen percent of the labor hours of each
22 trade or craft be performed by apprentices.

23 (2) Awarding (~~agency directors or school districts~~) entities may
24 adjust the requirements of this section for a specific project for the
25 following reasons:

26 (a) The demonstrated lack of availability of apprentices in
27 specific geographic areas;

28 (b) A disproportionately high ratio of material costs to labor
29 hours, which does not make feasible the required minimum levels of
30 apprentice participation;

31 (c) Participating contractors have demonstrated a good faith effort
32 to comply with the requirements of RCW 39.04.300 and 39.04.310 and this
33 section; or

34 (d) Other criteria the awarding (~~agency director or school~~
35 ~~district~~) entity deems appropriate, which are subject to review by the
36 office of the governor.

37 (3) The secretary of the department of transportation shall adjust

1 the requirements of this section for a specific project for the
2 following reasons:

3 (a) The demonstrated lack of availability of apprentices in
4 specific geographic areas; or

5 (b) A disproportionately high ratio of material costs to labor
6 hours, which does not make feasible the required minimum levels of
7 apprentice participation.

8 (4) This section applies to public works contracts awarded by the
9 state (~~and~~), to public works contracts awarded by school districts,
10 and to public works contracts awarded by state four-year institutions
11 of higher education. However, this section does not apply to contracts
12 awarded by (~~state four-year institutions of higher education or~~)
13 state agencies headed by a separately elected public official.

14 (5)(a) The department of general administration must provide
15 information and technical assistance to affected agencies and collect
16 the following data from affected agencies for each project covered by
17 this section:

18 (i) The name of each apprentice and apprentice registration number;

19 (ii) The name of each project;

20 (iii) The dollar value of each project;

21 (iv) The date of the contractor's notice to proceed;

22 (v) The number of apprentices and labor hours worked by them,
23 categorized by trade or craft;

24 (vi) The number of journey level workers and labor hours worked by
25 them, categorized by trade or craft; and

26 (vii) The number, type, and rationale for the exceptions granted
27 under subsection (2) of this section.

28 (b) The department of labor and industries shall assist the
29 department of general administration in providing information and
30 technical assistance.

31 (6) The secretary of transportation shall establish an
32 apprenticeship utilization advisory committee, which shall include
33 statewide geographic representation and consist of equal numbers of
34 representatives of contractors and labor. The committee must include
35 at least one member representing contractor businesses with less than
36 thirty-five employees. The advisory committee shall meet regularly
37 with the secretary of transportation to discuss implementation of this
38 section by the department of transportation, including development of

1 the process to be used to adjust the requirements of this section for
2 a specific project. The committee shall provide a report to the
3 legislature by January 1, 2008, on the effects of the apprentice labor
4 requirement on transportation projects and on the availability of
5 apprentice labor and programs statewide.

6 (7) At the request of the senate labor, commerce, research and
7 development committee, the house of representatives commerce and labor
8 committee, or their successor committees, and the governor, the
9 department of general administration and the department of labor and
10 industries shall compile and summarize the agency data and provide a
11 joint report to both committees. The report shall include
12 recommendations on modifications or improvements to the apprentice
13 utilization program and information on skill shortages in each trade or
14 craft.

15 **Sec. 3.** RCW 39.04.350 and 2007 c 133 s 2 are each amended to read
16 as follows:

17 (1) Before award of a public works contract, a bidder must meet the
18 following responsibility criteria to be considered a responsible bidder
19 and qualified to be awarded a public works project. The bidder must:

20 (a) At the time of bid submittal, have a certificate of
21 registration in compliance with chapter 18.27 RCW;

22 (b) Have a current state unified business identifier number;

23 (c) If applicable, have industrial insurance coverage for the
24 bidder's employees working in Washington as required in Title 51 RCW;
25 an employment security department number as required in Title 50 RCW;
26 and a state excise tax registration number as required in Title 82 RCW;
27 ((and))

28 (d) Not be disqualified from bidding on any public works contract
29 under RCW 39.06.010 or 39.12.065(3); and

30 (e) If bidding on a public works project subject to the
31 apprenticeship utilization requirements in RCW 39.04.320, not have been
32 found out of compliance by the Washington state apprenticeship and
33 training council with rules adopted under chapter 49.04 RCW for the
34 five-year period immediately preceding the date of the bid
35 solicitation.

36 (2) In addition to the bidder responsibility criteria in subsection

1 (1) of this section, the state or municipality may adopt relevant
2 supplemental criteria for determining bidder responsibility applicable
3 to a particular project which the bidder must meet.

4 (a) Supplemental criteria for determining bidder responsibility,
5 including the basis for evaluation and the deadline for appealing a
6 determination that a bidder is not responsible, must be provided in the
7 invitation to bid or bidding documents.

8 (b) In a timely manner before the bid submittal deadline, a
9 potential bidder may request that the state or municipality modify the
10 supplemental criteria. The state or municipality must evaluate the
11 information submitted by the potential bidder and respond before the
12 bid submittal deadline. If the evaluation results in a change of the
13 criteria, the state or municipality must issue an addendum to the
14 bidding documents identifying the new criteria.

15 (c) If the bidder fails to supply information requested concerning
16 responsibility within the time and manner specified in the bid
17 documents, the state or municipality may base its determination of
18 responsibility upon any available information related to the
19 supplemental criteria or may find the bidder not responsible.

20 (d) If the state or municipality determines a bidder to be not
21 responsible, the state or municipality must provide, in writing, the
22 reasons for the determination. The bidder may appeal the determination
23 within the time period specified in the bidding documents by presenting
24 additional information to the state or municipality. The state or
25 municipality must consider the additional information before issuing
26 its final determination. If the final determination affirms that the
27 bidder is not responsible, the state or municipality may not execute a
28 contract with any other bidder until two business days after the bidder
29 determined to be not responsible has received the final determination.

30 (3) The capital projects advisory review board created in RCW
31 (~~39.10.800~~) 39.10.220 shall develop suggested guidelines to assist
32 the state and municipalities in developing supplemental bidder
33 responsibility criteria. The guidelines must be posted on the board's
34 web site.

35 **Sec. 4.** RCW 39.12.055 and 2008 c 120 s 3 are each amended to read
36 as follows:

37 A contractor shall not be allowed to bid on any public works

1 contract for one year from the date of a final determination that the
2 contractor has committed any combination of two of the following
3 violations or infractions within a five-year period:

- 4 (1) Violated RCW 51.48.020(1) or 51.48.103; (~~or~~)
5 (2) Committed an infraction or violation under chapter 18.27 RCW
6 for performing work as an unregistered contractor; or
7 (3) Determined to be out of compliance by the Washington state
8 apprenticeship and training council with rules adopted under chapter
9 49.04 RCW or have had their status as a training agent revoked under
10 section 1 of this act.

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