

# SENATE BILL REPORT

## SSB 6365

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As Passed Senate, February 14, 2012

**Title:** An act relating to waiving and clarifying certain requirements for port district small public works projects.

**Brief Description:** Waiving and clarifying certain requirements for port district small public works projects.

**Sponsors:** Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Hatfield, Swecker, Prentice, Holmquist Newbry, Pridemore, Haugen, Hobbs, Parlette and Shin).

**Brief History:**

**Committee Activity:** Government Operations, Tribal Relations & Elections: 1/31/12, 2/02/12 [DPS].

Passed Senate: 2/14/12, 45-2.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Majority Report:** That Substitute Senate Bill No. 6365 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker, Ranking Minority Member; Benton, Chase and Nelson.

**Staff:** Sam Thompson (786-7413)

**Background:** State agencies and many local governments may use a small works roster process to award contracts for relatively small public works projects (projects), rather than using a formal competitive public bidding process. Contractors request to be included in a small works roster. A state agency or local government may solicit quotations from contractors on the roster and award a contract to the lowest responsible bidder. Port districts (districts) may use the small works roster process for projects estimated to cost up to \$300,000.

Districts must determine whether projects over \$40,000 can be accomplished less expensively by contracting out; if contracting out is less expensive, a district may contract out.

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*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 Substitute Bill:** Districts may award contracts based on quotations by responsible contractors for projects estimated to cost less than 35,000. Districts must reasonably attempt to equitably distribute opportunity to provide quotations among responsible contractors performing similar services. Contractors do not need to be listed on the district's small works roster to be eligible. Contracts may not be negotiated after receipt of the quotation or amended by adding work not included within the intent of the original quotation.

Districts using this process must not break apart larger scopes of work to avoid formal bidding requirements.

Districts may waive payment and performance bond and retainage requirements, provided that they adopt implementing procedures. If these requirements are waived, districts assume liability for nonpayment of sums owed to various parties by contractors. A district may recover payments from contractors the district has made on their behalf.

For projects estimated to cost \$5,000 or less, districts are also exempt from advertising requirements.

All quotations for projects estimated to cost less than \$35,000 must be logged, open to public inspection, and available electronically by request.

Prevailing wage standards apply.

Districts may meet notification requirements by publishing an annual notification describing the nature and value of work to be performed.

Districts may determine if a project over \$40,000 can be accomplished more efficiently by contracting out; if contracting out is more efficient, a district may contract out.

**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 on Original Bill:** PRO: Many small port districts in rural areas have difficulties complying with current contracting requirements. This bill will enable them to more easily hire contractors to complete public works projects.

CON: Cities have somewhat similar authority. The bidding process is preferable.

**Persons Testifying:** PRO: Ginger Eagle, WA Public Ports Assn.

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