

HOUSE BILL REPORT

HB 1093

As Reported By House Committee On:

Transportation

Title: An act relating to streamlining purchasing provisions for state agencies including Washington state ferries.

Brief Description: Revising bidding procedures for public agencies.

Sponsors: Representatives K. Schmidt, Johnson, Romero and Wolfe; by request of Department of General Administration.

Brief History:

Committee Activity:

Transportation: 1/23/95, 2/16/95 [DPS].

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives K. Schmidt, Chairman; Benton, Vice Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Brown; Buck; Cairnes; Chandler; Chopp; Elliot; Hankins; Horn; Johnson; Koster; McMahan; Ogden; Quall; Robertson; Romero; D. Schmidt; Scott and Tokuda.

Staff: Vicki Fabre (786-7313).

Background: The 1994 Legislature in SHB 2863 (Chapter 181, Laws of 1994) authorized the purchase of the propulsion systems for the Jumbo Mark II Class ferries through a request for proposal (RFP) process, utilizing specific evaluation criteria to determine the proposal most advantageous to the state. The propulsion system engines were subsequently awarded under this RFP process.

SHB 2863 also directed the departments of Transportation and General Administration (GA) and the Office of Financial Management, in consultation with the Legislative Transportation Committee (LTC), to review GA's Office of State Procurement (OSP) acquisition authorities to determine the impact on the operation of Washington state ferries (WSF) as a public mass transportation system and to report on any proposed legislation. The multi-agency review resulted in a series of recommendations on procurement methods and statutory changes that are responsive to the needs of WSF

and that streamline the procurement process for all state agencies. The study results and proposed legislation were reported to the LTC in December 1994.

Summary of Substitute Bill: The authority of the Office of State Procurement to utilize a request for proposal (RFP) process for complex technical procurements as an optional sealed bid process is clarified.

The dollar limit under which small purchases may be made without competitive bid is raised from \$800 to \$1,500.

Emergency purchase provisions are revised by removing the requirement that agencies file reports with the Department of General Administration following each emergency acquisition. Agencies are responsible for documenting and auditing emergency purchases internally.

The Department of Transportation is authorized to enter into concession contracts for up to 10 years and to use an invitation for bid or RFP process for concession contracts. Joint development agreements between the department and a public or private entity are expanded to include installed improvements.

Existing statutes authorizing the acquisition of passenger-only ferries through a competitive RFP process are repealed.

Substitute Bill Compared to Original Bill: A technical change is made to restore existing language setting the sealed bid limitation base at \$35,000.

Language requiring that the lowest responsible bid "be responsive" is deleted to eliminate a concern that bids could be rejected arbitrarily. It is well established in case law that the lowest responsible bid must be responsive.

Provisions making the use of life cycle cost analysis elective under the invitation for bid (IFB) process are deleted. Existing law mandating life cycle cost analysis under an IFB process is reestablished.

The direct buy limit is decreased from \$2,500 to \$1,500.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The legislation implements the findings of the 1994 review by the departments of General Administration and Transportation and the Office of Financial Management of state agency procurement requirements. The changes in the competitive bid process are responsive to the particular needs of the state ferry system and streamline the process for all state agencies.

Testimony Against: None.

Testified: John Franklin, Department of General Administration (pro); Nancy Locke, Department of General Administration (pro); Duke Schaub, Associated General Contractors of Washington (pro with amendment); Terry McCarthy, Washington State Ferries (pro); Mark Triplett, NC Machinery (pro with amendment); and Darren Venters, NC Machinery (pro with amendment).