
**Labor & Workplace Standards
Committee**

ESB 6239

Brief Description: Addressing compliance with apprenticeship utilization requirements and bidding on public works projects.

Sponsors: Senators Conway, Keiser, Hasegawa, Saldaña, Van De Wege, Lovelett and Wilson, C.

Brief Summary of Engrossed Bill

- Requires a bidder with a history of receiving monetary penalties for not achieving apprenticeship utilization goals or that habitually uses the good faith effort exception, to submit an apprenticeship utilization plan with its bid documents when bidding on public works projects.

Hearing Date: 2/25/20

Staff: Trudes Tango (786-7384).

Background:

Apprenticeship Utilization Requirements.

Generally, all public works estimated to cost \$1 million or more must require that no less than 15 percent of labor hours be performed by apprentices enrolled in a state-approved apprenticeship training program. This requirement applies to public works contracts awarded by the state, school districts, and public four-year institutions of higher education. It does not apply to state agencies headed by a separately elected public official. For the Department of Transportation, apprenticeship utilization requirements apply to public works projects costing \$3 million or more until July 1, 2020, and then \$2 million or more after that date.

"Labor hours" are the total hours of workers receiving an hourly wage who are directly employed upon the public works project. Labor hours include hours performed by workers employed by the contractor and all subcontractors working on the project.

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.

Awarding entities may adjust apprenticeship utilization requirements for a specific project 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, which does not make feasible the required minimum levels of apprenticeship participation;
- participating contractors have demonstrated a good faith effort to comply with the requirements; or
- other criteria that the awarding entity deems appropriate, which are subject to review by the Governor's office.

The Washington State Apprenticeship and Training Council (Council) is part of the Department of Labor and Industries (Department). The Council establishes standards for apprenticeship programs and approves training programs. Standards set by the Council include the allowable ratios of apprentices to journey-level workers, the type of work apprentices may perform, and requirements for supervision.

Responsible Bidder Criteria.

A contractor bidding on public works projects must meet certain criteria, known as "responsible bidder criteria," to be awarded a public works contract. To be a responsible bidder, the bidder must:

- be a registered contractor;
- have a current Unified Business Identifier number;
- have applicable industrial insurance coverage, an Employment Security Department number, and a state excise tax registration number;
- not be disqualified from bidding due to previous noncompliance with contractor registration or prevailing wage requirements;
- not have been found out of compliance with apprenticeship requirements, if the project is subject to Apprenticeship Utilization Requirements;
- have received training on public works and prevailing wage; and
- not have been found by the Department, or a court, to have willfully violated state wage payment laws within the three-year period prior to the bid solicitation.

State agencies and municipalities are allowed to adopt relevant supplemental responsible bidder criteria for a particular project.

Summary of Bill:

If a bidder has a history of receiving monetary penalties for not achieving apprenticeship utilization goals or is habitual in utilizing the good faith effort exception process, the bidder must submit an Apprenticeship Utilization Plan along with its bid documents.

An Apprenticeship Utilization Plan is a plan submitted by a prospective bidder specifically detailing verifiable efforts to meet the apprenticeship utilization requirements.

Appropriation: None.

Fiscal Note: Requested on February 24, 2020.

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