

HOUSE BILL REPORT

HB 1023

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to extending apprenticeship utilization requirements.

Brief Description: Extending apprenticeship utilization requirements.

Sponsors: Representatives Moeller, Appleton, Stanford, Hudgins, Ormsby, Pollet and Reykdal.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/23/13, 2/13/13 [DPS].

Brief Summary of Substitute Bill

- Requires that at least 15 percent of labor hours on subsidized public works contracts estimated to cost \$5 million or more be performed by apprentices.
- Provides that entities qualify for certain construction-related tax incentive programs only if they comply with apprentice utilization requirements.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

Minority Report: Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

Staff: Alexa Silver (786-7190).

Background:

The Washington State Apprenticeship and Training Council (Council), which is part of the Department of Labor & Industries, establishes apprenticeship program standards, approves apprenticeship training programs, and otherwise governs the programs.

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.

Public works that are estimated to cost \$1 million or more must require that at least 15 percent of the labor hours be performed by apprentices enrolled in approved apprenticeship training programs. This requirement applies to public works contracts awarded by the state, school districts, and four-year institutions of higher education. It does not apply to agencies that are headed by a separately elected official. For public works by the Department of Transportation, the requirement applies only to public works estimated to cost \$2 million or more.

Awarding agencies may adjust the apprentice utilization requirement for specific projects for the following reasons:

- a demonstrated lack of availability of apprentices in specific geographic areas;
- a disproportionately high ratio of material costs to labor hours;
- a demonstrated good faith effort by participating contractors to comply with the apprentice utilization requirement; or
- other criteria the agency director deems appropriate, subject to review by the Office of the Governor.

Contractors may be disqualified from bidding on public works if they have been found out of compliance with certain apprentice utilization requirements. A public work is defined as all work, construction, alteration, repair, or improvement that is executed at the cost of the state or a local public agency.

Summary of Substitute Bill:

The requirement that at least 15 percent of labor hours be performed by apprentices is applied to subsidized public works contracts that cost \$5 million or more.

"Subsidized public work" is defined as a project where a party to the contract for the work received or will receive a specified construction-related tax preference or a public loan for the project. The following projects are excluded from the definition:

- work that takes place on land owned or controlled by a housing authority or a nonprofit housing organization eligible to receive funding;
- work financed by a loan provided by a housing authority; and
- affordable housing projects that receive financing from the Housing Finance Commission and are not subject to federal prevailing wage requirements.

The construction-related sales and use tax incentive programs that require apprentice utilization are those for: (1) construction of warehouses, distribution centers, grain elevators, and cold storage; (2) purchases to construct structures used for retail sales of biofuels; (3) installing and constructing anaerobic digesters; (4) construction and equipment purchases for manufacturing facilities in high unemployment counties; (5) construction and equipment purchases for high technology; (6) construction and equipment purchases for biotechnology and medical device manufacturing; and (7) construction of a corporate headquarters facility in a community empowerment zone.

An entity is qualified for one of these tax incentive programs only if it complies with the apprentice utilization requirement. Upon request, the Council must provide written certification that a tax preference recipient complied with the apprentice utilization law.

Substitute Bill Compared to Original Bill:

The substitute bill applies the apprentice utilization requirement to subsidized public works estimated to cost \$5 million or more, rather than \$1 million or more. It adds the requirement that the Council provide certification of compliance.

The substitute bill also narrows the definition of "subsidized public work." It deletes from the definition work that takes place on land that a party to the contract purchased for less than fair market value or leases from the state or a county, municipality, or political subdivision. It requires that the tax preference or loan was received for the project at issue. It adds exclusions from the definition for affordable housing projects.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Apprenticeship puts young people in a position to be successful in their careers and to contribute to society. These skills are difficult to pick up. The numbers of workers in the construction industry has dwindled, and many are set to retire in the next five years. The 15 percent utilization requirement is too low.

If a person voluntarily chooses to receive a tax incentive, which we all pay for as taxpayers, that is considered the public share. There are loopholes saying that when public property is leased out that the buildings on top of it are not a public interest. Public-private partnerships on public lands have historically been set up to benefit the community and provide benchmarks that drive the economies of communities. This has eroded. These projects are what we use to train the future workforce to replace us. When companies do construction on public land and take tax incentives, they have a responsibility to hire apprentices. People in the community paying taxes should benefit from these projects.

(With concerns) Ports use limited public resources to leverage private sector investment to create jobs for people in the community. This bill damages the ability to create those partnerships. As the bill is written, if someone leases property from any government agency, the person is under the requirements in the bill. This is not a subsidy because it is not leased at less than fair market value. Tax incentives are created to encourage certain industries, and this bill would create an odd counter-development.

The commercial nuclear power plant in Richland has to bring in additional workers for specialty needs and for outages every two years. There is a need for immediate repair to fixtures and inventory.

(Opposed) Ports are mandated to promote economic development, such as new permanent jobs in the community and new tax revenues. Ports are not in the business of hiring; they create land and space for entrepreneurs to come to our state. They buy and sell land only when it is in the interest of economic development. This bill handcuffs developers and public agencies like ports from fulfilling the economic development mandate from the state.

This bill will add requirements that are not imposed in other regions. It is too broad and heavy-handed and will harm projects. Competition is keen. Most of these projects are carefully negotiated over years by local officials. These projects add positive value to the communities and the state. The bill will increase costs significantly and risk hundreds of millions of dollars in private investment. There are ambiguities and inconsistencies in the bill.

Cities operate industrial parks and want to redevelop downtown commercial areas. The new requirements could create a chill on the attractiveness of developing these areas. Cities struggle to meet federal apprenticeship requirements on federal projects. The 15 percent requirement is too high.

Contractors use apprentices, but the utilization requirements micromanage contractors.

Persons Testifying: (In support) Representative Moeller, prime sponsor; Cager Clabaugh, International Longshore and Warehouse Union Local 4; Roben White, Southwest Washington Central Labor Council; Nicole Grant, Certified Electrical Workers of Washington; Darrell Chapman, International Brotherhood of Electrical Workers, Local 191; and David Meyers, Washington State Building and Construction Trades Council.

(With concerns) Ginger Eagle, Washington Public Ports Association; and Jim Rowland, Energy Northwest.

(Opposed) Bill McGregor, Port of Olympia; Van Collins, Associated General Contractors; Candice Bock, Association of Washington Cities; and Larry Stevens, National Electrical Contractors Association and Mechanical Contractors Association of Western Washington.

Persons Signed In To Testify But Not Testifying: (Opposed) Gary Smith, Independent Business Association.