

HOUSE BILL REPORT

HB 2526

As Reported by House Committee On:
Labor & Workforce Development
Capital Budget

Title: An act relating to increasing the use of apprenticeships.

Brief Description: Increasing the use of apprenticeships.

Sponsors: Representatives Moeller, Ormsby, Moscoso, Sells, Bergquist, Reykdal, Appleton, S. Hunt, Roberts, Cody, Morrell, Freeman and Pollet.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/24/14, 1/28/14 [DP];
Capital Budget: 2/6/14, 2/10/14 [DPS].

Brief Summary of Substitute Bill

- Provides that noncompliance with the apprenticeship utilization requirements is one of the violations that count towards debarring a contractor from bidding on public works.
- Provides that, for purposes of meeting the responsible bidder criteria, the bidder must not have been found out of compliance with apprenticeship utilization requirements.
- Requires the Department of Enterprise Services to monitor contractors' compliance with apprenticeship utilization requirements.
- Provides that, for purposes of determining the lowest responsible bidder on a public works contract, a bid will be decreased by 5 percent if the bidder employs apprentices, subject to certain requirements.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

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 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Christian and G. Hunt.

Staff: Trudes Tango (786-7384).

Background:

Apprenticeships. Apprenticeship programs offer on-the-job training under the supervision of journey level workers and require a certain number of instructional hours, usually at a community or technical college. Apprenticeships can last from one to six years. During the apprenticeship, apprentices are paid lower wages than journey level workers.

The Washington State Apprenticeship and Training Council (Council), which is part of the Department of Labor & Industries (L&I), establishes apprenticeship program standards, approves apprenticeship training programs, and otherwise governs the programs. Apprenticeship standards address the ratio of apprentices to journey level workers allowed, the type of work apprentices may do, and the required supervision of apprentices.

Employers may partner with an approved apprenticeship program to offer apprenticeships, or develop its own apprenticeship program that is approved by the Council.

Apprenticeship Utilization Requirements. 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 contracts awarded by the state, school districts, and state four-year higher education institutions. For the Department of Transportation, apprenticeship utilization requirements apply to public works estimated to cost \$2 million or more.

Awarding agencies may adjust the apprentice utilization requirements on specific projects for certain reasons, such as if there is a lack of apprentices in a specific geographic area.

The Department of Enterprise Services (Department) must provide information and technical assistance to affected agencies and collect certain data from agencies for projects subject to the apprenticeship utilization requirements.

Public Works Bidding. A contractor bidding on a public works contract must meet certain criteria to be considered a "responsible bidder" qualified to bid. One of the criteria is that the contractor must not have been found to be out of compliance for working apprentices out of ratio, without supervision, or outside their approved work processes, for the one-year period immediately preceding the date of the bid solicitation.

A contractor is barred from bidding on any public works contract for one year if the contractor has committed any two of the following violations within a five-year period: (1) failing to register as a contractor; (2) filing false payroll reports; (3) failing to obtain industrial insurance coverage; or (4) working apprentices out of ratio, without supervision, or outside their approved work processes.

Summary of Bill:

Apprenticeship Utilization Requirements. The Department must monitor contractors' compliance with apprenticeship utilization requirements. The Department must maintain on its web site a list of contractors that have been found to be out of compliance with the percentage of labor hours required to be performed by apprentices. The Department may adopt rules to implement the requirement to monitor contractors.

Public Works Bidding. Noncompliance with the percentage of labor hours required under the apprenticeship utilization requirements is a violation that counts towards a contractor being debarred from bidding on public works contracts. In addition, to be considered a responsible bidder, a contractor must not have been found out of compliance with the percentage of labor hours required to be worked by apprentices under the apprenticeship utilization requirement.

When determining the lowest responsible bidder on a public works contract, the state or municipality must decrease a bidder's bid by 5 percent if the bidder is employing a trade on the project, the trade is one for which there is an approved apprenticeship program, and the bidder is a party to an apprenticeship agreement for that trade. If the bidder employs more than one trade for which there is a registered apprenticeship program, the bidder must be a party to an apprenticeship agreement for each trade it is employing on the project in order to receive the 5 percent decrease. The preference granted by the decrease does not reduce the contract amount awarded.

The bidder must provide written proof of being a party to an apprenticeship agreement, at the time of submitting a bid. After being awarded the contract, if the bidder at any time is no longer a party to a registered apprenticeship agreement for each apprenticed trade the bidder is employing on the project, the bidder must notify the state or municipality within 30 days. The state or municipality may include in its contract sanctions for a bidder failing to remain a party to a registered apprenticeship agreement during the duration of the contract. The sanctions may include temporary or permanent cessation of the work without recourse to breach of contract claims by the bidder or restitution for nonperformance.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) To train the next generation of workers, there needs to be an increase in apprentices. Contractor compliance with apprenticeship utilization requirements has been an issue. Collecting data is essential to any kind of enforcement. Compliance rates on

transportation projects are low. The 5 percent bidder preference is included to create an incentive, and it is appropriate to award those who invest in apprenticeship training. Apprenticeships lead to safer job sites and life-long career opportunities. Having apprenticeships is a valuable public policy.

(Opposed) The bill is counter-productive. The enforcement provisions are excessive and unfair to general contractors. A single violation could prevent a general contractor from bidding on any contract. Sometimes not complying is not within the contractor's control. If a subcontractor does not provide enough apprenticeship hours, the general contractor gets penalized under the bill, not the subcontractor. The 5 percent incentive will result in unintended consequences and could increase the costs of a project by contractors submitting higher bids when they know they meet the apprenticeship requirement. Bills like this do not usually result in an increase in apprenticeships. Most small businesses do not have an apprenticeship program and are left out. This is an anti-business approach.

Persons Testifying: (In support) Neil Hartman, Washington Building & Construction Trades Council; and Chris McClain, Iron Workers Local 86.

(Opposed) Van Collins, Associated General Contractors; Larry Stevens, National Electrical Contractors Association; and Gary Smith, Independent Business Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dunshee, Chair; Stanford, Vice Chair; Appleton, Riccelli, Robinson, Senn and Stonier.

Minority Report: Do not pass. Signed by 6 members: Representatives DeBolt, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Christian, Scott, Smith and Warnick.

Staff: Steve Masse (786-7115).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Labor & Workforce Development:

- Removes the provision that noncompliance with the apprenticeship utilization requirements is one of the violations that count towards debarring a contractor from bidding on public works.
- Removes the provision that, for purposes of meeting the responsible bidder criteria, the bidder must not have been found out of compliance with apprenticeship utilization requirements.
- Removes the requirement of the Department of Enterprise Services to monitor contractors' compliance with apprenticeship utilization requirements.

- Removes the provision that, for purposes of determining the lowest responsible bidder on a public works contract, a bid will be decreased by 5 percent if the bidder employs apprentices, subject to certain requirements.
- Requires the Department of Enterprise Services to post on a website apprenticeship utilization of active public works 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) This bill will provide a necessary level of transparency and ability of monitoring apprenticeship utilization.

(With concerns) There are concerns regarding penalizing contractors and the ability of small public agencies to monitor apprenticeship activity.

(Neutral) Publicly posting apprenticeship requirements may lead to future penalties and further hurt contractors.

(Opposed) None.

Persons Testifying: (In support) Representative Moeller, prime sponsor; Neil Hartman, Washington Building & Construction Trades Council; and Terry Tilton, Northwest Carpenters.

(With concerns) Alison Hellberg, Association of Washington Cities.

(Neutral) Van Collins, Associated General Contractors.

Persons Signed In To Testify But Not Testifying: None.