

SENATE BILL REPORT

SB 5398

As Reported by Senate Committee On:
Government Operations & Elections, February 12, 2009

Title: An act relating to expanding the ability to negotiate an adjustment to a bid price on public works to municipalities.

Brief Description: Expanding the ability to negotiate an adjustment to a bid price on public works to municipalities.

Sponsors: Senators Rockefeller and Kline; by request of Capital Projects Advisory Review Board.

Brief History:

Committee Activity: Government Operations & Elections: 2/10/09, 2/12/09 [DP, DNP, w/oRec].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott, Pridemore and Swecker.

Minority Report: Do not pass.

Signed by Senator Roach, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senator Benton.

Staff: Edward Redmond (786-7471)

Background: A contracting authority representing the state is authorized to negotiate an adjustment to a bid price, based upon agreed changes to the contract plans and specifications, with a low responsive bidder under certain conditions. The conditions include the bid exceeding available funds; the apparent low responsive bid not exceeding the available funds by 5 percent on projects valued over \$1 million, the greater of \$50,000 or 2.5 percent for projects valued between \$1 million and \$5 million, or the greater of \$125,000 or 1 percent for projects valued over \$5 million; and the negotiated adjustment bringing the bid within the amount of available funds.

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.

Summary of Bill: A contracting authority representing a municipality is authorized, under the same conditions applicable to the state, to negotiate an adjustment to a bid price on a public works project.

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.

Staff Summary of Public Testimony: PRO: Currently, when you get a series of bids that are extremely close but over the available funds, municipalities can only reject all bids and start the bidding process over. This bill will allow owners to negotiate with the low bidder to get the bid within the limits of available funds. This would save everybody time and money, and it only would apply to bids within a narrow dollar amount.

CON: This bill takes away the transparency of open bidding. There is opportunity for, or even the appearance of, impropriety when the apparent low bidder gets to negotiate the bid after the bidding process has ended.

Persons Testifying: PRO: Bob Maruska, Capital Projects Advisory Review Board.

CON: Larry Stevens, Mechanical Contractors Association, National Electrical Contractors Association.