

TWENTY-FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, February 2, 2005

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Trevan Bangsund and Catherine Hwang, presented the Colors. Pastor Mary-Lynne Reiner of the Temple Beth Hotfiloh Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

January 31, 2005

SB 5127 Prime Sponsor, Kohl-Welles: Improving services to victims of human trafficking. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe, Stevens and Thibaudeau

Passed to Committee on Rules for second reading.

January 31, 2005

SB 5243 Prime Sponsor, Kohl-Welles: Imposing an additional assessment for persons entering diversion agreements in regard to prostitution offenses. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5243 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe and Stevens

Passed to Committee on Rules for second reading.

January 31, 2005

SB 5268 Prime Sponsor, Esser: Allowing assumptions of water-sewer districts by code cities. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Berkey, Vice Chair; Fairley, Haugen, Kline, Pridemore and Roach

MINORITY recommendation: Do not pass. Signed by Senator Mulliken

Passed to Committee on Rules for second reading.

February 1, 2005

SB 5291 Prime Sponsor, Poulsen: Authorizing the construction and operation of renewable energy projects by joint operating agencies. Reported by Committee on Water, Energy & Environment

MAJORITY recommendation: Without recommendation. Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Morton, Mulliken, Pridemore and Regala

Passed to Committee on Rules for second reading.

January 31, 2005

SB 5407 Prime Sponsor, Delvin: Establishing an interagency plan for children of incarcerated parents. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5407 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe and Stevens

Passed to Committee on Rules for second reading.

January 31, 2005

SB 5441 Prime Sponsor, Weinstein: Requiring an education and higher education finance study. Reported by Committee on Early Learning, K-12 & Higher Education

MAJORITY recommendation: That Substitute Senate Bill No. 5441 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Berkey, Carrell, Delvin, Eide, Kohl-Welles, Pridemore, Rasmussen, Rockefeller, Schmidt, Shin and Weinstein

MINORITY recommendation: Do not pass. Signed by Senators Mulliken and Schoesler

Passed to Committee on Rules for second reading.

January 31, 2005

SB 5461 Prime Sponsor, Fairley: Changing limits on costs of incarceration charged to offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe, Stevens and Thibaudeau

Passed to Committee on Rules for second reading.

January 31, 2005

SB 5572 Prime Sponsor, Rasmussen: Authorizing additional funding for minor league baseball facilities. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Without recommendation. Signed by Senators Kastama, Chair; Berkey, Vice Chair; Fairley, Haugen, Kline, Mulliken, Pridemore and Roach

Passed to Committee on Rules for second reading.

January 31, 2005

SJR 8206 Prime Sponsor, Hargrove: Revising limitations on use of inmate labor. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe and Stevens

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEE HOUSE BILL

February 1, 2005

SHB 1014 Prime Sponsor, Committee on Criminal Justice & Corrections: Revising DNA testing provision. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Brandland, Carrell, McAuliffe, Stevens and Thibaudeau

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5672 by Senators Jacobsen, Esser, Poulsen, Benson and Swecker

AN ACT Relating to commercial parking businesses; adding a new chapter to Title 19 RCW; and declaring an emergency.

Referred to Committee on Labor, Commerce, Research & Development.

SB 5673 by Senators Prentice, Zarelli, Shin, Benton and Rasmussen

AN ACT Relating to the high technology business and occupation tax credit; amending RCW 82.04.4452; adding new sections to chapter 82.32 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5674 by Senators Parlette, Honeyford and Mulliken

AN ACT Relating to simplifying and adding certainty to the calculation of workers' compensation benefits; amending RCW 51.08.178, 51.28.040, 51.32.050, 51.32.060, 51.32.072, 51.32.075, 51.32.080, 51.32.090, 51.32.095, 51.32.095, and 51.36.020; reenacting and amending RCW 51.32.090; adding new sections to chapter 51.08 RCW; adding a new section to chapter 51.32 RCW; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Labor, Commerce, Research & Development.

SB 5675 by Senators Rockefeller, Oke and Shin

AN ACT Relating to authorizing fire protection districts to establish or participate in health clinic services; and amending RCW 52.02.020.

Referred to Committee on Government Operations & Elections.

SB 5676 by Senators Poulsen, Kline, Shin, Spanel, Fraser and Kohl-Welles

AN ACT Relating to oil spill management; and amending RCW 90.56.210.

Referred to Committee on Water, Energy & Environment.

SB 5677 by Senators Benton, Kohl-Welles, Sheldon, Stevens, Jacobsen, Oke, Keiser and Rasmussen

AN ACT Relating to revocation of certificates or permits to teach; and amending RCW 28A.410.090.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 5678 by Senators Poulsen, Zarelli, Keiser, Delvin, Kastama, Haugen, Kline, Rasmussen, McAuliffe and Kohl-Welles

AN ACT Relating to the creation of pilot projects for the promotion of safe neighborhoods through more effective community planning; adding a new chapter to Title 70 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 5679 by Senators McCaslin, Berkey, Oke and Kohl-Welles

AN ACT Relating to surplus political funds; and amending RCW 42.17.095.

Referred to Committee on Government Operations & Elections.

SB 5680 by Senators Roach, Zarelli, Prentice, Fraser, Fairley and Rasmussen

AN ACT Relating to capital facilities at the Rainier school; amending RCW 72.01.140; and repealing RCW 28B.30.820 and 72.01.142.

Referred to Committee on Ways & Means.

SB 5681 by Senators Keiser, Parlette, Brandland and Rasmussen

AN ACT Relating to exempting recipients of medical assistance under Title 74 RCW from independent review determinations; and amending RCW 48.43.535 and 48.43.545.

Referred to Committee on Health & Long-Term Care.

SB 5682 by Senators Keiser, Deccio, Rasmussen and Kohl-Welles

AN ACT Relating to sampling activities of licensees under Title 66 RCW; amending RCW 66.24.360, 66.24.371, 66.28.040, and 66.28.155; and reenacting and amending RCW 66.28.010.

Referred to Committee on Labor, Commerce, Research & Development.

SB 5683 by Senators Oke, Jacobsen, Kastama, Swecker, Berkey, Schoesler, Morton, Delvin, Shin and Rasmussen

AN ACT Relating to enhanced fish and wildlife penalties; amending RCW 77.15.070, 77.15.370, 77.15.380, 77.15.410, 77.15.420, and 77.15.450; adding a new section to chapter 77.15 RCW; and prescribing penalties.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 5684 by Senators Kohl-Welles, Brown, Kline, Hargrove, McAuliffe, Stevens, Keiser, Thibaudeau, Fairley, Weinstein, Spanel and Rasmussen

AN ACT Relating to child care workers; adding new sections to chapter 74.13 RCW; and making appropriations.

Referred to Committee on Labor, Commerce, Research & Development.

SB 5685 by Senators Kline, Johnson, Weinstein and Esser

AN ACT Relating to state-funded civil representation of indigent persons; amending RCW 43.08.250 and 43.08.260; adding a new chapter to Title 2 RCW; creating a new section; recodifying RCW 43.08.260; repealing RCW 43.08.270; providing an effective date; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5686 by Senators Fairley, Kline and Rasmussen

AN ACT Relating to check cashers and sellers; and amending RCW 31.45.010 and 31.45.079.

Referred to Committee on Financial Institutions, Housing & Consumer Protection.

SB 5687 by Senators Deccio, Thibaudeau, Keiser and Benson

AN ACT Relating to the number of residents allowed to reside in an adult family home; amending RCW 70.128.175; and reenacting and amending RCW 70.128.010.

Referred to Committee on Health & Long-Term Care.

SB 5688 by Senators Pridemore, Poulsen, Rockefeller, Brown, Regala, Kline, Weinstein and Kohl-Welles

AN ACT Relating to compliance history disclosure upon application for environmental quality permits; and adding a new chapter to Title 43 RCW.

Referred to Committee on Water, Energy & Environment.

SB 5689 by Senators Morton, Oke and Mulliken

AN ACT Relating to ballot enhancement and duplication; adding new sections to chapter 29A.04 RCW; adding a new section to chapter 29A.60 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 5690 by Senators Kohl-Welles, Poulsen, Kastama and Jacobsen

AN ACT Relating to establishing the joint task force on siting of essential public facilities; adding a new section to chapter 36.70A RCW; creating a new section; providing an expiration date; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 5691 by Senators Esser, Kline, Johnson, Thibaudeau, Roach, Keiser and Fairley

AN ACT Relating to jury source lists in counties with more than one superior court facility; amending RCW 2.36.055; and creating a new section.

Referred to Committee on Judiciary.

SB 5692 by Senators Berkey, Benton, Prentice and Keiser

AN ACT Relating to tax refund anticipation loans; adding a new chapter to Title 19 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Housing & Consumer Protection.

SB 5693 by Senators Sheldon and Rockefeller

AN ACT Relating to aquatic rehabilitation zones; amending RCW 36.70A.110; adding a new chapter to Title 90 RCW; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 5694 by Senator Sheldon

AN ACT Relating to urban governmental services in rural areas; and amending RCW 36.70A.110.

Referred to Committee on Government Operations & Elections.

SB 5695 by Senators Sheldon, Benton, Benson and Rasmussen

AN ACT Relating to awarding service credit under the teachers' retirement system plan 1 for military service; and amending RCW 41.32.260.

Referred to Committee on Ways & Means.

SB 5696 by Senator Benton

AN ACT Relating to requiring newspapers to comply with child labor laws; and amending RCW 49.12.185 and 49.12.320.

Referred to Committee on Labor, Commerce, Research & Development.

SB 5697 by Senators Prentice, Zarelli, Sheldon, Shin, Rockefeller and Rasmussen

AN ACT Relating to the high technology business and occupation tax credit; amending RCW 82.04.4452; adding a new section to chapter 82.32 RCW; creating new sections; providing an expiration date; and declaring an emergency.

Referred to Committee on International Trade & Economic Development.

SB 5698 by Senators Franklin, Benson, Keiser, Parlette, Deccio and Rasmussen

AN ACT Relating to quality assurance in boarding homes, nursing homes, hospitals, peer review organizations, and coordinated quality improvement plans; amending RCW 18.20.390, 4.24.250, 43.70.510, and 70.41.200; reenacting and amending RCW 42.17.310; adding a new section to chapter 74.42 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5699 by Senators Oke, Jacobsen, Spanel, Doumit, Kline, Rockefeller and Rasmussen

AN ACT Relating to preventing and controlling aquatic invasive species and algae; amending RCW 88.02.050; adding a new section to chapter 77.12 RCW; adding a new section to chapter 43.21A RCW; adding a new section to chapter 43.43 RCW; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 5700 by Senators Haugen, Parlette, Fairley, Hargrove, Delvin and Mulliken

AN ACT Relating to public health; amending RCW 70.44.060, 84.52.043, and 84.52.068; reenacting and amending RCW 84.52.010; adding a new section to chapter 84.52 RCW; adding a new section to chapter 70.44 RCW; adding a new section to chapter 84.55 RCW; creating a new section; and making appropriations.

Referred to Committee on Government Operations & Elections.

SB 5701 by Senators Hewitt and Delvin

AN ACT Relating to regional law libraries; and amending RCW 27.24.062 and 27.24.020.

Referred to Committee on Government Operations & Elections.

SB 5702 by Senators Zarelli, Kline, Fairley, Regala, Rasmussen and McAuliffe

AN ACT Relating to the developmental disabilities community trust account; amending RCW 43.84.092; reenacting and amending RCW 43.84.092 and 43.84.092; adding a new section to chapter 71A.20 RCW; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5703 by Senators Brandland, Spanel and Brown

AN ACT Relating to health care; amending RCW 41.05.013; reenacting and amending RCW 74.09.510 and 74.09.522; and creating new sections.

Referred to Committee on Health & Long-Term Care.

SB 5704 by Senators Pridemore, Schoesler, Schmidt and McAuliffe

AN ACT Relating to school district bidding requirements; and amending RCW 28A.335.190 and 28A.525.020.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 5705 by Senators Rockefeller, Schoesler, Rasmussen, Mulliken and McAuliffe

AN ACT Relating to avoiding fragmentation in bargaining units for classified school employees; and amending RCW 41.56.060.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 5706 by Senators Thibaudeau, Fairley, Fraser, Poulsen and McAuliffe

AN ACT Relating to providers of dental services; amending RCW 18.29.021, 18.29.045, 18.29.050, 18.29.120, 18.29.140, 18.29.150, 18.29.160, and 18.29.210; adding new sections to chapter 18.29 RCW; adding a new chapter to Title 18 RCW; and repealing RCW 18.29.110, 18.29.130, and 18.29.170.

Referred to Committee on Health & Long-Term Care.

SB 5707 by Senators Fraser, Eide, McAuliffe, Kohl-Welles, Keiser, Franklin, Kline, Haugen, Spanel and Rasmussen

AN ACT Relating to creating a women's history consortium; adding new sections to chapter 27.34 RCW; and creating new sections.

Referred to Committee on Early Learning, K-12 & Higher Education.

SB 5708 by Senators Finkbeiner, Thibaudeau, Keiser, McAuliffe and Kohl-Welles

AN ACT Relating to the administration of epinephrine by emergency medical technicians; and amending RCW 18.73.250.

Referred to Committee on Health & Long-Term Care.

SB 5709 by Senators Parlette, Swecker, Honeyford, Mulliken, Sheldon and Benton

AN ACT Relating to vehicle registration renewal fees within national recreation areas; and adding a new section to chapter 46.16 RCW.

Referred to Committee on Transportation.

SJM 8013 by Senators Berkey, Schmidt and Shin

Naming part of SR 99 the William P. Stewart Memorial Highway.

Referred to Committee on Transportation.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5707 which was referred to the Committee on Early Learning, K-12 & Higher Education.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Rasmussen moved adoption of the following resolution:

SENATE RESOLUTION

8614

By Senators Rasmussen, Schoesler, Doumit, Prentice, Hewitt, Parlette, Brandland and Rockefeller

WHEREAS, The dairy farmers of Washington are working hard to provide safe, nutritious dairy products for the families of Washington State; and

WHEREAS, There are approximately 570 family dairy farms in Washington State with approximately 240,000 dairy cows; and

WHEREAS, The average herd size in Washington State is approximately 420 cows, each cow produces approximately 90 glasses of milk per day - totaling an average of 37,800 glasses per herd, per day; and

WHEREAS, Washington State ranks 10th in total milk production in the United States with 5.6 billion pounds annually; and

WHEREAS, Washington State ranks first in milk and butterfat per cow production with 22,780 pounds of milk and 834 pounds of butterfat; and

WHEREAS, Dairy farming brings an estimated \$4.5 billion annually to Washington's economy; and

WHEREAS, Milk processing jobs help employment growth in Washington - every \$1 million in finished milk product is responsible for 20 jobs in our state; and

WHEREAS, The Washington State Dairy Ambassadors for 2004-2005 are Ambassador McKenzie Klein from Lynden and alternate Ambassadors Kristen Irving from Fall City and Laura Nelson from Chehalis; and

WHEREAS, Dairy Day at the Legislature will be February 2, 2005, when the legislators will visit with the dairy producers of the state and enjoy the 2,500 ice cream bars that will be handed out by the Washington State Dairy Federation and the State and County Dairy Ambassadors;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate acknowledge and honor the women and men whose work on dairy farms throughout Washington has contributed much to the strength and vitality of our economy, the character of our communities, and the general well-being of our citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Washington State Dairy Ambassador McKenzie Klein, alternate ambassadors Kristen Irving and Laura Nelson, and the Washington State Dairy Federation.

Senators Rasmussen, Morton, Swecker, Brandland, Honeyford, Haugen and Spanel spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8614.

The motion by Senator Rasmussen carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Washington Dairy Ambassador and their families who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Washington Dairy Ambassador McKenzie Klein, Alternative Ambassadors Kristen Irving and Laura Nelson, who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Washington Dairy Ambassador McKenzie Klein, to address the Senate and welcome the Senators to Olympia.

REMARKS BY DAIRY AMBASSADOR MCKENZIE KLEIN

McKenzie Klein: "Honorable Lt. Governor Owen, members of the Senate and guests. When we think of Washington State, we think green, after all we do live in the Evergreen State but due to urbanization and the decline of the state's agriculture industry, Washington's best asset is in danger. Yes, our Evergreen State just may become the 'Ever Paved' state. Dairy farmers are on the front line to vouch to preserve Washington's natural habitats. Eighty percent of the world's rare trumpeter swan population spends its winters on dairy farms in western Washington. They survive on left over corn grown by the dairy farms to feed their cows. No dairy farms, no swans. Dairy farms also help protect and preserve natural salmon habitat as well as provide open spaces for everyone to enjoy. Dairy farms are important to both Washington's natural habitats as well as the agriculture industry. However, the very survival of dairy farms today is at risk. When I was born in 1985, there were nearly 1600 dairy farms in Washington, sadly today there are barely 570 left. Our industry looks forward to working with you to help sustain agriculture in Washington. Together we can preserve open spaces, protect threatened wildlife and support the dairy industry. Together we can insure that Washington remains the Evergreen State. Got Milk."

MOTION

At 10:24 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President and for the purpose of a Rules meeting.

The Senate was called to order at 11:00 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5097, by Senators Kohl-Welles, Kline, Rasmussen, Franklin, Roach and Pridemore

Providing for apprenticeship utilization requirements on public works projects.

MOTIONS

Senator Kohl-Welles moved Substitute Senate Bill No. 5097 be substituted for Senate Bill No. 5097 and the substitute bill be placed on the second reading and read the second time.

Senator Honeyford spoke against adoption of the substitute bill.

MOTION

Senator Esser demanded a roll call vote.

The President declared that at least one-sixth of the Senate supported the demand and the demand was sustained.

JOURNAL OF THE SENATE
MOTION

On motion of Senator Hewitt, Senator Benton was excused.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles to substitute Senate Bill No. 5097.

ROLL CALL

The Secretary called the roll on the motion by Senator Kohl-Welles to substitute Senate Bill No. 5097 and the motion to substitute the bill carried by the following vote: Yeas, 25; Nays, 22; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 25

Voting nay: Senators Benson, Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoesler, Sheldon, Swecker and Zarelli - 22

Absent: Senator Stevens - 1

Excused: Senator Benton - 1

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 1, line 13, after "Apprenticeship" insert "and other"

On page 1, line 15, after "for" strike "apprenticeship" and insert "apprentice and trainee"

On page 2, after line 17, insert the following:

"(5) "Trainee" means a worker participating in a formal training program other than a state-approved apprenticeship training program.

(6) "Training program" means a formal training program conducted by an employer and approved by the awarding agency, or a private vocational school licensed under chapter 28B.10 RCW, or an institution of higher education as defined in RCW 28B.10.016."

On page 2, line 21, after "apprentices" insert "and/or trainees"

On page 2, line 24, after "apprentices" insert "and/or trainees"

On page 2, line 28, after "apprentice" insert "and/or trainee"

On page 3, line 5, after "number" insert "and/or the name of each trainee"

On page 3, line 9, after "apprentices" insert "and/or trainees"

On page 3, line 24, after "apprentice" insert "and trainee"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 13 to Substitute Senate Bill No. 5097.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 2, line 22, after "directors" insert "may not award a contract unless the contractor demonstrates that no journey level worker jobs were eliminated in order to comply with the apprenticeship requirement. Awarding agency directors"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 22 to Substitute Senate Bill No. 5097.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted.

On page 3, line 10, after "craft" insert ", and whether the apprentice's sponsoring apprenticeship program is or is not affiliated with a labor organization"

On page 3, beginning on line 18, after "(5)" strike all material through "governor, the" on line 20, and insert "The"

On page 3, line 23, after "report to" strike "both committees" and insert "the senate labor, commerce, research and development committee and the house of representatives commerce and labor committee"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 10 to Substitute Senate Bill No. 5097.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Parlette moved that the following amendment by Senator Parlette be adopted.

On page 3, after line 26, insert the following:

"Sec. 4. RCW 49.04.010 and 2001 c 204 s 1 are each amended to read as follows:

(1) The director of labor and industries shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations, respectively. The terms of office of the members of the apprenticeship council first appointed by the director

of labor and industries shall be as follows: One representative each of employers and employees shall be appointed for one year, two years, and three years, respectively. Thereafter, each member shall be appointed for a term of three years. The governor shall appoint a public member to the apprenticeship council for a three-year term. The appointment of the public member is subject to confirmation by the senate. Each member shall hold office until a successor is appointed and has qualified and any vacancy shall be filled by appointment for the unexpired portion of the term. A designated representative from each of the following: The work force training and education coordinating board, state board for community and technical colleges, employment security department, and United States department of labor, apprenticeship, training, employer, and labor services, shall be ex officio members of the apprenticeship council. Ex officio members shall have no vote. Each member of the council, not otherwise compensated by public moneys, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated in accordance with RCW 43.03.240.

(2)(a) The apprenticeship council is authorized to: (i) Approve apprenticeship programs, subject to the procedural requirements contained in (d) of this subsection; and (ii) establish apprenticeship program standards as rules, including requirements for apprentice-related and supplemental instruction, coordination of instruction with job experiences, and instructor qualifications.

(b) The council shall consider recommendations from the state board for community and technical colleges on matters of apprentice-related and supplemental instruction, coordination of instruction with job experiences, and instructor qualifications. The rules for apprenticeship instructor qualifications shall either be by reference or reasonably similar to the applicable requirements established by or pursuant to chapter 28B.50 RCW.

(c) The council is further authorized to issue such rules as may be necessary to carry out the intent and purposes of this chapter, including a procedure to resolve an impasse should a tie vote of the council occur, and perform such other duties as are hereinafter imposed.

(d)(i) An objection to a proposed apprenticeship program shall be considered by the council only if the objection is timely submitted in accordance with this section and rules established by the council, and clearly identifies an issue that is within the jurisdiction of the council to decide. An objection is timely if it is postmarked or delivered to both the council secretary and the sponsor of the proposed apprenticeship program no less than twenty-one days before the date of the meeting at which the proposed program is to be considered by the council.

(ii) The council may adjudicate objections to a proposed apprenticeship program or refer some or all of the objections, or any question raised by an objection, to the office of administrative hearings for initial adjudication. If the council refers any matter to the office of administrative hearings, the council shall designate or otherwise identify, with particularity, the specific objections or questions to be adjudicated by the office of administrative hearings. A decision by the council to adjudicate or refer an objection or question is not an agency action subject to judicial review under RCW 34.05.570.

(3) Not less than once a year the apprenticeship council shall make a report to the director of labor and industries of its activities and findings which shall be available to the public.

Sec. 5. RCW 34.12.080 and 1981 c 67 s 8 are each amended to read as follows:

All hearings shall be conducted in conformance with the administrative procedure act, chapter 34.05 RCW. After consultation with affected agencies, the chief administrative law judge may ~~((promulgate))~~ adopt rules governing the procedural conduct of the hearings. Such rules shall seek the maximum procedural uniformity in agency hearings consistent with demonstrable needs for individual agency variation. If a statute authorizes an agency to designate or otherwise limit the scope of issues or questions to be reviewed in a hearing under this section and RCW 49.04.010, nothing in the rules adopted under this section shall alter, restrict, or otherwise affect that authority of an agency, and the administrative law judge conducting the hearing shall not invite, accept, or consider evidence or argument beyond the scope of the issues or questions so designated or limited.

NEW SECTION. Sec. 6. A new section is added to chapter 4.84 RCW to read as follows:

(1) Notwithstanding any other provisions of this chapter, costs, as defined in RCW 4.84.010, and fees and other expenses as defined in RCW 4.84.340, shall be awarded to the prevailing party or substantially prevailing party on appeal before the superior court, court of appeals, or the supreme court, of a decision by the apprenticeship council to approve or not approve a proposed apprenticeship program. The court shall award and determine the amount of fees, expenses, and reasonable attorneys' fees and costs under this section if:

(a) The prevailing party on appeal was the prevailing or substantially prevailing party before either (i) the apprenticeship council created under RCW 49.04.010, or (ii) a hearing conducted pursuant to RCW 49.04.010(2)(d) and in conformance with the administrative procedure act, chapter 34.05 RCW; and

(b) The prevailing party on appeal was the prevailing party or substantially prevailing party in all prior judicial proceedings.

(2) In addition to the prevailing party under subsection (1) of this section, the apprenticeship council is considered a prevailing party if its decision is upheld at superior court and on appeal."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "apprenticeship" strike the remainder of the title and insert "opportunities and utilization requirements on public works projects; amending RCW 49.04.010 and 34.12.080; adding new sections to chapter 39.04 RCW; adding a new section to chapter 4.84 RCW; and declaring an emergency."

Senator Parlette spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

Senator Esser demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senator Finkbeiner spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Parlette on page 2, after line 26 to Substitute Senate Bill No. 5097.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Parlette was not adopted by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hargrove, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Oke, Parlette, Pflug, Roach, Schmidt, Schoessler, Sheldon, Stevens, Swecker and Zarelli - 24

Voting nay: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 24
Excused: Senator Benton - 1
The President voted nay.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5097 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.
Senator Kohl-Welles spoke in favor of passage of the bill.

MOTION

On motion of Senator Honeyford, Senators Zarelli and Stevens were excused.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5097.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5097 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Thibaudeau and Weinstein - 27

Voting nay: Senators Benson, Brandland, Carrell, Deccio, Delvin, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Parlette, Pflug, Schmidt, Schoesler, Sheldon and Swecker - 19

Excused: Senators Benton, Stevens and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 5097, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was order to stand as the title of the act.

MOTION

At 12:07 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, February 3, 2005.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate