

FINAL BILL REPORT

ESB 6239

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Synopsis as Enacted

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.

Senate Committee on Labor & Commerce
House Committee on Labor & Workplace Standards

Background: Apprenticeship Programs. Apprenticeship programs offer on-the-job training under the supervision of journey-level workers and require a certain number of instructional hours. The Washington State Apprenticeship and Training Council (Council), which is part of the Department of Labor and Industries (L&I), establishes standards for apprenticeship programs and approves training programs. Standards set by the Council address the allowable ratios of apprentices to journey-level workers, the type of work apprentices may do, and the required supervision of apprentices. An employer may partner with an approved apprenticeship program or develop its own, subject to approval of the Council.

The supervisor of apprenticeship (Supervisor) is appointed by the director of L&I. The Supervisor's duties include:

- encouraging and promoting apprenticeship programs that conform to state and federal standards;
- acting as secretary of the Council;
- registering, keeping record of, and terminating apprenticeship agreements; and
- issuing certificates of completion of apprenticeships.

Any person, firm, association, committee, or organization that operates an apprenticeship program is known as the sponsor. A training agent is an employer of registered apprentices approved by the program sponsor to furnish on-the-job training. A training agreement is a written agreement between a sponsor and a training agent that contains the provisions of the apprenticeship program applicable to the training agent, and the duties of the training agent in providing on-the-job training.

Apprenticeship Utilization. In general, all public works estimated to cost \$1 million or more must require 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

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Department of Transportation (DOT), apprenticeship utilization requirements apply to projects of \$3 million or more until July 1, 2020. After July 1, 2020, the utilization requirements for DOT apply to projects of \$2 million or more. Labor hours are the total hours of workers receiving an hourly wage who are directly employed on the public works project. Labor hours include hours performed by workers employed by the contractor and all subcontractors working on the project. It does not include hours worked by foremen, superintendents, owners, and workers not required to be paid prevailing wage. Awarding agencies may adjust apprenticeship utilization requirements for certain reasons, such as an insufficient number of apprentices in a certain geographic area.

Within existing resources, awarding agencies are responsible for monitoring apprenticeship utilization and must report apprenticeship utilization by contractor and subcontractor to the Supervisor by final project acceptance.

Responsibility Criteria. A contractor bidding on a public works project 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 non-compliance with registration or prevailing wage requirements; and
- 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 L&I or a court to have willfully violated the state's wage payment laws within the three-year period prior to the bid solicitation.

State agencies and municipalities are authorized to adopt relevant supplemental criteria for determining bidder responsibility for a particular project.

Summary: If a bidder has a history of receiving monetary penalties for not achieving apprentice utilization requirements, or is habitual in using the good faith effort exception process, the bidder must submit an apprenticeship utilization plan within ten 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.

Votes on Final Passage:

Senate	37	10	
House	60	37	(House amended)
Senate	37	12	(Senate concurred)

Effective: June 11, 2020