

HOUSE BILL REPORT

HB 2682

As Passed House:
February 12, 2014

Title: An act relating to modifying provisions governing the competitive bidding process of water-sewer districts.

Brief Description: Modifying provisions governing the competitive bidding process of water-sewer districts.

Sponsors: Representatives Green, Muri, Scott, Kirby, Warnick, Wilcox, Haler, Zeiger and Hayes.

Brief History:

Committee Activity:

Local Government: 2/3/14, 2/5/14 [DP].

Floor Activity:

Passed House: 2/12/14, 81-16.

Brief Summary of Bill

- Increases the estimated cost threshold, above which all work ordered by a water-sewer district must be let by contract and competitive bidding, from \$20,000 to \$90,000.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Takko, Chair; Gregerson, Vice Chair; Kochmar, Assistant Ranking Minority Member; Farrell, Fitzgibbon, Pike and Springer.

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

Staff: Michaela Murdock (786-7289).

Background:

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.

Special purpose districts are limited purpose local governments separate from a city, town, or county government. Water-sewer districts (districts), a type of special purpose district, are created to further public health and safety and to furnish water, sewerage, and drainage services to persons within and without the district.

Districts have many statutorily enumerated powers, including the power to construct, condemn and purchase, maintain, and operate waterworks, systems of sewers, systems of reclaimed water, and systems of drainage. Additionally, districts may seek to reduce, minimize, or eliminate pollutants from lakes, streams, groundwater, or other waterways that are in or adjacent to the district. Districts are authorized to fix rates and charges for services. Water-sewer districts may enter into contracts, have employees and fix salaries, loan and borrow funds, issue bonds and instruments evidencing indebtedness, and levy taxes.

Contract and Competitive Bidding.

All work ordered by a district, with an estimated cost in excess of \$20,000 must be let by contract and competitive bidding. Any purchases by the district of materials, supplies, or equipment, which has an estimated cost in excess of \$40,000, must be let by contract. Purchases with an estimated cost of \$50,000 or more must be made by competitive bidding. Competitive bidding requirements may be waived if an applicable exemption applies to the purchase or public work.

Before a district contract requiring competitive bidding is awarded, notice inviting sealed bid proposals must be published. Bids submitted to the district must be accompanied by a deposit in an amount not less than 5 percent of the amount of the bid. The contract must be awarded to the lowest responsible bidder.

When a contract is let, the successful bidder's deposit is retained until the contract is entered into for the work and a performance bond for the full amount of the contract price is furnished to the district in accordance with the bid. If the bidder fails to enter into a contract and furnish a performance bond, the deposit is forfeited to the district.

Alternative Contract Procedure.

As an alternative to the competitive bidding process for contracts that exceed the estimated cost threshold, a district may let works contracts using the small works roster process. A district may create a single general small works roster, or a small works roster for different specialties or categories of anticipated work, that consists of all responsible contractors who have requested to be on the list and are properly licensed or registered in this state, if applicable. Similarly, the district may award purchase contracts to suppliers designated on current state agency, county, city, or town purchasing rosters, when the roster has been established in accordance with applicable competitive bidding laws for purchases.

Summary of Bill:

The estimated cost threshold for work ordered by a district, over which it must be let by contract and competitive bidding, is increased from \$20,000 to \$90,000.

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 only thing this bill changes is the estimated cost threshold for work ordered by the district from \$20,000 to \$90,000. The threshold has not been changed since 1979 when \$20,000 was a lot more than it is today. The current threshold virtually requires every project to be let by contract and competitive bidding, and that was not the original intent.

Over the past several years, our public works trust funds have continued to decline for local governments like water-sewer districts. They are trying hard to do more with less. The Public Works Trust Fund was a cost-efficient way to borrow money, but now districts have to use bonds and the interest rate is much higher. This bill will benefit ratepayers and help districts be responsible with ratepayer funds. Ratepayers want districts to maximize the efficient use of money paid to the district.

This bill will allow districts to complete projects with the efficiency and expertise of in-house staff. If the threshold is raised to \$90,000, districts will be able to provide their own staff on more projects. Districts have the equipment, material, and staffing to do work, but must contract it out. Districts may be able to do it cheaper in-house, and this bill will give them flexibility to do that.

This bill will probably apply to a small minority of districts in the state. For the most part, districts contract out just about everything, especially smaller districts.

(Opposed) Turning private activity over to the public sphere is concerning. Raising the bid limit will direct work away from private employers who pay taxes. Also, private contractors work under warranty, and if there is a problem with the quality of work the contractor fixes it for free. If there is a problem with the quality of work performed by a public entity, the public must pay again to have the work fixed.

Although it may seem that public entities can complete work in-house for less, this may not take into consideration certain overhead or equipment costs. Private contractor bids consider all factors and provide a more complete picture of the total cost of a project. This bill will more than quadruple the bid limit. This bill is unnecessary and a bad deal for tax payers. Loss of funds for the Public Works Trust Fund is not a reason to raise this threshold.

Persons Testifying: (In support) Representative Green, prime sponsor; Randy Black, Lakewood Water District; and Joe Daniels, Washington Association of Sewer and Water Districts.

(Opposed) Jerry Vanderwood, Associated General Contractors of Washington.

Persons Signed In To Testify But Not Testifying: None.