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## Capital Budget Committee

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### HB 2042

**Brief Description:** Concerning preferences for in-state contractors bidding on public works.

**Sponsors:** Representatives Dunshee and Zeiger.

#### Brief Summary of Bill

- Requires the Department of General Administration to conduct a survey to determine which states provide a preference on public works projects to resident contractors.
- Requires that reciprocity be applied on public works projects in the event a bid is received from a non-resident contractor from a state that provides a preference to resident contractors.

**Hearing Date:** 4/5/11

**Staff:** Steve Masse (786-7115).

#### **Background:**

##### Award of Public Works Contracts.

Contracts for public works projects are generally awarded to the responsible bidder submitting the lowest responsive bid. A responsible bidder must be licensed; have a current state unified business identifier number if applicable; have industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number; and not be disqualified from bidding based on noncompliance with licensing requirements, noncompliance with state apprenticeship requirements, or prevailing wage violations.

##### Resident Contractor Preferences.

Resident contractor preference laws give residents a bidding advantage over nonresident contractors. Often such statutes mandate that public works contracts be awarded to resident

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contractors when their bids are not more than a certain percent higher than the bids of nonresident contractors. While resident contractor laws have been challenged, the majority of courts have upheld these laws.

#### Reciprocal Contractor Preference Laws.

Some states have reciprocal contractor preference laws. These laws apply a preference only against contractors from states with a contractor preference law in place, applying the same degree of discrimination against nonresident contractors that the nonresident's state applies against out-of-state contractors.

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

The Department of General Administration (GA) must conduct a survey of all states to determine which states provide in-state contractor preferences on public works projects. The survey shall contain the type of preference, the amount of the preference, and how the preference is applied. A report with the survey results, and recommendations to implement the contracting preference is to be delivered to the legislature by December 1, 2011.

The GA must distribute the survey results to all state and local agencies that have authority to procure public works, as well as the requirements contained in this act. Reciprocity provisions must be applied to public works bids in the event a bid is received from a non-resident contractor in a state that provides an in-state bidding preference. The GA may adopt rules to implement the reciprocity provisions. The reciprocity provisions do not apply if they contradict requirements for federal funding.

**Appropriation:** None.

**Fiscal Note:** Requested on March 30, 2011.

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