

SENATE BILL REPORT

SB 5702

As of February 14, 2019

Title: An act relating to the fairness of public works bidding.

Brief Description: Concerning the fairness of public works bidding.

Sponsors: Senators Warnick and Hobbs.

Brief History:

Committee Activity: Local Government: 2/14/19.

Brief Summary of Bill

- Requires a municipality soliciting competitive bids for public works to disclose all bids received within two business days of bid opening.
- Extends the date by which a bidder may protest to two business days after a municipality discloses all bids received.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Bonnie Kim (786-7316)

Background: Unless an exception applies, all municipalities must contract for the execution of public works after advertisement and competitive bid or by a contract awarded under the small works roster process. Generally, municipality means every city, county, town, port district, district, or other public agency authorized by law to require the execution of public work.

If a municipality receives a written protest from a bidder within two business days of a bid opening, the municipality may not execute a contract for the project with anyone other than the protesting bidder without first providing at least two full business days' written notice of the municipality's intent to execute a contract for the project.

Summary of Bill: A municipality soliciting competitive bids for a public works project must provide all bidders with copies of bids received within two business days of the bid opening. The municipality must then wait an additional two business days before executing a contract for the project.

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.

A bidder must now submit a written protest to a municipality soliciting bids within two business days of the municipality providing all the bidders with copies of the bids received. A protesting bidder's failure to submit timely notice of a protest will not limit the bidder's right to seek equitable relief to enjoin contract execution by the municipality.

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: We have many small municipalities in my district and this bill will help both those small communities and the bidders. All bidders should have a fair shot at a project they might be bidding on. This issue goes back to 2003 when a similarly titled bill passed the Legislature to provide an adequate opportunity for contractors to take a look at a low bid to make sure it is proper in all forms. Once a public works contract is entered into, all other rights to protest are eliminated so it is critical for other contractors to ensure the low bid is responsive. It is not currently possible to look at the low bid before protesting. Bids today have many different requirements but the specifics of those how those requirements are met in other bids are unknown to other contractors at bid opening. Agencies want bid protests resolved as soon as possible.

CON: This bill is too prescriptive. Public owners are concerned about the ability for protesting bidders to continue seeking relief in court. We support transparency and look forward to working with the prime sponsor for comprising language.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Dave Ducharme, National Utility Contractors Association Washington Chapter; Tymon Berger, citizen.

CON: Chris Herman, Washington Public Ports Association; Jane Wall, Washington State Association of Counties.

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