

SENATE BILL REPORT

ESSB 5060

As Passed Senate, March 13, 2001

Title: An act relating to alternative public works contracting procedures.

Brief Description: Revising alternative public works contracting procedures.

Sponsors: Senate Committee on State & Local Government (originally sponsored by Senators Winsley and Patterson).

Brief History:

Committee Activity: State & Local Government: 2/19/01, 3/5/01 [DPS].

Passed Senate: 3/13/01, 31-18.

SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5060 be substituted therefor, and the substitute bill do pass.

Signed by Senators Patterson, Chair; Fairley, Vice Chair; Gardner, Hale, Haugen, Horn, Kline, McCaslin, Roach, T. Sheldon and Swecker.

Staff: Eugene Green (786-7405)

Background: Differing procedures are established for state agencies and various local governments to award contracts for public works projects.

Several different state agencies and local governments have been authorized to use alternative public works contracting procedures to award contracts on certain public works with a value of over \$10 million. One alternative procedure is the design-build procedure. Another alternative procedure is the general contractor/construction manager (GCCM) procedure. Authority to use these alternative public works contracting procedures terminates on July 1, 2001.

The GCCM procedure is a multi-step competitive process to award a contract for a single firm to provide services during the design phase, as well as acting as both the construction manager and general contractor during the construction phase, for a public facility that meets certain criteria. The contractor guarantees the project budget under this procedure.

The design-build procedure is a multi-step competitive process to award a contract for a single firm to design and construct a public facility or portion of a public facility that meets certain criteria.

The Department of General Administration, University of Washington, Washington State University, every county with a population greater than 450,000 (King, Pierce, and Snohomish counties), every city with a population greater than 150,000 (Seattle, Tacoma, and

Spokane), and any port district with a population greater than 500,000 (Port of Seattle and Port of Tacoma) may use the alternative public works contracting procedures.

A temporary independent oversight committee reviews the use of these alternative public works procedures and makes recommendations to the Legislature on governmental contracting procedures.

Summary of Bill: Authority to use the alternative public works contracting procedures is extended for six years until July 1, 2007.

The alternative procedures may be used for public works projects valued over \$12 million, or on and after January 1, 2010, valued at \$16 million.

The temporary independent oversight committee is renamed as the public works procurement committee.

The following entities are authorized to use the alternative public works contracting procedures:

- All of the remaining four-year institutions of higher education (Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College);
- The minimum population of a city eligible to use these procedures is reduced from 150,000 to 70,000, adding Vancouver, Bellevue, Everett, Federal Way, and Kent;
- The minimum population of a county eligible to use these procedures is reduced from 450,000 to 300,000, adding Spokane and Clark counties;
- Port districts eligible to use these procedures are expanded by changing the class of eligible port districts from a port district with a population of 500,000 or more to a port district with total revenues greater than \$15 million per year (adds the ports of Longview, Vancouver, Everett, and Bellingham);
- Any public utility district with revenues from energy sales of greater than \$65 million per year (adds Snohomish County PUD, Clark County PUD, Cowlitz County PUD, Grant County PUD, and Benton County PUD);
- Any public authority chartered by a city only after receiving specific authorization on a project-by-project basis from the governing body of the city.

Criteria are provided for a general contractor/construction manager to determine the eligibility of subcontractors performing work on the project, including financial resources, history of successful completion of contracts of a similar scope, management and supervision personnel experience on similar projects, current and projected workloads, ability to accurately estimate the subcontractor bid package scope of work, ability to meet subcontractor bid package shop drawing and other coordination procedures, eligibility to receive an award under applicable laws and regulations, and ability to meet subcontract bid package scheduling requirements.

Notice of a determination of eligibility must be published in a legal newspaper of general circulation published in or near to where the work will be done. Evaluation criteria and weighting will be supplied to subcontractors requesting eligibility. Results and scoring by the the owner and general contractor/construction manager must be supplied to subcontractors requesting eligibility.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on July 1, 2001.

Testimony For: These procedures have been a success in making sure large complex projects are completed on time, under budget, and without litigation. Subcontractors very much want the new criteria for determination of subcontractor liability. It eliminates bid shopping.–

Testimony Against: It is very easy for favoritism to creep into these two processes. It also gives certain contractors an unfair advantage.

Testified: Duke Schaub, AGC; Elizabeth Kelly, Seattle Public Utilities (pro); Jeff Thomas, Mel Sorenson, CBIC (con); Baris Gibson, Port of Vancouver (pro); Scott Taylor, WA Public Ports Assn. (pro); Larry Stevens, MCA, NECA (pro); Dave Ducharme, Utility Contractors Assn. of WA (con); Martin Burgess, Grade, Inc. (con); Bob Mack, Bellevue, Tacoma (pro); Doug Levy, Kent, (pro); Harry Mellan, The Gordian Group (pro).

House Amendment(s): Expansion of jurisdictions allowed to use alternative public works procedures is changed: Central, Eastern, and Western Washington Universities and The Evergreen State College are deleted; Spokane and Clark counties are deleted; and Chelan, Clallam, Douglas, Grays Harbor, and Mason County #3 PUDs are added. The Independent Oversight Committee is repealed. The 2010 increase to \$16 million in the minimum value of a contract that may be awarded using an alternative public works is eliminated. Minority and women enterprise total project goals are repealed as evaluation factors in awarding alternative public works contracts.