

HOUSE BILL REPORT

ESSB 5470

As Reported by House Committee On:
Local Government

Title: An act relating to municipal procurement of water services.

Brief Description: Concerning municipal procurement of water services.

Sponsors: Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick and Liias).

Brief History:

Committee Activity:

Local Government: 3/12/15, 3/17/15 [DP].

Brief Summary of Engrossed Substitute Bill

- Authorizes a municipality to negotiate a fair and reasonable water storage asset management service contract (contract) for equipment and services including inspection, cleaning, maintenance, repair, and testing of the municipality's water storage assets.
- Establishes procedures for publishing notice of contract requirements and negotiating the contract.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 8 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; McBride, McCaslin, Peterson and Pike.

Staff: Michaela Murdock (786-7289).

Background:

Municipal Water Systems.

Cities and towns may provide for the sewerage, drainage, and water supply of a city or town, and may establish, construct, and maintain water supply systems and systems of sewers and drains within or without their corporate limits.

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.

First Class Cities.

Generally, a first class city may have public works performed by city employees or a county. For public works that exceed specified thresholds, however, the city must let the contract pursuant to public notice and a call for competitive bids. "Public works" are defined as all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the city's cost.

A city may not have public employees perform public works projects: (1) in excess of \$90,000, when more than a single craft or trade is involved; or (2) in excess of \$45,000, when a single craft or trade is involved, the project is street signalization, or the project is street lighting. The competitive bidding requirements for a city may be waived by the city legislative authority if an exemption applies to the work or contract. The city may also let contracts using a small works roster process.

Statute exempts the following service contracts from contract and competitive bidding requirements: (1) the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services; and (2) the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services.

Second Class Cities.

A second class city must use contract and competitive bidding for public works when the estimated cost of the work or improvement: (a) exceeds \$65,000 and more than a single craft or trade is involved; or (b) exceeds \$40,000, and a single craft or trade is involved, the project is street signalization, or the project is street lighting. Public works below these thresholds may be let by contract or day labor without calling for bids. "Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the city.

When a contract is subject to competitive bidding requirements, the city must publish notice calling for sealed bids and let the contract to the lowest responsible bidder. In lieu of other contract procedures, the city may also let contracts using a small works roster process.

Towns.

Towns are authorized to contract for supplying water for municipal purposes, and to acquire, construct, repair, and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for the use of the town, the town's inhabitants, or irrigating purposes. In letting contracts, towns are authorized to use the same procedures as second class cities.

Code Cities.

The legislative body of each code city may exercise all powers granted to cities and towns under the Washington Constitution and not specifically denied to code cities by law. For example, code cities may render governmental or corporate services, including operating and supplying utilities and municipal services commonly rendered by cities or towns.

Summary of Bill:

Municipalities are authorized to negotiate a fair and reasonable water storage asset management service contract (contract) for equipment and services. Services provided under the contract may include inspection, cleaning, maintenance, repair, and testing of the water storage asset, as well as financing, designing, improving, operating, administering, or managing the water storage asset.

"Water storage asset" is defined as water storage structures and associated distribution systems, such as a water tank, tower, well, meter, or water filter.

In utilizing the new contract provisions, the municipality:

- must publish notice of the municipality's requirements to procure water storage asset management services;
- may negotiate a fair and reasonable contract with the firm that submits the best proposal that meets contract requirements;
- must formally terminate negotiations with the firm, if the municipality is unable to negotiate a satisfactory contract; and
- may select another firm and continue negotiations until a contract is reached or the selection process is terminated.

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 House of Representatives' companion to this bill was previously heard by the committee. One change to the original bill was made in the Senate to remove water districts. Currently, an amendment is being discussed that will make technical changes to the bill, as well as make prescriptive language in the bill more permissive.

This bill was requested by several small communities that would like to contract with utility service companies for water tank maintenance and other professional services. Statute does not expressly authorize communities to contract for these types of services, and this bill will provide the missing statutory authority. In drafting the bill, bill proponents intended for the language to be very permissive; however, there are apparently still concerns that the language is too prescriptive. The intent is not to force anyone to use these contract procedures. Accordingly, an amendment is being proposed. This bill will give communities greater stability in their long-term water fund.

(Opposed) None.

Persons Testifying: Senator Warnick, prime sponsor; Michael Shaw, Utility Services, Inc.; and Tim Snead and Scott Cave, City of Quincy.

Persons Signed In To Testify But Not Testifying: None.