

# SENATE BILL REPORT

## ESSB 6143

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As Passed Senate, February 7, 2018

**Title:** An act relating to clarifying the authority and procedures for unit priced contracting by cities.

**Brief Description:** Concerning unit priced contracting by cities.

**Sponsors:** Senate Committee on Local Government (originally sponsored by Senator Takko).

**Brief History:**

**Committee Activity:** Local Government: 1/16/18 [DPS].

**Floor Activity:**

Passed Senate: 2/07/18, 48-0.

**Brief Summary of Engrossed First Substitute Bill**

- Allows cities and towns to 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:** That Substitute Senate Bill No. 6143 be substituted therefor, and the substitute bill do pass.

Signed by Senators Takko, Chair; Short, Ranking Member; Angel and Liias.

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

**Background:** Cities. Cities in Washington are municipal corporations classified according to their population at the time of organization. There are four classification types: first-class city, second-class city, town, or code city. First-class cities are those cities with a population of 10,000 or more that have adopted a city charter, while second class cities are those cities with a population of 1500 or more that have not adopted a city charter. Towns are smaller municipalities that have a population of less than 1500. Code cities are those cities with a population of 1500 or more that operate under the Optional Municipal Code, which grants broad home rule powers.

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*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 and Contracts. Generally, a first-class city may have public works performed by contract following public notice and call for competitive bids. City employees may perform public works costing 10 percent or less of the city's public works construction budget. Any cost in excess of the allowable 10 percent is deducted from the otherwise permitted amount of public works that may be performed by public employees in the city's next budget period. Once the 10 percent cap is reached, all remaining public works must be performed by contract following a competitive bidding process.

Second-Class Cities or Towns and Contracts. A second-class city or town may contract for public works without a competitive bidding process if:

- the estimated cost is \$65,000 or less and involves more than one craft or trade;
- the estimated cost is \$40,000 or less and involves a single craft or trade; or
- the public works is street signalization or street lighting.

All other public works contracts must be entered into following either a competitive bidding process or the small works roster process.

**Summary of Engrossed First Substitute Bill:** A city or town 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, a city or town 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 city or town 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.

Whenever possible, the city or town must invite at least one proposal from a minority or woman contractor. 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 beginning of each contract year. Unit priced contracts must have prevailing wage rates updated annually. Cities must submit intents and affidavits for prevailing wages paid for all work completed in the previous twelve-month period on an annual basis.

**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 on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The state auditor has questioned the legality of using unit priced contracts by local governments and this bill offers clarity. This bill gives cities greater flexibility and allows them to contract more efficiently. This bill increases cities' ability to deliver service to our community in a timely and well-crafted manner.

OTHER: The City of Tacoma is supportive of the bill if the amendment discussed passes. Without the amendment, the bill would require cities to submit required Department of Labor and Industries' paperwork every time a contractor is dispatched.

**Persons Testifying:** PRO: Senator Dean Takko, Prime Sponsor; Jane Wall, Association of Washington Cities; Jim Rioux, APWA/City of Olympia.

OTHER: Briahna Murray, City of Tacoma.

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