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## Local Government Committee

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### HB 2391

**Brief Description:** Concerning county ferries.

**Sponsors:** Representatives Leavitt, Lekanoff, Ramel, Bronoske, Eslick and Timmons.

**Brief Summary of Bill**

- Provides that county ferry maintenance is considered ordinary maintenance and not subject to public works bidding requirements.
- Allows indefinite-quantity contracts to be used for county ferry repair and maintenance.

**Hearing Date:** 1/24/24

**Staff:** Kellen Wright (786-7134).

**Background:**

Counties may construct, purchase, condemn, operate, and maintain ferries or wharves, and the related boats, grounds, roads, approaches, and landings, at any unfordable stream, lake, estuary, or bay that is within the county, bordering the county, between portions of the county, or between the county and another county. The ferry is controlled by the county commissioners, who may determine whether the use of the ferry or wharf is free or requires the payment of a toll. A county that operates a ferry must prepare a 14-year capital improvement plan covering all of the major elements of the ferry system.

Public work includes any construction, alteration, repair, or improvements that is paid for by a government entity other than a special purpose district involved in diking, drainage, irrigation, or the reclamation or development of waste or underdeveloped lands. Public work does not, however, include ordinary maintenance, though laws requiring the payment of prevailing wages do apply to maintenance.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

With some exceptions, contracts involving public works generally have to be awarded to the lowest responsibility bidder for the contract. Emergency contracts, single-source contracts, and purchases involving special facilities or market conditions are all exempted from competitive bidding requirements. Depending on the contracting entity and the value of the project, less stringent bidding processes may also be available, including the use of small works rosters or other less formal bidding procedures.

Public improvement contracts must provide for the contracting government entity to retain up to 5 percent of the moneys earned by the contractor. This money acts as a trust fund for the payment of any claims that come out of the contract and for the payment of any taxes, increases, or penalties due from the contractor. Within 60 days of the completion of the work, the government entity must release the money to the contractor.

**Summary of Bill:**

Beginning July 1, 2024, maintenance for county ferries is considered ordinary maintenance and is not considered a public work. Maintenance, including maintenance required by the United States Coast Guard, may utilize an indefinite-quantity contract. This contract can be used by the county itself or in conjunction with other counties that operate county ferries.

An indefinite quantity contract is a contract for the repair and maintenance of a ferry vessel that provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period. The limits may either be a number of units for supplies, or a monetary limit for services. The county contracting officer should establish a reasonable maximum quantity based on market research, an examination of similar recent contracts, or other rational bases.

Under the contract, the county places orders for individual requirements. The contract must require that the county order, and the contractor deliver, a minimum quantity of supplies or services. This minimum must be more than a nominal amount, but should not exceed the amount the county is likely to order. The contractor must furnish additional quantities as ordered, up to the maximum provided for in the contract. The retainage required on the contract must be calculated using the minimum quantity.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2024.

**Effective Date:** The bill takes effect on July 1, 2024.