
Commerce & Labor Committee

HB 3121

Brief Description: Implementing the recommendations of the joint legislative task force on the underground economy in the construction industry.

Sponsors: Representatives Conway, Green, Hunt, Kenney, Roberts, Haler, Morrell, Hankins, Ericks, Appleton, Eddy, Wood, Sells, Chase, Ormsby, Hasegawa, Williams, Moeller, Campbell, Simpson, Rolfes, McIntire and Darneille.

Brief Summary of Bill

- Provides a civil penalty for persons who falsify information on a contractor registration application.
- Creates a prevailing wage "strike" for certain contractor registration and industrial insurance violations and provides for a one year bar from bidding on public works contracts for repeat violations.
- Provides for additional fraud auditors and a social marketing campaign aimed at consumers regarding hiring of unregistered contractors.
- Implements other recommendations of the Joint Legislative Task Force on the Underground Economy in the Construction Industry (Task Force).
- Extends the Task Force to December 31, 2008.

Hearing Date: 1/29/08

Staff: Joan Elgee (786-7106).

Background:

In 2007 the Legislature enacted SB 5926, which created the Joint Legislative Task Force on the Underground Economy in the Construction Industry (Task Force). The Task Force was directed to formulate a state policy to establish cohesion and transparency between state agencies to

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increase oversight and regulation of the underground construction economy. Over the 2007 interim, the Task Force met six times and adopted recommendations at its final meeting. The Task Force recommendations included recommendations on penalties, data sharing and detection, and education and outreach.

Any person working as a construction contractor in this state must be registered with the Department of Labor and Industries (L&I). An applicant for registration must have a Unified Business Identifier (UBI) number if required by the Department of Revenue (DOR), which is generally if the gross income of the business is \$12,000 a year or more. The Department of Labor and Industries must deny a contractor application and suspend a contractor registration under certain conditions, including if there is an unsatisfied related judgement against the contractor. Certain violations of the contractor registration provisions subject the person to a penalty of no more than \$10,000. These include falsifying a registration number and soliciting work as a contractor without being registered.

Under prevailing wage laws, a contractor who files a false statement regarding prevailing wages or fails to file a statement is subject to a civil penalty and not permitted to bid on a public works contract until the penalty is paid. This is considered a prevailing wage "strike" and if the contractor is found to have violated the requirement a second time in five years, the contractor is "barred" from bidding on public works contracts for one year.

Penalties are set forth for industrial insurance violations. Employers who engage in business without obtaining industrial insurance coverage or who engage in business after a certificate of coverage has been revoked, or who knowingly misrepresents the amount of payroll or employee hours is subject to penalty.

Employers must maintain a record of the UBI number of construction contractors and electricians with whom they contract.

Information maintained by the Employment Security Department (ESD) that is private and confidential may be disclosed to other agencies for official purposes under certain conditions. Agencies who receive information from the ESD are prohibited from further disclosing the information unless the disclosure is directly connected to the original purpose.

Summary of Bill:

Contractor registration applicants must have a UBI number, regardless of the size of the business. The Department of Labor and Industries (L&I) must deny a registration application and suspend an active registration if L&I determines that the contractor falsified information on the application (unless the error was inadvertent), or the contractor does not have a valid and active certificate of registration with the DOR. A contractor who falsifies information on a registration application, unless the error was inadvertent, is subject to a penalty of up to \$10,000.

The following violations constitute a prevailing wage "strike:" Willful violation of contractor registration laws; willful violation of laws relating to industrial insurance reporting of payroll and hours and maintenance of coverage; and repeat contractor registration violations. A contractor is barred from bidding on any public works project for one year if, within a five year period, the contractor commits two or more of these violations.

Employers must keep records of the compensation paid to construction contractors and electricians with whom they contract, in addition to the UBI number.

Agencies receiving information from the ESD may disclose it to another agency if the agency would be otherwise permitted to obtain the information.

The Department of Labor and Industries is directed to add staff to the fraud audit infraction and revenue contractor team and both L&I and the ESD must hire additional auditors. If funds are available, funding must be dedicated to the Office of the Attorney General for contractor compliance cases. The Department of Labor and Industries must create an expanded social marketing campaign aimed at consumers and warning them of the risks and potential consequences of hiring unregistered contractors.

The Department of Labor and Industries must establish a pilot project with local jurisdictions to explore ways to improve the collection and sharing of building permit information. Participation by local jurisdictions is voluntary and L&I must report back to the appropriate committees of the Legislature by November 15, 2013.

The Washington State Institute for Public Policy must organize an advisory committee to establish benchmarks. The Department of Labor and Industries, the ESD, and the DOR must assist and report back to the appropriate committees of the Legislature by December 31, 2009.

The term of the Task Force is extended to December 31, 2008.

Rules Authority: The bill does not address the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Available.

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