

HOUSE BILL REPORT

HB 1268

As Passed House:
February 27, 2013

Title: An act relating to local government purchasing.

Brief Description: Regarding local government purchasing.

Sponsors: Representatives Springer, Parker, Morrell, Kochmar, Upthegrove, Goodman, Zeiger, Freeman, Ryu and Fey.

Brief History:

Committee Activity:

Local Government: 2/5/13, 2/8/13 [DP].

Floor Activity:

Passed House: 2/27/13, 62-35.

Brief Summary of Bill

- Authorizes local governments to award contracts to the lowest bidder before taxes are applied provided that it gives notice of its intent to do so prior to submission of bids.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 6 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Kochmar, Assistant Ranking Minority Member; Liias, Springer and Upthegrove.

Minority Report: Do not pass. Signed by 2 members: Representatives Taylor, Ranking Minority Member; Buys.

Staff: Michaela Murdock (786-7289).

Background:

Generally, purchases of or contracts for goods and services must be based on a competitive solicitation process, unless a specific exemption applies. Examples of such exemptions

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include emergency contracts, sole source contracts, direct buy purchases, and purchases involving special facilities, services, or market conditions in which instances of direct negotiation is in the best interest of the state

Bids submitted in response to a competitive solicitation process are reviewed by the requesting agency, and the agency may either: (1) reject all bids and rebid, or cancel the competitive solicitation; (2) request best and final offers from responsive and responsible bidders; or (3) award the purchase or contract to the lowest responsive and responsible bidder.

Statute defines "bidder" as an individual or entity who submits a bid, quotation, or proposal in response to a solicitation issued for such goods or services by a department or an agency of state government. A "bid" is an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services. "Purchase" means the acquisition of goods or services, including the leasing or renting of goods.

Consideration of Tax Revenue from Local Suppliers.

Whenever local governments (*e.g.*, any county, city, town, special purpose district, etc. that is authorized to impose sale and use taxes or business and occupation taxes) are required to make purchases from the lowest bidder or from the supplier offering the lowest price, it may take into consideration any tax revenue it would receive from purchasing supplies, materials, or equipment from a supplier located within its jurisdiction. After considering such tax revenue, a local government must award the contract to the lowest bidder.

Local governments may prefer purchases of recycled or reused materials and products.

A local government may consider tax revenue from sales tax and business and occupation taxes imposed upon suppliers within its jurisdiction, and if it considers such revenue, it must also consider any tax revenue that the local government would receive from taxes imposed upon a supplier outside its jurisdiction.

Summary of Bill:

In addition to being allowed to consider tax revenue in making purchases for supplies, materials, and equipment, local governments may award contracts to bidders submitting the lowest bid before taxes are applied. Notice of local government's intent to award contracts using this method must be given prior to submission of bids.

Appropriation: None.

Fiscal Note: Available.

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) It has become apparent in recent years that, although local governments wish to make purchases within their communities, they are often prevented from doing so because of statutory bidding requirements. Governments are required to buy from the lowest bidder, which due to differences in tax rates means that communities with higher tax rates often have to buy from businesses outside of the community. For example, the deciding factor between two bids could come down to a difference of 0.1 percent or 0.2 percent in sales tax. This bill will allow cities that have slightly higher taxes to opt to pay a little more in order to give their business to local businesses.

Local governments will have greater flexibility in awarding purchase contracts. This is a permissive bill that will allow, but not require, cities with self-imposed higher taxes to opt to pay slightly more in order to buy local. It will also provide a good local option that could help keep business tax revenue local. This would create a good feedback loop.

(Opposed) None.

Persons Testifying: Representative Springer, prime sponsor; Lorrie McKay, City of Kirkland; Dave Williams, Association of Washington Cities; and Genesee Adkins, King County.

Persons Signed In To Testify But Not Testifying: None.