

HB 1849 - S COMM AMD

By Committee on Transportation

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 39.04.320 and 2015 3rd sp.s. c 40 s 1 are each
4 amended to read as follows:

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

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

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

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

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

28 (v) For contracts advertised for bid on or after July 1, 2020,
29 for all public works by the department of transportation estimated to
30 cost two million dollars or more, all specifications shall require

1 that no less than fifteen percent of the labor hours be performed by
2 apprentices.

3 (c)(i) This section does not apply to contracts advertised for
4 bid before January 1, 2008, for any public works by a school
5 district, or to any project funded in whole or in part by bond issues
6 approved before July 1, 2007.

7 (ii) For contracts advertised for bid on or after January 1,
8 2008, for all public works by a school district estimated to cost
9 three million dollars or more, all specifications shall require that
10 no less than ten percent of the labor hours be performed by
11 apprentices.

12 (iii) For contracts advertised for bid on or after January 1,
13 2009, for all public works by a school district estimated to cost two
14 million dollars or more, all specifications shall require that no
15 less than twelve percent of the labor hours be performed by
16 apprentices.

17 (iv) For contracts advertised for bid on or after January 1,
18 2010, for all public works by a school district estimated to cost one
19 million dollars or more, all specifications shall require that no
20 less than fifteen percent of the labor hours be performed by
21 apprentices.

22 (d)(i) For contracts advertised for bid on or after January 1,
23 2010, for all public works by a four-year institution of higher
24 education estimated to cost three million dollars or more, all
25 specifications must require that no less than ten percent of the
26 labor hours be performed by apprentices.

27 (ii) For contracts advertised for bid on or after January 1,
28 2011, for all public works by a four-year institution of higher
29 education estimated to cost two million dollars or more, all
30 specifications must require that no less than twelve percent of the
31 labor hours be performed by apprentices.

32 (iii) For contracts advertised for bid on or after January 1,
33 2012, for all public works by a four-year institution of higher
34 education estimated to cost one million dollars or more, all
35 specifications must require that no less than fifteen percent of the
36 labor hours be performed by apprentices.

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

39 (a) The demonstrated lack of availability of apprentices in
40 specific geographic areas;

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

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

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

9 (3) The secretary of the department of transportation shall
10 adjust the requirements of this section for a specific project for
11 the following reasons:

12 (a) The demonstrated lack of availability of apprentices in
13 specific geographic areas; or

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

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

23 (b) Awarding agencies are responsible for monitoring
24 apprenticeship utilization hours by contractor. The awarding agency
25 shall report the apprenticeship utilization by contractor and
26 subcontractor to the supervisor of apprenticeship at the department
27 of labor and industries no later than upon final project acceptance.

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

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

34 (ii) The name of each project;

35 (iii) The dollar value of each project;

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

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

39 (vi) The number of journey level workers and labor hours worked
40 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 must 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. 2.** 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 by the Washington state apprenticeship
9 and training council for working apprentices out of ratio, without
10 appropriate supervision, or outside their approved work processes as
11 outlined in their standards of apprenticeship under chapter 49.04
12 RCW, for the one-year period immediately preceding the date of the
13 bid solicitation; and

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

17 (2) In addition to the bidder responsibility criteria in
18 subsection (1) of this section, the state or municipality must
19 consider the achievement of apprenticeship utilization goals as a
20 positive factor in determining bidder responsibility.

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

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

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

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

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

12 ~~((+3))~~ (4) The capital projects advisory review board created in
13 RCW 39.10.220 shall develop suggested guidelines to assist the state
14 and municipalities in developing supplemental bidder responsibility
15 criteria. The guidelines must be posted on the board's web site.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.04
17 RCW to read as follows:

18 (1) In addition to the duties established under RCW 49.04.030,
19 the supervisor of apprenticeship shall verify compliance by
20 contractors, subcontractors, and awarding agencies of apprenticeship
21 utilization requirements. The supervisor may coordinate with the
22 department of enterprise services, the state department of
23 transportation, the office of the superintendent of public
24 instruction, and any other appropriate agency or organization to
25 assist in tracking compliance.

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

29 (3) The director of labor and industries must adopt rules to
30 implement this section."

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31 On page 1, line 2 of the title, after "requirements;" strike the
32 remainder of the title and insert "amending RCW 39.04.320 and
33 39.04.350; and adding a new section to chapter 49.04 RCW."

EFFECT: Removes the added requirement that all contractors and subcontractors must separately meet the apprenticeship utilization requirements. Replaces the penalties for not meeting such requirements with a direction for awarding agencies to consider the achievement of the requirements as a positive factor in determining bidder responsibility.

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