

SENATE BILL REPORT

HB 1830

As Reported by Senate Committee On:
Economic Development, Trade & Innovation, February 25, 2010

Title: An act relating to business definitions for public contracting.

Brief Description: Establishing business definitions for public contracting.

Sponsors: Representative Santos.

Brief History: Passed House: 3/06/09, 83-13; 2/10/10, 82-13.

Committee Activity: Economic Development, Trade & Innovation: 2/17/10, 2/24/10, 2/25/10 [DPA-WM].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TRADE & INNOVATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli, Ranking Minority Member; Delvin, Eide and Kilmer.

Staff: Karen Campbell (786-7448)

Background: Public work includes all work, construction, alteration, and repair or improvement other than ordinary maintenance which is executed at a cost to the state or a municipality. For public work projects estimated to cost \$200,000 or less, state agencies and certain local governments may use the small works roster (Roster) process to award contracts. 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 Roster. The agency or local government, if it decides to award the contract, awards it to the lowest responsible bidder. The agency or local government must make an effort to equitably distribute the opportunity among contractors on the Roster if the bids are solicited from fewer than all the contractors on the Roster.

The Roster process also allows for a limited public work process for projects estimated to cost less than \$35,000. A state agency or authorized local government may use the limited public works process to solicit and award the Roster contracts to small businesses that are registered contractors with gross revenues under \$1 million annually as reported on their federal tax return.

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.

There are a number of definitions of small business found throughout the Washington code. A definition of small business was added to the Personal Service Contracts Act in 2009 as follows:

- an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity that is owned and operated independently from all other businesses and has either: (1) 50 or fewer employees; or (2) gross revenue of less than \$7 million annually as reported on its federal income tax return or its return filed with the Department of Revenue over the previous three consecutive years; and
- in-state business means a business that has its principal office located in Washington and its officers domiciled in Washington.

Summary of Bill (Recommended Amendments): A definition of small business is added to the Public Works Act. A small business is defined as an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independent from all other businesses and has either: (1) 50 or fewer employees, or (2) a gross revenue of less than \$7 million annually as reported on its federal tax return or its return filed with the Department of Revenue. A definition of micro- and mini-businesses are also added. Mini-businesses are defined as those businesses having a gross annual revenue of more than \$1 million and less than \$3 million. Micro-businesses are defined as businesses having a gross annual revenue less than \$1 million.

State agencies and authorized local governments may use the limited public work process to solicit and award the Roster contracts to all responsible contractors who have requested to be on the roster or rosters, including small businesses, mini-businesses, and micro-businesses.

EFFECT OF CHANGES MADE BY ECONOMIC DEVELOPMENT, TRADE & INNOVATION COMMITTEE (Recommended Amendments): The definition of small business is changed to include in-state businesses with 50 or fewer employees or a gross revenue of less than \$7 million. The roster requirement is changed to include all responsible contractors who have requested to be on the Roster.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Small businesses in Washington are often at a disadvantage when competing with larger enterprises for limited public works contracts. In many cases, these contracts are awarded to large out-of-state businesses. Sixty percent of the businesses operating in Washington state earn less than \$1 million. The smaller businesses do not have the same economies of scale as the larger enterprises and are thus at a disadvantage. Small businesses are the backbone of many local economies. The bill is permissive, not mandatory, but it would assist small local businesses compete for alternative public works projects; thus strengthening locally based economies.

OTHER: Public owners might create Rosters specifically limited to one size of business. For example, a Roster could be limited to micro businesses only. Quality contractors would be shut out due to size. This would limit competition and harm the tax payer. Tax payers benefit from open competition.

Persons Testifying: PRO: Representative Santos, prime sponsor.

OTHER: Larry Stevens, Mechanical and National Electrical Contractors.