

ESSB 5997 - S AMD 494

By Senators King, Hobbs

ADOPTED 6/28/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 47.20.780 and 2007 c 152 s 1 are each amended to
4 read as follows:

5 The department of transportation shall develop a process for
6 awarding competitively bid highway construction contracts for
7 projects over ~~((ten))~~ two million dollars that may be constructed
8 using a design-build procedure. As used in this section and RCW
9 47.20.785, "design-build procedure" means a method of contracting
10 under which the department of transportation contracts with another
11 party for the party to both design and build the structures,
12 facilities, and other items specified in the contract.

13 The process developed by the department must, at a minimum,
14 include the scope of services required under the design-build
15 procedure, contractor prequalification requirements, criteria for
16 evaluating technical information and project costs, contractor
17 selection criteria, and issue resolution procedures.

18 **Sec. 2.** RCW 47.20.785 and 2006 c 37 s 1 are each amended to read
19 as follows:

20 ~~((1))~~ The department of transportation ~~((may))~~ is authorized
21 and strongly encouraged to use the design-build procedure for public
22 works projects over ~~((ten))~~ two million dollars ~~((where))~~ when:

23 ~~((a))~~ (1) The construction activities are highly specialized
24 and a design-build approach is critical in developing the
25 construction methodology; or

26 ~~((b))~~ (2) The projects selected provide opportunity for greater
27 innovation and efficiencies between the designer and the builder; or

28 ~~((c))~~ (3) Significant savings in project delivery time would be
29 realized.

30 ~~((2) To test the applicability of the design-build procedure on~~
31 ~~smaller projects and specialty projects, the department may conduct~~

1 ~~up to five pilot projects on projects that cost between two and ten~~
2 ~~million dollars. The department shall evaluate these pilot projects~~
3 ~~with respect to cost, time to complete, efficiencies gained, if any,~~
4 ~~and other pertinent information to facilitate analysis regarding the~~
5 ~~further use of the design-build process on projects of this size.))~~

6 NEW SECTION. **Sec. 3.** (1) The joint transportation committee
7 must conduct a design-build contracting review study to examine the
8 department's implementation and use of design-build contracting under
9 RCW 47.20.785.

10 (2) The joint transportation committee must provide a report
11 detailing any recommended changes or improvements that the department
12 of transportation should make to the design-build process in order to
13 maximize cost and schedule efficiencies and ensure that design risk
14 is borne by the appropriate party. The report is due to the
15 transportation committees of the legislature and the governor by
16 December 1, 2016.

17 (3) A panel of experts must be appointed to assist with the
18 study. Membership must include: A consultant selected by the joint
19 transportation committee and at least two nationally recognized
20 experts in the field of design-build project delivery proposed by the
21 consultant, a representative from the association of general
22 contractors, a representative from the American council of
23 engineering companies of Washington, a representative of the
24 professional and technical employees local 17, and a representative
25 from the department of transportation. The consultant must lead the
26 review panel and be responsible for the organization and conduct of
27 the panel and reporting on the process, findings, and recommendations
28 of the panel.

29 (4) This section expires June 30, 2017.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.01
31 RCW to read as follows:

32 (1) The department must develop a construction program business
33 plan that incorporates findings of the report required in section 3
34 of this act and also outlines a sustainable staffing level of state-
35 employed engineering staff, adjusted as necessary by additional
36 sustainable revenue and modeled and optimized to address long-term
37 needs in preservation and improvement programs through multiple
38 biennia.

1 (2) The sustainable staffing level recognizes that it is in the
2 state's interest that periodic increases in workload due to increases
3 in construction funding are best addressed through the use of
4 contract engineering resources in conjunction with limited and
5 flexible augmentations to department staffing levels as necessary for
6 project oversight, accountability, and delivery.

7 (3) To provide the appropriate management oversight and
8 accountability of the use of contracted services, the plan must also
9 make recommendations on the development of a strong owner strategy
10 that addresses state employee training, career development, and
11 competitive compensation.

12 (4) The department must submit the plan to the office of
13 financial management and appropriate committees of the legislature
14 one hundred eighty days after the report in section 3 of this act is
15 completed. The department must submit progress reports on
16 implementation of the plan biennially beginning September 30, 2018,
17 until September 30, 2030. The elements of the plan must include:

18 (a) Sustainable staffing levels to address long-term needs in
19 preservation and improvement programs;

20 (b) Employee recruitment, retention, training, and compensation
21 status;

22 (c) Project delivery methods for design and construction; and

23 (d) A comparison of Washington state to national trends and
24 methods.

25 (5) To assist in the development of the plan, the department must
26 convene an advisory group to be comprised of the following members:

27 (a) One representative of the professional and technical
28 employees local 17 to represent the nonmanagement engineering and
29 technical employees of the department;

30 (b) One member of the managerial engineering and technical staff
31 of the department, who must serve as chair of the advisory group;

32 (c) One member appointed by the American council of engineering
33 companies of Washington to represent the private design industry; and

34 (d) One member appointed by the associated general contractors of
35 Washington to represent the private construction industry.

36 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of
38 the state government and its existing public institutions, and takes
39 effect immediately."

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1 on page 1, line 1 of the title, after "delivery;" strike the
2 remainder of the title and insert "amending RCW 47.20.780 and
3 47.20.785; adding a new section to chapter 47.01 RCW; creating a new
4 section; providing an expiration date; and declaring an emergency."

EFFECT: Reduces the minimum value of a project eligible for procurement as a design-build project from ten million to two million dollars. Modifies the joint transportation committee (JTC) design-build review panel study to clarify that the consultant is responsible for identifying the nationally recognized experts, managing the review panel, and producing the report. Directs the department of transportation (WSDOT) to develop a construction program business plan that incorporates findings from the JTC design-build review panel report and outlines a sustainable staffing level of state-employed engineering staff. The elements of the plan must include: Sustainable staffing levels to address long-term needs in the WSDOT highway construction and preservation programs; employee recruitment, retention, training, and compensation status; project delivery methods for design and construction; and a comparison of Washington to national trends and methods. Removes the contingency clause related to ESSB 5987 and the requirement that the provisions of the bill be applicable only to connecting Washington projects supported by revenues generated by ESSB 5987. Changes the effective date from July 1, 2015, to immediately upon the governor's signature.

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