

HOUSE BILL REPORT

HB 1328

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to small works roster contracting procedures.

Brief Description: Concerning small works roster contracting procedures.

Sponsors: Representatives Santos, Anderson, Green, Hunt, Miloscia, McDermott, Hasegawa, Hudgins, Chandler, Darneille, Haigh, Hankins, Wallace, Kristiansen, Kagi, Pettigrew, Kenney and Conway.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/23/07, 1/26/07 [DPS].

Brief Summary of Substitute Bill

- Allows a state agency or authorized local government to adopt procedures to award small works roster contracts to certain small businesses.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green, Kretz, McDermott, Miloscia and Ormsby.

Staff: Marsha Reilly (786-7135).

Background:

State agencies and local governments may use the small works roster process to award contracts for public works projects estimated to cost \$200,000 or less. When an agency or local government elects to use this process, it must solicit bids from at least five contractors who have requested to be listed on a small works roster. The agency or local government, if it decides to award the contract, awards the contract to the lowest responsible bidder. The agency or local government must make an effort to equitably distribute the opportunity among

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contractors on the roster if the bids are solicited from less than all the contractors on the roster.

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. Also, in most instances, a retainage of up to 5 percent of the contract amount is required on public works contracts to be paid to the contractors 45 days after the completion of the project. The amount serves as a trust fund for payment of laborers, subcontractors, materialmen, and excise taxes that are imposed on the contract.

Summary of Substitute Bill:

A state agency or authorized local government may adopt procedures to award small works roster contracts to small businesses with gross revenues under \$1 million annually, as reported on its federal tax return. Additional procedures may be developed to award small works roster contracts to small businesses with gross revenues under \$250,000 annually.

Substitute Bill Compared to Original Bill:

The provision to allow the state or local agency to waive bond and retainage requirements and thereby assuming the liability for the contractors nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and excise taxes was removed in the substitute bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The bill was brought forward by community members and a school district administrator who is administering such a program. This bill is important because we have a policy that recognizes the important role small businesses play in our local communities spurring economic development and creating jobs. Small businesses must be given a fair opportunity to compete.

A business that specializes in the removing of graffiti cannot compete on small works roster projects because it is usually bundled with other work that that business may not be qualified to complete. Bidding costs time and money and there needs to be a fair chance for competing for public money. The benefits of public sector work is that it allows businesses to pay the prevailing wage. Small business wants a fair opportunity to do what they do well. The Seattle public schools have developed a program to develop small business in the public works sector. This bill will allow development of small business to get to the next level. It allows

programs to be put in place to develop such a program which is precluded in current laws. Competitive bidding is not competitive and many times there aren't bidders available. Sometimes bids have to be put out two or three times in rural areas. This is an economic development bill that allows development of a procedure to grow small business. A major obstacle to small businesses is the bundling of projects. The bill will help increase the pool of small business and increase competition. Technical assistance can include pre-bid support as well as accounting services. It requires support and collaborative effort from the agency.

(With concerns) The bill is designed to assist smaller business to compete. However, the language authorizing public entities to assume liability is of concern.

Persons Testifying: (In support) Representative Santos, prime sponsor; Laurie Rasmussen, Goodbye Graffiti, Silas Potter and Velma Veloria, Seattle Public Schools; Erin Nielsen, Snohomish County Education District; Fred Aiwekhoe, Fredhoses General Electric; Dr. L. F. Skip Rowland, Tabor 100; Tony Benjamin, Contract Development and Competitiveness Center; Dan Seydel, Platinum; and Carolyn Growson, Office of Minority Women Business Enterprises.

(With concerns) Gary Smith, Individual Business Association; and Grant Nelson, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.