

HOUSE BILL REPORT

ESSB 6329

As Reported by House Committee On:

Local Government

Capital Budget

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

Brief Description: Clarifying the authority and procedures for contracting by public port districts.

Sponsors: Senate Committee on Local Government (originally sponsored by Senators Takko, Angel and Chase).

Brief History:

Committee Activity:

Local Government: 2/20/18, 2/21/18 [DP];

Capital Budget: 2/22/18, 2/26/18 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by Committee)

- Allows port districts to construct public works by contract without calling for bids whenever the estimated cost of the work or improvement, including the cost of materials, supplies, or equipment, will not exceed \$40,000.
- Authorizes port districts to use unit price contracting.
- Encourages port districts to invite at least one proposal from a minority or women contractor for unit priced contracts.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 5 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Gregerson and Peterson.

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

Staff: Cassie Jones (786-7303).

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.

Background:

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. 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.

Small Works Roster Process.

For public work projects estimated to cost \$300,000 or less, state agencies and local governments may use the small works roster (SWR) process to award contracts. Any responsible contractor may request to be on a SWR, which may be a single general list or may include lists for various specialties or categories of work. Under the SWR process, no advertising of such contract opportunities is required. Instead, a state agency or local government will solicit bids from all contractors who have requested to be on the appropriate SWR or from at least five of the listed contractors.

Port Districts and Procurement of Public Works.

Port districts are special purpose districts established for purposes related to: harbor improvements; rail, motor vehicle, water, air, or any combination of such transfer and terminal facilities; and other commercial transportation, transfer, handling, storage and terminal facilities, and industrial improvements.

A port district may procure materials and work that does not meet the definition of "public works" in the open market or by contract, and all work ordered may be done by contract or day labor. A port district must procure public works, the estimated cost of which is greater than \$300,000, through a competitive bidding process. The competitive bidding process requires notice of the contract to be published and to call for bids on the work or materials. Competitive bidding requirements for purchases of public works may be waived for purchases: linked to a single source of supply; involving special market condition; in the event of an emergency; and of insurance or bonds.

Public works that are estimated to cost less than \$300,000 may be procured using the SWR process in lieu of advertising for bids. Weight must be given to the contractor submitting the lowest and best proposal, and whenever it would not violate the public interest, such contracts must be distributed equally among contractors, including minority contractors, on the SWR.

Summary of Bill:

A port district may construct public works by contract without calling for bids whenever the estimated cost of the work or improvement, including the cost of materials, supplies, or equipment, will not exceed \$40,000. A "public works project" means a complete project. A project may not be divided into units of work or classes of work to avoid calling for bids.

The port district managing official must make his or her best effort to reach out to qualified contractors, including certified minority and woman-owned contractors.

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) This bill will allow ports to operate more efficiently. Forty thousand dollars is not a lot of money for a project, and this bill would make it easier for ports to have these projects completed. There is language in the bill to make sure that woman- and minority-owned contractors have equal opportunity to compete for the projects.

This bill would establish a bid limit to allow port districts to forgo public bidding for public works under \$40,000. Every local government has this authority except ports and library districts. The bid limits vary depending on the type of local government. This bill will especially benefit small and rural ports by enabling the quick repair of equipment and helping to attract local and specialty contractors.

(Opposed) None.

Persons Testifying: Senator Takko, prime sponsor; and Chris Herman, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass as amended. Signed by 19 members: Representatives Tharinger, Chair; Doglio, Vice Chair; Peterson, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Dye, Eslick, Kraft, MacEwen, Macri, Morris, Reeves, Riccelli, Ryu, Sells, Steele, Stonier, Volz and Walsh.

Staff: Steve Masse (786-7115).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Local Government:

Authority to use unit price contracting is added.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This will provide financial benefits that a port can then reinvest in other infrastructure projects. All but two local districts have unit price contracting authority.

(Opposed) None.

Persons Testifying: Chris Herman, Washington Public Ports Association; and Sean Eagan, Port of Tacoma.

Persons Signed In To Testify But Not Testifying: None.