

# SENATE BILL REPORT

## SB 5704

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As Reported By Senate Committee On:  
Early Learning, K-12 & Higher Education, March 2, 2005

**Title:** An act relating to school district bidding requirements.

**Brief Description:** Regarding school district bidding requirements.

**Sponsors:** Senators Pridemore, Schoesler, Schmidt and McAuliffe.

**Brief History:**

**Committee Activity:** Early Learning, K-12 & Higher Education: 2/14/05, 3/2/05 [DPS, DNP].

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### SENATE COMMITTEE ON EARLY LEARNING, K-12 & HIGHER EDUCATION

**Majority Report:** That Substitute Senate Bill No. 5704 be substituted therefor, and the substitute bill do pass.

Signed by Senators McAuliffe, Chair; Pridemore, Vice Chair; Weinstein, Vice Chair; Berkey, Delvin, Eide, Kohl-Welles, Pflug, Rasmussen, Rockefeller, Schoesler and Shin.

**Minority Report:** Do not pass.

Signed by Senators Schmidt, Ranking Minority Member; Carrell and Mulliken.

**Staff:** Heather Lewis-Lechner (786-7448)

**Background:** A number of different laws establish procedures for state agencies, local governments, and special purpose districts, including school districts, to award contracts for public works projects and to purchase materials, supplies, equipment, and services. Competitive bidding procedures must be followed when contracts or purchase amount exceed a certain dollar amount as established in statute. The procedures that are required and the threshold dollar amounts, vary depending on the type of state entity entering the contract or purchasing the material. Under competitive bidding procedures, contracts for the work or purchase are awarded to the lowest responsible bidder as defined in statute. There are also provisions established in statute that allow the lowest responsible bid to be rejected and further bids taken.

Purchases. For purchases of furniture, equipment or supplies, except books, that are expected to exceed \$15,000 school districts must use a competitive bid process. If such cost is between \$15,000 and \$50,000 the bid process must include quotations from at least three different sources obtained in writing or by telephone and recorded for public access. If such cost is over \$50,000 a specific type of formal competitive bidding process is required. Under the formal competitive bid process, the school district board of directors must provide two weeks of notice by publication of an intention to receive bids. The bids must be in writing, opened, and read in public on the date contained in the notice and filed for public inspection

Public Works Projects and Maintenance. For building, improvement, repair, or other public works projects, districts with 15,500 full-time equivalent (FTE) students or more must use the formal competitive bid process if the projects are over \$15,000. For districts with fewer than 15,500 FTE students, the need to use the competitive bid process is dependent on the number of crafts or trades involved in the project. If there is more than one craft or trade, the formal competitive bid process must be used if the cost is over \$15,000. If there is only one craft or trade, the formal competitive bid process must be used if the cost is over \$10,000.

If the improvement or repair is under the established amounts, school districts may make the improvements or repairs to the district property through the district shop and repair department without having to give notice and take bids.

If a public works contract is over \$50,000 the formal competitive bid process is required unless the contract is let using the small works roster process or any other process available to school districts.

Procedures to award a contract of relatively medium dollar value are called a small works roster procedure and are set out in statute. Bid solicitations using these procedures only require soliciting bids from a limited number of contractors on a list and include some sort of requirement to equitably distribute the opportunity to bid on proposals. Contracts awarded under a small works roster need not be advertised.

**Summary of Substitute Bill:**

Purchases. The threshold for competitive bid procedures in relation to purchases of furniture, equipment or supplies, except books, is increased from \$15,000 to \$30,000. If such cost is between \$30,000 and \$50,000 the bid process must include quotations from at least three different sources obtained in writing or by telephone and recorded for public access. If such cost is over \$50,000 the same type of formal bidding process as required under current law remains.

Public Works Projects and Maintenance. The threshold for formal competitive bid procedures in relation to building, improvement, repair, or other public works projects, is increased to \$50,000. The distinctions between improvements and repairs made using one craft or two crafts are removed as are the distinctions based upon number of students in a school.

If the improvement or repair is under \$50,000 school districts may make the improvements or repairs to the district property through the district shop and repair department without having to give notice and take bids.

If a building, improvement, repair or other public works project is over \$50,000 the formal competitive bid process is required unless the contract is let using the small works roster process or any other process available to school districts.

**Substitute Bill Compared to Original Bill:** The threshold for formal competitive bid procedures in relation to building, improvement, repair or other public works projects was increased to \$100,000 in the original and is increased to \$50,000 in the substitute. In the original if the improvement or repair was under \$100,000 districts could make the repairs in the district's shop and repair department, in the substitute the threshold is \$50,000.

The language allowing for an automatic adjustment of the dollar amounts for inflation is removed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** Current funding for K-12 is not meeting the costs of providing a 21st Century education. The state has not increased the dollar value threshold for repair and renovation projects for when school districts can use in-house repairs and work since 1994 even though there has been inflation. The competitive bid limits for other special districts have increased over the years and have tied the dollar values to the Consumer Price Index, (CPI) but school districts have not been allowed to do that yet. Tying the values to the CPI is very important.

This bill is about efficient and effective use of the ever-growing scarce resources; schools need some assistance. At some point it does not make sense to use the more expensive competitive bidding process. Sometimes the cost of managing contracts ends up being greater than the contract itself. There will be savings at the local level if this bill passed. Schools have a substantial investment in facilities and maintenance staff. What schools are asking for is the flexibility and option to choose to do some, not all, projects in house. There are some projects where efficiencies will be realized by using in-house staff. Our maintenance staff already have the knowledge and familiarity with our facilities and district standards so they have an advantage over outside contractors and do not have the same learning curve. The out-side contractor has overhead to consider as well. Have also seen that there are also quality issues with the lower value contracts because do not have the same number of bids on these contracts to choose from.

A small project in a district is a small project regardless of the number of students in the district and we need to streamline the process by removing the distinctions and give the school board more options. The purchasing threshold has not been addressed in a long time. What the threshold should be we don't know but it needs to be addressed.

**Testimony Against:** This bill does not have a tiered approach and we believe that is important in order to have the minimum impact on the existing system and because it gets a little more complex when dealing with smaller communities and smaller districts where contractors rely on this type of lower cost work for their business.

As a general rule the Associated General Contractors are opposed to raising bid limits because such increases result in less work being done by the private sector. Our degree of opposition would be lessened if the values were not tied to the CPI and automatically increased and if the authority to increase was not delegated away from the Legislature. Additionally, we believe that this is too large of an increase because it goes beyond both the CPI and Implicit Price Deflator (IPD) increases since 1994. There is also a question of how much of this work actually will be done in-house versus what would be done by outside contractors. We view this as contracting-in rather than contracting-out; which is what the original legislation was trying to encourage. The private sector should be doing the contract work while the schools

are focusing on educating. The small works roster process already provide for and accommodate the efficiencies and flexibility that the school districts are talking about needing. We view this as an anti-small business bill since the language regarding jobs done with a single trade or craft is removed and that was put in specifically to help small businesses. Small jobs are very important to the small businesses and this bill will have a definite fiscal impact on them.

Have concerns over raising the purchasing threshold and believe it is unwarranted. For districts with tight central control it would not be a problem because the purchasing department would tell employees who to deal with in purchasing items but in districts with site based management there could be some problems.

**Who Testified:** PRO: Senator Pridemore, prime sponsor; Ken Kanikeberg, Public School Employees of WA; Virginia Lane, Public School Employee; David Westberg, AFL-CIO Stationary Engineers.

CON: Michael Transue, Assoc. General Contractors; Larry Stevens, Mechanical and Electrical Contractors; Dave Ducharme, Utility Contractors Assoc. of WA.