

HOUSE BILL REPORT

HB 1242

As Reported by House Committee On:
Transportation

Title: An act relating to vehicle subagents.

Brief Description: Concerning the authority of a vehicle subagent to recommend a successor.

Sponsors: Representatives Moscoso, Zeiger, Morrell, Johnson, Roberts and Springer.

Brief History:

Committee Activity:

Transportation: 1/31/13, 2/7/13 [DPS].

Brief Summary of Substitute Bill

- Allows a licensing subagent to recommend, at any time during their appointment, a successor in case of death or incapacitation.
- Allows a subagent within 12 months of retirement to recommend a successor through a letter of intent without resigning their appointment and provides a process to withdraw the letter of intent if the recommended successor will not be considered.
- Provides a process for the subagent to respond in writing if their recommended successor is not chosen and have the response as part of the materials from the open competitive process being submitted to the Department of Licensing.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 27 members: Representatives Clibborn, Chair; Liias, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel, Bergquist, Farrell, Fitzgibbon, Freeman, Habib, Hayes, Johnson, Klippert, Kochmar, Kretz, Kristiansen, Moeller, Morris, O'Ban, Riccelli, Ryu, Sells, Shea, Takko, Tarleton and Zeiger.

Staff: Jerry Long (786-7306)

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.

Background:

The Director of the Department of Licensing (DOL) has final appointment authority for county auditors or other agents or subagents. The Director may appoint county auditors in Washington, or in the absence of a county auditor, the DOL, or an official of county government as agents for vehicle titles and registrations. County auditors or agents must enter into a contract with the DOL. A county auditor or agent may, with the approval of the Director of the DOL, appoint subagents. A county auditor or agent who requests a subagency uses an open competitive process which includes, but is not limited to, a written business proposal and an oral interview to determine the qualifications of the interested applicants.

The county auditor or subagent then submits all proposals to the Director of the DOL with a recommendation for appointment of one or more subagents. A subagent appointed by the Director of the DOL must enter into a contract with the county auditor or agent.

If a subagent no longer wants the subagency appointment, then the same open competitive process is followed. If one of the county auditor's recommendations is an existing subagent's sibling, spouse, or child, or a subagency employee, the county auditor must submit one other applicant who is qualified and was chosen through the open competitive process.

A subagent may not receive any direct or indirect compensation from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment. The appointment of a successor does not create a proprietary or property interest in the appointment.

Summary of Substitute Bill:

A subagent who is planning to retire within 12 months may recommend a successor without resigning their appointment by submitting a letter of intent to retire to the county auditor with a successor recommendation. The county auditor must, within 60 days, respond in writing indicating if the successor would be considered in the open competitive process. If there are negative factors or deficiencies pertaining to the subagency or the recommended successor, the county auditor must state those factors in writing to the subagent. The subagent may withdraw the letter of intent to retire prior to the open competitive process by writing to the county auditor and filing a copy with the Director of the DOL.

If the county auditor does not select the recommended successor for appointment as a result of the open competitive process, the county auditor must contact the subagent by letter and explain the decision. The subagent must be provided an opportunity to respond in writing. Any response by the subagent must be included in the open competitive process materials submitted to the DOL.

A subagent may name a recommended successor at any time during their appointment by notifying the county auditor and filing a copy with the Director. The purpose is for the county auditor to know the wishes of the subagent in the event of death or incapacitation that could lead to the inability of the subagent to fulfill the obligation of their appointment.

Substitute Bill Compared to Original Bill:

The substitute bill removes the requirement that a county auditor shall give great weight to a recommended successor who has demonstrated the ability to manage the day-to-day functions of a vehicle registration office. If the county auditor does not recommend the recommended successor for appointment as the result of the open competitive process, the subagent and the recommended successor may request a review of the county auditor's recommendation, prior to review by the DOL subagent review team.

The substitute bill implements a process where if the county auditor does not select the recommended successor for appointment as a result of the open competitive process, the county auditor must contact the subagent by letter and explain the decision. The subagent must be provided an opportunity to respond in writing. Any response by the subagent must be included in the open competitive process materials submitted to the DOL.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: 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 "great weight" requirement needs a definition. The existing process of selecting a successor subagent is unpredictable and becomes an immediate problem if the existing subagent dies or is incapacitated. The key is transferability and it gives the subagent an exit strategy. In many cases a family member, like a spouse or children, may work and help manage the business, but there is no guarantee that they may be the next subagent.

A subagent operates like a private business, but upon retirement as an appointment all the subagent really can sell is the equipment and a building if the subagent is the owner. The subagent cannot receive any financial benefit from the transfer or termination of an appointment. In most cases, other types of business help offset some of the subagent business expenses. Eighty percent of 139 subagents have four workstations or less. Over half of the subagents have been subagents for 10 to 20 years. The state needs a successor process for long-term subagents.

A transparent process is needed for the appointments for subagents. The DOL makes the appointment from documentation received from the open competitive process conducted by the county auditor, but the contract is between the county auditor and subagent. There is presently no process in place to effect succession. It is up to the individual county auditor as to what process is used.

Subagents over the years have built relationships in the community. The subagents also respect the contract that is put into place with the county auditor.

(Opposed) County auditors appreciate the subagents and want a smooth transition. Some subagents have been subagents for 25 to 30 years. The existing process is that all documentation from the open competitive process has to go to the DOL. The process in Snohomish County works very well and the open competitive process works. "Great weight" to be given by a county auditor is an interesting term. Subagents are active community members and the county auditors understand that subagents would like more security. Some of the questions not answered in the bill are concerns about: county auditor exposure; not knowing what a review should be; who should conduct it; and what is the purpose of the review. A subagency can be a nice compliment to other business interests. The subagents want a guarantee, where an appointment does not have a guarantee. County auditors also want a smooth transition and do not want any business interruptions.

Persons Testifying: (In support) Representative Moscoso, prime sponsor; and Jan Novack and Charlene Winzler, Washington Association of Vehicle Subagents.

(Opposed) Carolyn Weikel, Washington Association of County Auditors.

Persons Signed In To Testify But Not Testifying: None.