

# HOUSE BILL REPORT

## SHB 2517

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### As Passed House:

February 11, 2010

**Title:** An act relating to the exemption of housing authorities from laws governing the construction, alteration, repair, or improvement of property by other public bodies.

**Brief Description:** Exempting housing authorities from certain state requirements when certain federal law requirements are applicable.

**Sponsors:** House Committee on Local Government & Housing (originally sponsored by Representatives Dammeier and Haigh).

### Brief History:

#### Committee Activity:

Local Government & Housing: 1/14/10, 2/1/10 [DPS].

#### Floor Activity:

Passed House: 2/11/10, 97-0.

### Brief Summary of Substitute Bill

- Clarifies that Housing Authorities are subject to state procurement regulations unless alternative laws, regulations, or processes are provided under federal law.
- Establishes that state prevailing wage laws apply to Housing Authority public works projects, except where specifically preempted by federal law or regulation.

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## HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Fagan, Miloscia, Short, Springer, Upthegrove, White and Williams.

**Staff:** Thamas Osborn (786-7129).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## Housing Authorities.

Each city and county is authorized to create a local "Housing Authority" for the purpose of addressing housing issues within the community, especially those affecting low income and elderly persons. Specifically, a Housing Authority may be created to address myriad housing issues, including:

- the existence of unsafe or unsanitary housing conditions;
- the shortage of affordable, safe, and sanitary housing for low-income persons; and
- the shortage of appropriate, affordable housing for senior citizens.

The powers granted to a Housing Authority include the power to:

- enter into contracts, partnerships, and joint ventures;
- sue and be sued;
- create, acquire, operate, manage, and/or lease housing projects;
- invest surplus funds;
- investigate, study, or examine housing conditions within its jurisdiction;
- buy and sell property; and
- participate in the organization or operation of a nonprofit entity whose purpose is to provide housing to low-income persons.

In 2005 the Legislature created the Capital Projects Advisory Review Board (CPARB), under chapter 39.10 RCW, to review alternative public works contracting procedures and provide guidance to state policymakers on ways to further enhance the quality, efficiency, and accountability of public works contracting methods.

Under chapter 35.12 RCW, a contractor is required to pay the prevailing wage as determined by the Department of Labor and Industries for all public works contracts.

The Davis-Bacon Act of 1931 is a federal law which establishes the requirement for paying prevailing wages on public works projects. All federal government construction contracts, and most contracts for federally assisted construction over \$2,000, must include provisions for paying workers on-site no less than the locally prevailing wage and benefits paid on similar projects, as determined by the federal Department of Labor.

### **Summary of Substitute Bill:**

Housing Authorities are subject to state procurement regulations unless alternative laws, regulations, or processes are provided under federal law.

State prevailing wage laws apply to Housing Authority public works projects, except where specifically preempted by federal law or regulation.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) This bill pertains to the CPARB regulations regarding the procurement of services and materials for public works projects (projects) undertaken by Housing Authorities. Its purpose is to eliminate regulatory issues stemming from duplicative and/or conflicting requirements under state and federal law regarding such projects. The bill is intended to clarify that state laws do not apply to Housing Authority projects where there is a federal regulatory scheme preempting state laws and regulations. In effect, therefore, the bill largely exempts Housing Authorities from the CPARB jurisdiction regarding public works projects insofar as federal regulations already control. The CPARB requires bidding procedures that are burdensome, expensive, and contrary to federal requirements. Housing Authorities are largely funded by the federal government and thus procurement practices should be controlled by federal regulations. The bill simplifies the procurement process and removes barriers to the efficient creation of public housing.

(With concerns) Housing Authorities should be required to abide by the CPARB regulations. Housing Authorities should not be exempted from state building and fire codes. The language of the bill is broad, vague, and poorly drafted. The full scope of the exemption is ambiguous. Also, the bill is not necessary insofar as state law provides adequate regulation of public works projects. If there are conflicts between state and federal procurement laws as they apply to Housing Authorities, then the principle of federal preemption applies and obviates the need for this legislation. There is no reason why Housing Authorities should not be required to follow the same laws as other public entities in this state.

(Opposed) None.

**Persons Testifying:** (In support) Representative Dammeier, prime sponsor; and Micheal Mirra and Dan Watson, Association of Washington Housing Authorities.

(With concerns) Van Collins, Associate General Contractors of Washington; Stan Bowmen, American Institution of Architects Washington Council; Larry Stevens, Mechanics Contractors Association; and Mike Brown, Washington Fire Chiefs.

**Persons Signed In To Testify But Not Testifying:** None.