

# SENATE BILL REPORT

## ESSB 6528

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As Passed Senate, February 18, 2002

**Title:** An act relating to the selection of responsible contractors bidding on public works.

**Brief Description:** Allowing governmental entities that award publicly funded contracts to select contractors using the lowest responsible bidder method.

**Sponsors:** Senate Committee on State & Local Government (originally sponsored by Senators Keiser, Eide and Costa).

**Brief History:**

**Committee Activity:** State & Local Government: 1/30/02, 2/6/02 [DPS].

Passed Senate: 2/18/02, 36-12.

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### SENATE COMMITTEE ON STATE & LOCAL GOVERNMENT

**Majority Report:** That Substitute Senate Bill No. 6528 be substituted therefor, and the substitute bill do pass.

Signed by Senators Gardner, Chair; Fairley, Vice Chair; Hale, Haugen, Horn, Keiser, Kline and Swecker.

**Staff:** Diane Smith (786-7410)

**Background:** Although the term "responsible bidder" is used in a number of state statutes concerning state and local government contracting procedures, there is no general statutory definition of this term.

**Summary of Bill:** State and local governmental entities must determine which bidders for publicly funded projects under \$200,000 are the lowest responsible bidders. This determination must be made based on price and the low bidder's answers to a questionnaire that covers issues of the contractor's ability, capacity and skill; reputation and experience; history of completing contracts on time; quality of past performance; and compliance with applicable laws.

This information must be supplied by the apparent low bidder within three business days after bid opening. A contractor deemed not responsible by the governmental entity after review of the questionnaire has a right to withdraw its bid or to submit additional information and have his or her bid reconsidered.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** This bill is a response to a disaster at Highline Community College that brought the project in one year late and \$1,300,000 over budget. The bid document will include the questions that must be answered by the lowest responsive bidder. The bill will help reduce expensive repairs and maintenance down the line and protect agencies from high-priced lawsuits they cannot afford. It is a real plus for risk-management reasons. It will allow quality, excellence and safety to be taken into account.

**Testimony Against:** This is a good idea that just is not going to work as drafted. It is too broad and subjective. There are due process concerns. Owners already have broad discretion. This bill could increase the number of arbitrary and capricious decisions. Small contractors just trying to break into government contracting are often unable to provide much data on their track record of responsibilities. This gives rise to the chicken and egg dilemma. Smaller projects should be exempt from this bill's responsibility analysis. The two-day time to present the completed questionnaire is extremely burdensome.

**Testified:** Laura Saunders, Highline Community College (pro); Terry Tuton, Rebound (pro); Mitch Seaman, WA Building and Construction Trades Council (pro); John Eldukas, IBEW #191 (pro); Rick Slunaker, Associated General Contractors (con); Gary Smith, Independent Business Assoc. (con).