

HOUSE BILL REPORT

SB 5063

As Passed House - Amended:

April 5, 2001

Title: An act relating to limited public works.

Brief Description: Authorizing a limited public works process.

Sponsors: By Senators Patterson and Winsley.

Brief History:

Committee Activity:

State Government: 3/23/01, 3/28/01 [DPA].

Floor Activity:

Passed House - Amended: 4/5/01, 95-0.

**Brief Summary of Bill
(As Amended by House)**

- Creates a new procedure, called the limited public works procedure, for state agencies and various local governments to award contracts for construction and repair projects with estimated costs of less than \$35,000.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass as amended. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Miloscia, Democratic Vice Chair; Schindler, Republican Vice Chair; Haigh, Lambert, McDermott and D. Schmidt.

Staff: Steve Lundin (786-7127).

Background:

Differing procedures exist for state agencies and various local governments to award contracts for public works projects. Frequently, contracts for public works projects of a relatively small estimated cost are awarded in any manner, contracts for public works of a medium estimated cost may be awarded to the lowest responsible bidder using a small works roster process, and contracts for public works of a higher estimated cost are

awarded to the lowest responsible bidder using a formal competitive bidding process with sealed bids.

Legislation was enacted in 2000 providing a common small works roster process for all state agencies and many local governments to award contracts for public works projects estimated to cost \$200,000 or less. The agency or local government solicits bids from 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. An effort must be made to equitably distribute the opportunity among contractors on the appropriate roster if bids are solicited from less than all contractors on the roster. Local governments authorized to use this small works roster process are counties, cities and towns, housing authorities, school districts, fire protection districts, port districts, public utility districts, water/sewer districts, and public hospital districts.

In most instances, the general contractor on a public works project is required to post a performance bond to faithfully perform all work under the contract and to pay laborers, materialmen, and subcontractors. In most instances retainage is required on public works contracts where the public entity retains up to 5 percent of the contract amount from the general contractor for 45 days after completion of the project as a trust fund for payment of laborers, subcontractors, materialmen and excise taxes that are imposed on the project.

Summary of Amended Bill:

State agencies and local governments authorized to use the small works roster process may award contracts using a limited public works process for construction, building renovation, remodeling, altering, repairing, or improving real property.

The limited public works process is a type of small works roster process, but only applies to contracts estimated to cost less than \$35,000. Bids must be solicited from at least three contractors included on the appropriate small works roster. Quotations are available for public inspection after a contract is awarded. An attempt shall be made to distribute opportunities equitably among contractors willing to perform in the geographic area of the work.

Agencies and local governments must maintain a list for the previous 24 months of contractors contracted and contracts awarded under this process.

An agency or local government using the limited public works process may waive performance bond requirements and retainage requirements but has a right of recovery against the contractor for any payments it makes on behalf of the contractor.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This provides efficiency for smaller projects. This will encourage small projects to be awarded to private enterprise to build rather than using public labor to build. The overhead on small projects can be a significant part of the overall cost, sometimes as much as \$3,000 on top of a \$5,000 bid price. We can avoid some of these overhead costs. This will save money for larger projects. This is a win, win situation for government and smaller contractors in rural areas. Quotes will be solicited from at least three local contractors. This will give work to local contractors. There are protections for the public built into this procedure. This allows work to go out to contractors in isolated rural areas.

Testimony Against: We're opposed as this is written. A public owner could award a contract if only one bid was received. This is unprecedented.

Testified: (In support) John Lynch, General Administration; Ron Sisson, Department of Transportation; Duke Schaub, Associated General Contractors of Washington; Jim King, Citizens for Parks and Recreation; and Ashley Probart, Association of Washington Cities.

(Opposed) Jeffrey Thomas, Contractors Bonding and Insurance Company.