
SENATE BILL 5576

State of Washington 65th Legislature 2017 Regular Session

By Senators Keiser, Fortunato, Conway, Miloscia, Hobbs, Takko, Hasegawa, Wellman, and Saldaña

Read first time 01/30/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to compliance with apprenticeship utilization
2 requirements; amending RCW 39.04.310, 39.04.320, 39.04.350, and
3 39.12.055; and adding a new section to chapter 49.04 RCW.

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

5 **Sec. 1.** RCW 39.04.310 and 2015 c 48 s 1 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this section and
8 RCW 39.04.300 and 39.04.320 unless the context clearly requires
9 otherwise.

10 (1) "Apprentice" means an apprentice enrolled in a state-approved
11 apprenticeship training program.

12 (2) "Apprentice utilization requirement" means the requirement
13 that the appropriate percentage of labor hours be performed by
14 apprentices for each and every contractor and subcontractor on the
15 public works project.

16 (3) "Labor hours" means the total hours of workers receiving an
17 hourly wage who are directly employed by the contractor or
18 subcontractor upon the public works project. "Labor hours" includes
19 hours performed by workers employed by the contractor and all
20 subcontractors working on the project and is measured on a per
21 contractor basis. "Labor hours" does not include hours worked by

1 foremen, superintendents, owners, and workers who are not subject to
2 prevailing wage requirements.

3 (4) "School district" has the same meaning as in RCW 28A.315.025.

4 (5) "State-approved apprenticeship training program" means an
5 apprenticeship training program approved by the Washington state
6 apprenticeship council.

7 **Sec. 2.** RCW 39.04.320 and 2015 3rd sp.s. c 40 s 1 are each
8 amended to read as follows:

9 (1)(a) Except as provided in (b) through (d) of this subsection,
10 from January 1, 2005, and thereafter, for all public works estimated
11 to cost one million dollars or more, all specifications shall require
12 that no less than fifteen percent of the labor hours be performed by
13 apprentices.

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

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

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

27 (iv) For contracts advertised for bid on or after July 1, 2015,
28 and before July 1, 2020, for all public works by the department of
29 transportation estimated to cost three million dollars or more, all
30 specifications shall require that no less than fifteen percent of the
31 labor hours be performed by apprentices.

32 (v) For contracts advertised for bid on or after July 1, 2020,
33 for all public works by the department of transportation estimated to
34 cost two million dollars or more, all specifications shall require
35 that no less than fifteen percent of the labor hours be performed by
36 apprentices.

37 (c)(i) This section does not apply to contracts advertised for
38 bid before January 1, 2008, for any public works by a school

1 district, or to any project funded in whole or in part by bond issues
2 approved before July 1, 2007.

3 (ii) For contracts advertised for bid on or after January 1,
4 2008, for all public works by a school district estimated to cost
5 three million dollars or more, all specifications shall require that
6 no less than ten percent of the labor hours be performed by
7 apprentices.

8 (iii) For contracts advertised for bid on or after January 1,
9 2009, for all public works by a school district estimated to cost two
10 million dollars or more, all specifications shall require that no
11 less than twelve percent of the labor hours be performed by
12 apprentices.

13 (iv) For contracts advertised for bid on or after January 1,
14 2010, for all public works by a school district estimated to cost one
15 million dollars or more, all specifications shall require that no
16 less than fifteen percent of the labor hours be performed by
17 apprentices.

18 (d)(i) For contracts advertised for bid on or after January 1,
19 2010, for all public works by a four-year institution of higher
20 education estimated to cost three million dollars or more, all
21 specifications must require that no less than ten percent of the
22 labor hours be performed by apprentices.

23 (ii) For contracts advertised for bid on or after January 1,
24 2011, for all public works by a four-year institution of higher
25 education estimated to cost two million dollars or more, all
26 specifications must require that no less than twelve percent of the
27 labor hours be performed by apprentices.

28 (iii) For contracts advertised for bid on or after January 1,
29 2012, for all public works by a four-year institution of higher
30 education estimated to cost one million dollars or more, all
31 specifications must require that no less than fifteen percent of the
32 labor hours be performed by apprentices.

33 (2) Awarding entities may adjust the requirements of this section
34 for a specific project for the following reasons:

35 (a) The demonstrated lack of availability of apprentices in
36 specific geographic areas;

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

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

4 (d) Other criteria the awarding entity deems appropriate, which
5 are subject to review by the office of the governor.

6 (3) The secretary of the department of transportation shall
7 adjust the requirements of this section for a specific project for
8 the following reasons:

9 (a) The demonstrated lack of availability of apprentices in
10 specific geographic areas; or

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

14 (4)(a) This section applies to public works contracts awarded by
15 the state, to public works contracts awarded by school districts, and
16 to public works contracts awarded by state four-year institutions of
17 higher education. However, this section does not apply to contracts
18 awarded by state agencies headed by a separately elected public
19 official.

20 (b) Awarding agencies are responsible for monitoring a
21 contractor's and subcontractor's compliance with the specifications
22 requiring apprenticeship utilization hours. If a contractor or
23 subcontractor fails to comply with the apprenticeship utilization
24 requirements, the awarding agency shall report that noncompliance to
25 the supervisor of apprenticeship at the department of labor and
26 industries no later than upon final project acceptance.

27 (5)(a) The department of enterprise services must provide
28 information and technical assistance to affected agencies and collect
29 the following data from affected agencies for each project covered by
30 this section:

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

33 (ii) The name of each project;

34 (iii) The dollar value of each project;

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

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

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

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

3 (b) The department of labor and industries shall assist the
4 department of enterprise services in providing information and
5 technical assistance.

6 (6) The secretary of transportation shall establish an
7 apprenticeship utilization advisory committee, which shall include
8 statewide geographic representation and consist of equal numbers of
9 representatives of contractors and labor. The committee must include
10 at least one member representing contractor businesses with less than
11 thirty-five employees. The advisory committee shall meet regularly
12 with the secretary of transportation to discuss implementation of
13 this section by the department of transportation, including
14 development of the process to be used to adjust the requirements of
15 this section for a specific project.

16 (7) At the request of the senate labor, commerce, research and
17 development committee, the house of representatives commerce and
18 labor committee, or their successor committees, and the governor, the
19 department of enterprise services and the department of labor and
20 industries shall compile and summarize the agency data and provide a
21 joint report to both committees. The report shall include
22 recommendations on modifications or improvements to the apprentice
23 utilization program and information on skill shortages in each trade
24 or craft.

25 (8) All contracts subject to this section shall include
26 specifications that a contractor or subcontractor may not be required
27 to exceed the apprenticeship utilization requirements of this
28 section.

29 **Sec. 3.** RCW 39.04.350 and 2010 c 276 s 2 are each amended to
30 read as follows:

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

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

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

38 (c) If applicable, have industrial insurance coverage for the
39 bidder's employees working in Washington as required in Title 51 RCW;

1 an employment security department number as required in Title 50 RCW;
2 and a state excise tax registration number as required in Title 82
3 RCW;

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

6 (e) If bidding on a public works project subject to the
7 apprenticeship utilization requirements in RCW 39.04.320, not have
8 been found out of compliance with the percentage of labor hours
9 required to be performed by apprentices under RCW 39.04.320 or not
10 have been found out of compliance by the Washington state
11 apprenticeship and training council for working apprentices out of
12 ratio, without appropriate supervision, or outside their approved
13 work processes as outlined in their standards of apprenticeship under
14 chapter 49.04 RCW, for the one-year period immediately preceding the
15 date of the bid solicitation; and

16 (f) Until December 31, 2013, not have violated RCW 39.04.370 more
17 than one time as determined by the department of labor and
18 industries.

19 (2) In addition to the bidder responsibility criteria in
20 subsection (1) of this section, the state or municipality may adopt
21 relevant supplemental criteria for determining bidder responsibility
22 applicable to a particular project which the bidder must meet.

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

27 (b) In a timely manner before the bid submittal deadline, a
28 potential bidder may request that the state or municipality modify
29 the supplemental criteria. The state or municipality must evaluate
30 the information submitted by the potential bidder and respond before
31 the bid submittal deadline. If the evaluation results in a change of
32 the criteria, the state or municipality must issue an addendum to the
33 bidding documents identifying the new criteria.

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

39 (d) If the state or municipality determines a bidder to be not
40 responsible, the state or municipality must provide, in writing, the

1 reasons for the determination. The bidder may appeal the
2 determination within the time period specified in the bidding
3 documents by presenting additional information to the state or
4 municipality. The state or municipality must consider the additional
5 information before issuing its final determination. If the final
6 determination affirms that the bidder is not responsible, the state
7 or municipality may not execute a contract with any other bidder
8 until two business days after the bidder determined to be not
9 responsible has received the final determination.

10 (3) The capital projects advisory review board created in RCW
11 39.10.220 shall develop suggested guidelines to assist the state and
12 municipalities in developing supplemental bidder responsibility
13 criteria. The guidelines must be posted on the board's web site.

14 **Sec. 4.** RCW 39.12.055 and 2009 c 197 s 3 are each amended to
15 read as follows:

16 A contractor shall not be allowed to bid on any public works
17 contract for one year from the date of a final determination that the
18 contractor has committed any combination of two of the following
19 violations or infractions within a five-year period:

20 (1) Violated RCW 51.48.020(1) or 51.48.103;

21 (2) Committed an infraction or violation under chapter 18.27 RCW
22 for performing work as an unregistered contractor; ((~~or~~))

23 (3) Determined to be out of compliance by the Washington state
24 apprenticeship and training council for working apprentices out of
25 ratio, without appropriate supervision, or outside their approved
26 work processes as outlined in their standards of apprenticeship under
27 chapter 49.04 RCW; or

28 (4) Determined to be out of compliance with the percentage of
29 labor hours required to be performed by apprentices under RCW
30 39.04.320.

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

33 (1) In addition to the duties established under RCW 49.04.030,
34 the supervisor of apprenticeship shall verify compliance by
35 contractors, subcontractors, and awarding agencies of apprenticeship
36 utilization requirements. The supervisor may coordinate with the
37 department of enterprise services, the state department of
38 transportation, the office of the superintendent of public

1 instruction, and any other appropriate agency or organization to
2 assist in tracking compliance.

3 (2) Compliance information must be made available to the
4 apprenticeship council and must be used to determine compliance for
5 purposes of RCW 39.04.350 and 39.12.055.

6 (3) The director of labor and industries must adopt rules to
7 implement this section.

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