

HOUSE BILL REPORT

SB 5036

As Passed House:
April 7, 2017

Title: An act relating to clarifying the authority and procedures for unit priced contracting by public utility districts.

Brief Description: Clarifying the authority and procedures for unit priced contracting by public utility districts.

Sponsors: Senators Takko and Sheldon.

Brief History:

Committee Activity:

Local Government: 3/21/17, 3/23/17 [DP];
Capital Budget: 3/30/17, 4/3/17 [DP].

Floor Activity:

Passed House: 4/7/17, 95-1.

Brief Summary of Bill

- Provides that a public utility district may procure public works with a unit-priced contract.
- Establishes bidding procedures for unit-priced contracts.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 6 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor.

Staff: Cassie Jones (786-7303).

HOUSE COMMITTEE ON CAPITAL BUDGET

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.

Majority Report: Do pass. Signed by 17 members: Representatives Tharinger, Chair; Doglio, Vice Chair; Peterson, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Dye, Johnson, Koster, Kraft, Macri, Morris, Reeves, Ryu, Sells, Steele, Stonier and J. Walsh.

Staff: Steve Masse (786-7115).

Background:

Public Utility Districts and Purchases of Materials and Work.

A public utility district (PUD) is a type of special purpose district that is authorized to provide electricity, water, sewer, and telecommunications services to its jurisdiction. Each PUD is governed by a board of three or five elected commissioners.

Under certain circumstances, PUDs are required to enter into contracts for the purchase of materials or work. Public utility districts must contract for the purchase of materials when such materials, equipment, or supplies have an estimated cost exceeding \$15,000. The purchase of such materials need not be made by contract when the cost does not exceed \$7,500 in a calendar month. Public utility districts must contract for work ordered by a PUD commission when the estimated cost exceeds \$25,000, with an exception for work that is an accepted industry practice under prudent utility management and is performed by PUD employees.

When a PUD commission is required to purchase materials or work by contract, the commission must publish notice inviting sealed proposals for the contract. The notice must be published at least 13 days before the last date upon which bids will be received. Plans and specifications for the work or materials must be on file at the PUD office at the time of publication and be subject to public inspection.

Public Works.

"Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property in the jurisdiction. All public works, including maintenance when performed by contract, must comply with prevailing wage statutes.

Prevailing Wages on Public Works.

The hourly wages to be paid to workers on all public works and under all public building service maintenance contracts of the state, county, municipality, or political subdivision must not be less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where such labor is performed. The prevailing rate of wage is the rate of hourly wage, usual benefits, and overtime paid in the locality to the majority of workers in the same trade or occupation.

Summary of Bill:

A public utility district (PUD) may procure public works with a unit-priced contract to complete anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

"Unit-priced contract" is defined as a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a PUD, under which the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price, for each category of work. An initial contract term may not exceed three years, and PUDs may extend or renew a contract for one additional year.

Invitations for unit-price bids must include the following information:

- estimated quantities of the anticipated types of work or trades; and
- how the district will issue or release work assignments, work orders, or task authorizations for projects based on the hourly rates or unit prices bid by the contractor.

In bid proposals for electrical facility construction or improvement work, contractors on a unit-priced contract must demonstrate adequate financial resources; necessary experience and technical qualifications; ability to comply with the required performance schedule; a satisfactory record of performance; and legal eligibility to receive the award. Contracts must be awarded to the lowest responsible bidder.

Unit-price contractors must pay prevailing wages for all public works that are otherwise subject to prevailing wage requirements under existing statutes. Prevailing wages for all work must be the rates in effect at the time an individual work order is issued.

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 (Local Government):

(In support) Public utility districts (PUDs) have been using unit-priced contracts for a long time. These types of contracts are useful when a PUD has work that needs to be accomplished quickly, such as storm response. Public utility districts do not always know in advance how much the work will cost because it depends on the events that occur. The State Auditor has recently questioned whether there is statutory authority for unit-priced contracts and this bill would create that authority.

(Opposed) None.

Staff Summary of Public Testimony (Capital Budget):

(In support) Clarification is needed for the public utility district to use unit pricing rather than taking bids. Often there are circumstances when the work needs to proceed quickly and unit pricing allows that. Also, there are jobs that are difficult to provide a bid on.

(Opposed) None.

Persons Testifying (Local Government): Senator Takko, prime sponsor; and Bill Clarke, Washington Public Utility Districts Association.

Persons Testifying (Capital Budget): Senator Takko, prime sponsor; and Bill Clarke, Washington State Public Utility District Association.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Capital Budget): None.