

# HOUSE BILL REPORT

## ESB 6239

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### As Passed House - Amended:

March 4, 2020

**Title:** An act relating to compliance with apprenticeship utilization requirements and bidding on public works projects.

**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 History:

#### Committee Activity:

Labor & Workplace Standards: 2/25/20, 2/27/20 [DP].

#### Floor Activity:

Passed House - Amended: 3/4/20, 60-37.

### Brief Summary of Engrossed Bill (As Amended by House)

- Requires a bidder with a history of receiving monetary penalties for not achieving apprentice utilization requirements, or that habitually uses the good faith effort exception, to submit an apprenticeship utilization plan within 10 days of the notice to proceed date.

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## HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 4 members: Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Mosbrucker, Ranking Minority Member; Hoff.

**Staff:** Trudes Tango (786-7384).

### Background:

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*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.*

### 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.

Awarding agencies 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.

Awarding agencies are responsible for monitoring apprenticeship utilization hours by contractor. There must be specific line items in the awarding agency's contract specifying monetary incentives for meeting apprenticeship utilization goals and monetary penalties for not meeting goals. The awarding agency must report the apprenticeship utilization by contractor and subcontractor to the Department of Labor and Industries' (Department) apprenticeship supervisor.

The Washington State Apprenticeship and Training Council (Council) is part of the 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, among other things, not be disqualified from bidding due to previous noncompliance with contractor registration or prevailing wage requirements, and not have been found out of compliance with apprenticeship requirements.

### **Summary of Bill:**

If a bidder has a history of receiving monetary penalties for not achieving apprentice utilization requirements, or is habitual in utilizing the good faith effort exception process, the

bidder must submit an Apprenticeship Utilization Plan within 10 business days immediately following the notice to proceed date.

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:** 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) The original bill was more ambitious, but additional study is needed and, in the meantime, all parties agree to this modest approach in the current version of the bill. Having an Apprenticeship Utilization Plan is consistent with the Department of Transportation's process.

(Opposed) None.

**Persons Testifying:** Keith Weir, International Brotherhood of Electrical Workers Local 46 and Washington State Building and Construction Trades Council.

**Persons Signed In To Testify But Not Testifying:** None.