
SENATE BILL 6573

State of Washington

62nd Legislature

2012 Regular Session

By Senators Chase, Pridemore, Rolfes, Conway, and Kline

Read first time 02/01/12. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to addressing unemployment in the construction
2 industry; adding a new chapter to Title 39 RCW; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the unemployment
6 and underemployment rate in the construction industry in Washington has
7 remained chronically high throughout the previous two biennia; that the
8 economic recovery of the state's construction industry is vital to the
9 economic recovery of the entire state; that the lack of employment
10 opportunities in the state's construction industry has substantially
11 contributed to serious social or economic problems in the state; that
12 a substantial number of in-state residents have experience or training
13 in occupations that would be employed on a public works project; and
14 that the employment of construction industry workers who are not
15 Washington residents is a peculiar source of unemployment and
16 underemployment of resident construction industry workers. The
17 legislature therefore intends to address the chronic unemployment and
18 underemployment of residents in the construction industry by

1 establishing a temporary employment preference on public works
2 contracts throughout the state.

3 NEW SECTION. **Sec. 2.** (1) The preference established in this
4 section applies when the average quarterly employment figures in the
5 construction industry as determined by the employment security
6 department are twenty-five percent lower than the highest quarter
7 employment figures in the most recent five-year period.

8 (2) Eligible in-state residents must be given a minimum of fifty
9 percent employment preference on public works contracts throughout the
10 state. This hiring preference applies on a project-by-project and
11 craft-by-craft basis, and must be met each workweek by each contractor
12 and subcontractor for contracts that were subject to subsection (1) of
13 this section when they were entered into.

14 (3) A person is eligible for an employment preference under this
15 section if the person is a resident, and:

16 (a) Is receiving unemployment benefits or would be eligible to
17 receive benefits but has exhausted them;

18 (b) Is not working and has registered to find work with a public or
19 private employment agency or a local hiring hall;

20 (c) Is underemployed or marginally employed as defined by the
21 department; or

22 (d) Has completed a job-training program approved by the department
23 and is either not employed or is engaged in employment that does not
24 use the skills acquired in the job-training program.

25 (3) For the purposes of this section, "department" means the
26 employment security department.

27 NEW SECTION. **Sec. 3.** (1) A contractor or subcontractor working on
28 a public works project subject to prevailing wage requirements under a
29 contract that was subject to subsection (1) of this section when it was
30 entered into must meet the employment preference established in section
31 2 of this act.

32 (2) An employer subject to a resident hiring requirement under this
33 chapter shall certify that persons employed as residents under the
34 preference were eligible for the preference at the time of hiring.

35 (3) A labor organization that dispatches members for work on a

1 public works project under a collective bargaining agreement shall
2 certify that persons dispatched as residents to meet a preference were
3 eligible for the preference at the time of dispatch.

4 (4) An employer or labor organization may request assistance from
5 the employment security department in verifying the eligibility of an
6 applicant for a hiring preference under this chapter.

7 NEW SECTION. **Sec. 4.** (1) An employer subject to hiring
8 requirements under this chapter may request the employment security
9 department to assist in locating qualified, eligible employees. After
10 receiving a request for assistance, the department shall refer
11 qualified, eligible, available residents to the employer to fill the
12 employer's hiring needs. The employer shall cooperate with the
13 department.

14 (2) If the department is unable to refer a sufficient number of
15 qualified, eligible, available residents able to perform the work, the
16 department may approve the hiring of residents who are not eligible for
17 preference and nonresidents for the balance of the request.

18 (3) An employer obligated to meet resident hire requirements under
19 this chapter shall comply with the reporting provisions that the
20 director of the department determines are reasonably necessary to carry
21 out this chapter. Except for statistical data, all information
22 regarding specific employees is confidential and may not be released by
23 the department. However, confidential employee information may be
24 shared between public agencies for purposes of this chapter.

25 NEW SECTION. **Sec. 5.** (1) A contractor who violates a provision of
26 this chapter shall have deducted from amounts due to the contractor
27 under the contract the prevailing wages that should have been paid to
28 a displaced resident, and these amounts shall be retained by the
29 contracting agency.

30 (2) In addition to being subject to the penalties under subsection
31 (1) of this section, a contractor that knowingly and with intent to
32 defraud makes a false statement or fails to provide or conceals, or
33 attempts to conceal, material information for the purpose of obtaining,
34 or aiding another in obtaining, a preference under this section is
35 subject to a civil penalty of ten percent of the amount of the contract
36 involved or ten thousand dollars, whichever is greater.

1 (3) A contractor subject to sanction under this section may
2 request, within thirty days of the date of issuance of the notice of
3 sanction, a hearing conducted pursuant to chapter 34.05 RCW.

4 (4) If a contractor fails to pay an assessment or civil penalty
5 after it has become final and not subject to further appeal, or after
6 the court has entered final judgment in favor of the state, the
7 attorney general may recover the assessment or penalty by action in the
8 appropriate superior court. In such action, the validity and
9 appropriateness of the final order imposing the assessment or penalty
10 is not subject to review.

11 NEW SECTION. **Sec. 6.** In a contract involving expenditure of
12 federal aid funds, this chapter may not be enforced in a manner that
13 conflicts with federal statutes giving preference to veterans or
14 prohibiting other preferences or discriminations among United States
15 citizens.

16 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
17 a new chapter in Title 39 RCW.

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