

# HOUSE BILL REPORT

## HB 1359

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**As Reported by House Committee On:**  
Local Government

**Title:** An act relating to local government procurement modernization and efficiency.

**Brief Description:** Concerning local government procurement modernization and efficiency.

**Sponsors:** Representatives Leavitt, Irwin, Tharinger, Eslick and Pollet.

**Brief History:**

**Committee Activity:**

Local Government: 1/30/19, 2/19/19 [DPS].

**Brief Summary of Substitute Bill**

- Authorizes a county to procure public works with a unit-priced contract and establishes bidding and other procedures for such contracts.
- Authorizes a water and sewer district to procure public works with a unit-priced contract.
- Authorizes county public transportation authorities, public transportation benefit areas, and regional transit authorities to enter into unit priced contract for public works.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Pollet, Chair; Peterson, Vice Chair; Appleton and Senn.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Goehner.

**Staff:** Robbi Kesler (786-7153).

**Background:**

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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.*

### 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. All public works, including maintenance when performed by contract, must comply with prevailing wage statutes.

County employees may perform public works in an annual or biennial budget period if the work does not exceed 10 percent of the public works construction budget.

Counties with a population of 400,000 or more shall not have public employees perform a public works project:

- in excess of \$90,000 if more than one single craft or trade is involved with the public works project; or
- in excess of \$45,000 if only a single craft or trade is involved.

A public works project means a complete project; counties are not permitted to divide the project into units of work or classes of work to avoid meeting the contract limits. The cost of a separate public works project is the cost of materials, supplies, equipment, and labor on the construction of that project.

### 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. Contractors and subcontractors on public works projects must submit to the awarding agency an "intent" to pay prevailing wage and an "affidavit" that prevailing wages have been paid. An awarding agency may not release payment of sums due on account of a public works contract until an affidavit is submitted.

### Unit-Priced Contracts.

"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 the county, under which the contractor agrees to a fixed period, indefinite quantity delivery of work, at a defined unit price, for each category of work. Legislation enacted in 2017 and 2018 provided cities, public utility districts, and port districts have recently specific statutory authority to enter into unit-priced contracts for public works.

### Small Works Roster Process.

For public works 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.

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## **Summary of Substitute Bill:**

### Unit-Priced Contracts.

The following entities are authorized to procure public works contracts 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:

- counties;
- water and sewer districts;
- county public transportation authorities;
- public transportation benefit areas; and
- regional transit authorities.

"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 the entity, 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 the term may be extended or renewed 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
- specify how the county 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.

Contracts must be awarded to the lowest responsible bidder. Whenever possible, the entity must invite at least one proposal from a minority or woman contractor who otherwise qualifies.

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 performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit-priced contracts must have prevailing wage rates updated annually. An "intent" to pay prevailing wages and an "affidavit" that prevailing wages have been paid must be submitted annually for all work completed within the previous 12-month period of the unit-priced contract.

### Small Works Roster Process.

The small works roster process for awarding contracts may be used for projects \$500,000 or less.

## **Substitute Bill Compared to Original Bill:**

In addition to counties, the substitute bill authorizes water and sewer districts, county public transportation authorities, public transportation benefit areas, and regional transit authorities to enter into unit-priced contracts for public works.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute 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) Unit-priced contracts provide flexibility by allowing a local government to anticipate the type of work that may be needed. The unit-priced contract option helps in emergency situations by allowing for on-call contracts for smaller projects. This reduces staff time and resources devoted to contracting process. Cities, public utility districts, and port districts are already authorized to utilize unit-priced contracts and this should be extended to counties as well. Other entities, such as transit authorities should be included for legislative efficiency. The adjustment to the small works roster is a good change for efficiency.

(Opposed) None.

**Persons Testifying:** Representative Leavitt, prime sponsor; Michael Shaw and Gary Robinson, Pierce County; Justin Leighton, Washington State Transit Association; and Al Ralston, Pierce Transit.

**Persons Signed In To Testify But Not Testifying:** None.