

# SENATE BILL REPORT

## SB 5036

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As Passed Senate, March 3, 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: 1/17/17, 1/24/17 [DP].

**Floor Activity:**

Passed Senate: 3/03/17, 46-0.

**Brief Summary of Bill**

- Provides that a public utility district (PUD) may procure public works with a unit priced contract.
- Defines and clarifies bidding procedures for unit priced contracts.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass.

Signed by Senators Angel, Vice Chair; Palumbo and Sheldon.

**Staff:** Bonnie Kim (786-7316)

**Background:** Public Utility Districts (PUD). A PUD is a type of special purpose district authorized for the purpose of generating and distributing electricity, providing water and sewer services, and providing telecommunications services. PUDs are governed by a board of either three or five elected commissioners. PUDs are authorized to establish rates and charges for providing water and sewer services.

PUDs and Contracts. PUDs must contract for the following:

- any items of similar materials, equipment, or supplies estimated to cost more than \$15,000;

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- any items of similar materials, equipment, or supplies estimated to cost more than \$7,500, if purchased within a single calendar month; and
- any work ordered by a district commission estimated to cost more than \$25,000.

Under most circumstances, district commissions must publish an invitation for sealed proposals in one or more newspapers of general circulation in the district at least 13 days before bidding closes. Plans and specifications for the work or materials must, at the time of publication, be on file at the office of the district and subject to public inspection.

**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 district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work." Although an initial contract term may not exceed three years, districts 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 would otherwise be subject to the requirements of chapter 39.12 RCW. 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.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill will codify current practice. The State Auditor has not had a problem with PUDs in the past but has recently indicated the office will take a closer look. We have been using these contracts for 30-plus years. We need to have crews available to work year-round.

OTHER: The issue from the State Auditor's Office experienced by PUDs is now being experienced by other local governments, including ports. Ports may be seeking a legislative fix in the near future.

**Persons Testifying:** PRO: Senator Dean Takko, Prime Sponsor; George Caan, WA PUD Association; Bill Clarke, WA PUD Association.

OTHER: Eric Johnson, Washington Public Ports Assoc. / Executive Director.

**Persons Signed In To Testify But Not Testifying:** No one.