

SENATE BILL REPORT

EHB 2805

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 25, 2010

Title: An act relating to public works involving off-site prefabrication.

Brief Description: Regarding public works involving off-site prefabrication.

Sponsors: Representatives Ormsby, Campbell, Williams, Van De Wege, Simpson, White, Chase, Hasegawa, Rolfes and Conway.

Brief History: Passed House: 2/15/10, 54-43.

Committee Activity: Labor, Commerce & Consumer Protection: 2/23/10, 2/25/10 [DPA, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Minority Report: Do not pass.

Signed by Senators Honeyford and King.

Staff: Mac Nicholson (786-7445)

Background: Every employer on a public works project must file a statement of intent to pay prevailing wages and an affidavit of wages paid with the Department of Labor and Industries (L&I). The affidavit is filed after the work is completed, and the awarding agency cannot release final retainage until all contractors have submitted it.

In 2005 the Legislature created the Capital Projects Advisory Review Board (CPARB) 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.

Contractors bidding on public works contracts must meet responsibility criteria in order to be considered a responsible bidder and qualified to be awarded a public works project. Bidders must be registered as a contractor; have a current state unified business identifier number; have industrial insurance, unemployment insurance, and a state excise tax registration

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number; not be disqualified from bidding for prevailing wage or contractor registration violations; and must be in compliance with apprenticeship utilization requirements.

Summary of Bill (Recommended Amendments): Contracts entered into between September 1, 2010, and December 31, 2013, for public work projects estimated to cost over \$1 million must contain a provision requiring the submission of information about certain off-site prefabricated items produced outside Washington. The information to be provided includes the estimated cost of the public works project; the contract value of the prefabricated item produced outside the state; the name of the awarding agency and the title of the public works project; and the name, address, and federal employer identification number of the contractor that produced the prefabricated item.

The required information must be submitted by the contractor or subcontractor that directly contracted for the prefabricated item as part of the affidavit of wages paid form filed with L&I. The information collected is transmitted by L&I regularly to the Department of General Administration (GA), who in turn compiles the information and submits it annually to CPARB for review and public hearing.

A bidder that has violated the requirement to submit specified information as determined by L&I more than once will not be considered a responsible bidder.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Amendments): The striking amendment provides that the information is to be provided to L&I rather than GA; that the estimated cost of the project, the name of the awarding agency, and the title of the public works project are to be included in the list of information submitted to L&I; that the information is submitted by the contractor or subcontractor who directly contracted for the off-site prefabricated item; and that the information is provided as part of the affidavit of wages paid submitted to L&I.

The time during which the information is collected is changed from 2010 through 2015 to 2010 through 2013.

L&I is responsible for determining whether a bidder has violated the requirements of the act.

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 Engrossed House Bill: PRO: Small contractors have problems being underbid by out-of-state contractors on public works projects and they aren't competing on a level playing field. This bill is a data collection only bill that is intended to get a baseline on how much Washington tax money is leaving the state for prefabricated items on public works projects. There is no data on how much is leaving the state and how much Washington contractors are being undercut, and the issue needs further

study.

CON: This is the third year the bill is before the Legislature. The current language of the bill was adopted on the House floor, and it has addressed some issues; however, the present version is still not workable. There are conflicts and definitional problems with the language that create problems for contractors. The bill requires additional reporting relating to subcontracts and items produced outside the state. This bill creates additional administrative and qualification burdens for public agencies. There are programs existing today that already collect this sort of information.

OTHER: The bill needs to be clarified so parties know what is required of contractors, subcontractors, and vendors.

Persons Testifying: PRO: Dave Johnson, Washington Building and Construction Trades Council; Randy Scott, Washington State Association of Plumbers and Pipefitters; Cody Arledge, Sheet Metal Workers Local 66.

CON: Van Collins, Associated General Contractors; Jeff Carpenter, Washington Department of Transportation; Curtis Shuck, Washington Public Ports Association; Larry Stevens, Mechanical Contractors Association and National Electrical Contractors Association.

OTHER: Eric Johnson, Washington Public Ports Association.