

SENATE BILL REPORT

ESSB 6104

As Passed Senate, April 18, 2005

Title: An act relating to construction of new vessels for Washington State Ferries.

Brief Description: Expediting new vessel construction for Washington State Ferries.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker; by request of Department of Transportation).

Brief History:

Committee Activity: Transportation: 4/13/05 [DPS, w/oRec].

Passed Senate: 4/18/05, 37-9.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6104 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Poulsen, Vice Chair; Swecker, Ranking Minority Member; Eide, Kastama, Spanel and Weinstein.

Minority Report: That it be referred without recommendation.

Signed by Senators Benson and Mulliken.

Staff: Janice Baumgardt (786-7319)

Background: Under current law, the design-build ferry procurement process includes three phases. To commence the process, the Department of Transportation (DOT) issues a notice of intent to submit a request for proposal (RFP). The notice includes the requirements for pre-qualification and states that pre-qualification is a prerequisite to submitting a proposal. Current statutes refer to current Washington Administrative Code rules for pre-qualification requirements; however, DOT may adopt rules regarding financial pre-qualification requirements specific to the contract and in order to maximize competition must consider the following when doing so: (1) shipyard resources in Washington State; (2) cost to design and construct multiple vessels under a single contract without options; and (3) sequenced delivery schedule for the vessels. In phase one, DOT evaluates and selects pre-qualified proposers. In phase two, the selected proposers prepare technical proposals in consultation with DOT. In phase three, proposals are submitted to DOT to evaluates the bids and award a contract.

Summary of Bill: If a single pre-qualified proposer or a single best qualified proposer emerges from phase one of the competitive design-build procurement process, an alternative process to design-build phases two and three is provided.

DOT may enter into negotiations to jointly develop contract specifications and plans which must adhere to current law requirements. DOT must approve the final specifications and plans and may reimburse the contractor for the costs of preparing them. DOT must conduct

ongoing reviews of the designs, drawings, and specifications to ensure they are responsive to input from DOT, as is currently required in phase two. Also, as provided for currently in phase two, DOT may modify any element of the RFP but must do so in writing.

DOT may negotiate a contract with the proposer during the preparation of the jointly developed contract specifications and plans. The contract price must be established through negotiations based on detailed cost and price information provided by the proposer. DOT may negotiate cost and other incentives and economic cost sharing between the state and the proposer.

DOT must provide the Office of Financial Management with a copy of the contract, the final negotiated price, and supporting information at least ten days prior to the execution of the contract. If the final negotiated price is greater than the legislature's adopted expenditure plan for vessel construction, the department may not execute the contract until the legislature reviews the final proposals and adjusts the expenditure plan accordingly.

If DOT and the proposer do not reach an agreement on the jointly developed contract specifications and plans, the department may republish, revise, or cancel the request for proposals process.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Sole source contracts have saved what is left of the marine building industry and are good for the state.

Testimony Against: When the private sector competes, the public wins; this bill would eliminate competition. The idea behind design-bid contracts is to shift the risk of liability from the state to the shipbuilder. This bill causes the risk of liability to be shared by the state and the shipbuilder.

Who Testified: PRO: Doug MacDonald, Secretary, Department of Transportation; Steve Welch, Todd Shipyards; Matt Nichols, Nichols Brothers Shipyards; Randy Ray, Todd Shipyards; Bill Alkire, Nichols Brothers Shipyards; Gordon Baxter, Puget Sound Metal Trades Council.

CON: Len McComb, JM Martinac; Jonathan Platt, JM Martinac Shipbuilding; Charles Garman, Gunderson Marine Inc.; Lawson E Bronson, JM Martinac; Steve Rodriguez, Kalakala.