

SENATE BILL REPORT

SB 5764

As Reported By Senate Committee On:
Judiciary, March 1, 1999

Title: An act relating to actions arising out of public works contracts.

Brief Description: Eliminating a maximum amount threshold for pleadings in actions arising from public works contracts.

Sponsors: Senators Heavey, Johnson, McCaslin, T. Sheldon and Haugen.

Brief History:

Committee Activity: Judiciary: 2/19/99, 3/1/99 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5764 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Roach and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: An offer of settlement– statute is a mechanism to encourage the parties to a civil lawsuit to reach a settlement and avoid a lengthy and costly trial. Offer of settlement statutes provide that the prevailing party who has made an offer of settlement is entitled to payment of reasonable attorneys’ fees. The defendant is a prevailing party when the judgment obtained by the plaintiff is less than the offer made by the defendant. The plaintiff is a prevailing party when the judgment obtained by the plaintiff is greater than the offer made by the plaintiff. Generally, the existing offer of settlement statute only applies to cases where the amount pleaded is \$10,000 or less.

Statutes governing contracts for public works under Chapter 39.04 RCW provide that lawsuits arising from such contracts are subject to the provisions of the general offer of settlement statute, if the amount of the pleadings is \$250,000 or less.

Summary of Substitute Bill: The public works statute is amended to provide that a lawsuit arising out of a public works contract is subject to the provisions of the offer of settlement statute, regardless of the dollar amount of the alleged damages.

Substitute Bill Compared to Original Bill: The original bill was not heard.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The construction trade industry generally helps to settle disputes with the public works statute. The statute works well at present, but the \$250,000 limitation is not needed. The proposed bill makes a good law even better. Disputes are settled earlier. The cap is an unnecessary hindrance. The bill should help both the public and the private entities.

Testimony Against: None.

Testified: Robert Marcove, Attorney; Dave Ducharme, Utility Contractors; Ray Groeber, Gary Merlino Construction; Don Gonzales, construction company.