

HOUSE BILL REPORT

EHB 2328

As Passed Legislature

Title: An act relating to job order contracting.

Brief Description: Addressing job order contracting.

Sponsors: Representatives Dammeier, Haigh and Hunt.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/26/12 [DP].

Floor Activity:

Passed House: 2/14/12, 98-0.

Passed Senate: 3/1/12, 48-0.

Passed Legislature.

Brief Summary of Engrossed Bill

- Removes the restriction limiting work orders of \$350,000 to two per contract year.
- Expands the use of job order contracting to include the regional universities, The Evergreen State College, and Sound Transit.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 11 members: Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Dunshee, Hurst, McCoy and Miloscia.

Staff: Marsha Reilly (786-7135).

Background:

In 2003 job order contracting was authorized as an alternative public works contracting procedure. Under a job order contract, a contractor agrees to perform an indefinite quantity of public works jobs, defined by individual work orders, over a fixed period of time. A public entity may not have more than two job order contracts in effect at any one time, except

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for the Department of Enterprise Services which may have four contracts in effect. The maximum total dollar amount that is awarded under a job order contract may not exceed \$4 million per year for a maximum of three years. Individual work orders are limited to no more than \$350,000, and no more than two work orders of \$350,000 may be issued by a public body in a 12-month period.

Job order contracts may be executed for an initial contract term of two years, with an option to extend or renew the contract for an additional year provided that any extension or renewal is priced as provided in the original proposal and is mutually agreed upon by the public body and the job order contractor. A job order contractor is required to subcontract 90 percent of the work under the contract, and may self perform 10 percent.

With some restrictions, the use of alternative public works contracting procedures are authorized to a limited number of public entities:

- the Department of Enterprise Services;
- the University of Washington;
- Washington State University;
- cities with a population greater than 70,000 and any public authority chartered by such city;
- counties with a population greater than 450,000;
- port districts with total revenues greater than \$15 million per year;
- public utility districts with revenues from energy sales greater than \$23 million per year;
- school districts; and
- the state ferry system.

In 2005 the Capital Projects Advisory Review Board (Board) was established to monitor and evaluate the use of traditional and alternative public works contracting procedures and to evaluate potential future use of other alternative contracting procedures. At the end of each contract year, public entities are required to provide the Board with a list of work orders issued; the cost of each work order; a list of subcontractors hired under each work order; and a copy of the intent to pay prevailing wage and the affidavit of wages paid for each work order subcontract, if requested.

Summary of Engrossed Bill:

The restriction limiting a public body to issuing no more than two work orders of \$350,000 in a 12-month contract period is eliminated. Public bodies must provide information regarding work orders to the Board each fiscal year, rather than each contract year. The list of public entities authorized to use the job order contracting procedure is expanded to the state regional universities, The Evergreen State College, and Sound Transit.

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) The job order contracting method was authorized in 2003 to allow for more effectiveness and efficiency for construction projects, while allowing for transparency and open competition. In 2005 the Board was asked to monitor the job order contracting process. The bill represents technical fixes and expansion. The process has been used effectively and should be expanded.

Every year data on job order contracts must be reported to the Board. The Board uses it as a tool to make improvements. The Board believes that the universities and Sound Transit are capable of using job order contracting effectively. Increasing job order contract amounts to \$6 million a year allows more flexibility. For small and medium businesses, job order contracting has helped to keep lights on and doors open during tough economic times. It has enabled some small businesses to become medium businesses. The provision for expansion is important and helpful to small businesses.

(Opposed) None.

Persons Testifying: Representative Dammeier, prime sponsor; Bob Maruska, Capital Projects Advisory Review Board; and Henry Yates.

Persons Signed In To Testify But Not Testifying: None.