

# HOUSE BILL REPORT

## HB 2538

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### As Reported By House Committee On:

State Government

**Title:** An act relating to small works rosters.

**Brief Description:** Creating small works roster provisions to award public works contracts.

**Sponsors:** Representatives Miloscia, D. Schmidt and Haigh.

### Brief History:

#### Committee Activity:

State Government: 1/25/00, 2/4/00 [DPS].

#### Brief Summary of Bill

- Establishes uniform procedures and requirements for state agencies and various local governments to award contracts using the small works roster process.
- Increases the maximum dollar value of contracts to \$200,000 that state agencies and various local governments may award using the small works roster process.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

**Staff:** Steve Lundin (786-7127).

### Background:

Since the early 1980s, a number of separate statutes have been enacted authorizing various state agencies, and different local governments, to award public works

contacts of up to a certain dollar value using a small works roster of contractors rather than advertising and formal competitive bidding. Details in these statutes vary, but generally the government solicits bids from all, or at least five, contractors who have requested to be listed on a small works roster and the contract, if awarded, is awarded to the lowest responsible bidder.

Separate statutes exist authorizing the use of small works rosters by: (1) most state agencies; (2) four-year institutions of higher education; (3) school districts; (4) housing authorities; (5) irrigation districts; and (6) a number of other local governments, such as counties, cities, port districts, and fire protection districts, that follow common procedures, but the maximum value of a contract that may be awarded varies. Fire protection districts may award a contract using the small works roster if the estimated cost is less than \$10,000. Counties, cities, towns, and most state agencies may award a contract using the small works roster if the estimated cost is less than \$100,000. Port districts may award a contract using the small works roster if the estimated cost is \$200,000 or less.

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### **Summary of Bill:**

A single small works roster statute with common procedures and provisions is established for awarding contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property.

All state agencies, including institutions of higher education, currently authorized to use a small works roster may use this common statute to award contracts. All local governments currently authorized to use a small works roster, other than irrigation districts, may use this common statute to award contracts. Irrigation districts continue to follow their own statute.

A single, general small works roster may be established or small works rosters may be established for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractors.

A uniform maximum amount of a contract that may be awarded using this process is established at \$200,000. This increases the maximum amount from \$100,000 for state agencies, counties, cities, towns, and public utility districts. This increases the maximum amount from \$50,000 for school districts, water-sewer districts, and public hospital districts. This increases the maximum amount for housing authorities from \$40,000. This increases the maximum amount for fire protection districts from \$10,000.

Quotations must be invited from either all appropriate contractors on the appropriate roster or from at least five contractors in a manner that will equitably distribute the opportunity among contractors on the appropriate roster. "Equitably distribute" is defined to mean that an agency or local government may not favor certain contractors on the appropriate roster over the other contractors on the appropriate roster who perform similar work. If the estimated cost of the work for a state agency or a local government, other than a port district, is from \$100,000 to \$200,000, and less than all the appropriate contractors on the appropriate roster were solicited to submit a bid, the agency or local government must notify all the remaining appropriate contractors on the appropriate roster that quotations on the work are being sought. The government chooses the method of making this notice, which may be by publication, mail, or electronic means.

Procedures for securing telephone, written, or electronic quotations from contractors on the applicable small works roster must assure that a competitive price is established and that contracts are awarded to the lowest responsible bidder.

Contractors on a small works roster may be required to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters as a condition of being placed on a small works roster. Master contracts may be required to be signed that become effective when a specific award is made.

A state agency establishing a small works roster or rosters must adopt rules, and a local government establishing a small works roster or rosters must adopt an ordinance or resolution, implementing the requirements of the law. An inter-local agreement or contract establishing a small works roster or rosters to be used by the parties to the agreement must clearly identify the lead entity responsible for maintaining the small works roster. One or more school districts may authorize an education service district to establish and operate a small works roster for the school district or districts.

Staging, or the breaking of any project into units or by phases, is prohibited if done to avoid the maximum dollar amount of a contract that may be awarded using the small works roster process.

A state agency or local government using the small works roster process must make the list of contracts awarded under that process at least once every year.

The Department of Community, Trade, and Economic Development, in cooperation with the Municipal Research and Services Center, must prepare a small works roster manual and periodically notify different types of local government authorized to use this process about their authority.

The Independent Oversight Committee on alternative public works is required to make a report on the use of the small works roster prior to the 2003 legislative session.

**Substitute Bill Compared to Original Bill:** The requirement was added that all state agencies and local governments other than port districts must notify the other contractors on the appropriate roster, if the estimated cost is from \$100,000 to \$200,000 and bids were solicited from less than all the appropriate contractors on the appropriate roster. The definition of "equitably distribute" was added. Language relating to responsive bids was deleted.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** (Original bill) The existing array of laws is a crazy quilt. It was the construction industry that first introduced the concept of small works rosters years ago. This is another tool to efficiently manage projects. Keep it simple. Saving time and money are the goals. This is easier, more efficient, and simpler. A uniform process makes sense. We must reduce administrative overhead in awarding contracts.

**Testimony Against:** (Original bill) The \$200,000 figure is too high. Every contractor should get notice. Staging of projects is not right. The full public bidding process is best. It is wrong not to advertise. It is important to solicit names more than once a year. All bids should be submitted at the same time on the same day.

**Testified:** (In support) Duke Schaub, Associated General Contractors; John Lynch, Department of General Administration; Steve Lindstrom, Sno-King Water District; Charlie Brown, King County Schools Coalition; Roger Farris, Washington Fire Commissioners Association; Scott Taylor, Washington Public Ports Association; Jim Justin, Association of Washington Cities; and Rodney Eng, city of Seattle.

(Concerns) Kevin Lybeck, Contractor's Bonding and Insurance Corporation; Richard Gilda, Industrial Business Association; Gary Smith; and Michael Transue, Utility Contractors Association of Washington.