

# SENATE BILL REPORT

## HB 1830

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As Reported by Senate Committee On:  
Government Operations & Elections, March 26, 2009

**Title:** An act relating to business definitions for public contracting.

**Brief Description:** Establishing business definitions for public contracting.

**Sponsors:** Representative Santos.

**Brief History:** Passed House: 3/06/09, 83-13.

**Committee Activity:** Government Operations & Elections: 3/26/09 [DPA, w/oRec].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** Do pass as amended.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach, Ranking Minority Member; McDermott and Pridemore.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Benton and Swecker.

**Staff:** Aaron Gutierrez (786-7448)

**Background:** Small Business Definitions. Washington laws, rules, and reports vary in their definitions of "small business." Generally, definitions cite one or more of the following business characteristics: number of employees, annual gross income, independence of operations, and lack of dominance in a particular field.

Examples of small business definitions include:

- "Any business entity, including a sole proprietorship, corporation, partnership, or other legal entity that is owned and operated independently from all other businesses and that has 50 or fewer employees" [Regulatory Fairness Act RCW 19.85.020].
- "Any business entity (including a sole proprietorship, corporation, partnership, or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has 50 or fewer employees, or which has a \$1 million or less per year in gross sales of window products" [State Energy Code/Building Code Council WAC 51-11-0201].

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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.*

- "A corporation, partnership, sole proprietorship, or individual, operating a business for profit, with 250 employees or fewer, including employees employed in a subsidiary or affiliated corporation, that otherwise meets the requirements of the federal small business innovation research program" [Washington Technology Center/ Small Business Innovation Research Assistance Program RCW 28B.20.297].

Small Works Roster and the Limited Public Work Process. Public work includes all work, construction, alteration, and repair or improvement other than ordinary maintenance which is executed at a cost to the state or a municipality. For public work projects estimated to cost \$200,000 or less, state agencies and certain local governments may use the "small works roster" (Roster) process to award contracts. No advertising of such contract opportunities is required. When an agency or local government elects to use this process, it must solicit bids from at least five contractors who have requested to be listed on a Roster. The agency or local government, if it decides to award the contract, awards it to the lowest responsible bidder. The agency or local government must make an effort to equitably distribute the opportunity among contractors on the Roster if the bids are solicited from fewer than all the contractors on the Roster.

The Roster process also allows for a "limited public work process" for projects estimated to cost less than \$35,000. No advertising of such contract opportunities is required. Under this process, a state agency or authorized local government may solicit electronic, phone, or written quotations from a minimum of three contractors from the Roster and must award the contract to the lowest responsible bidder. A state agency or authorized local government may use the limited public works process to solicit and award the Roster contracts to small businesses that are registered contractors with gross revenues under \$1 million annually as reported on their federal tax return.

**Summary of Bill (Recommended Amendments):** For purposes of state contracting for public works, a sole proprietorship, corporation, partnership, or other legal entity owned and operated independent from all other businesses is defined as (1) a small business, if it has gross annual revenues less than \$7 million; (2) a mini-business, if it has gross annual revenues of more than \$1 million and less than \$3 million; or (3) a micro-business, if it has gross annual revenues less than \$1 million.

State agencies and authorized local governments may use the limited public work process to solicit and award the Roster contracts to small businesses, mini-businesses, and microbusinesses.

**EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Amendments):** No longer creates a definition of "small business" for personal services contracts.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on House Bill:** PRO: The current definition of "small business" derives from the federal Small Business Administration. Many Washington businesses have a tough time reaching that level. The new definitions are reflective of what is happening in Washington. The purpose of the micro and mini classifications is to create options for local jurisdictions to further refine contracts. The section for personal services contracts only creates a new definition and does not impose a mandate. "Right-sizing" and a consistent definition help local governments to better serve contractors.

**Persons Testifying:** PRO: Representative Santos, prime sponsor; Silas Potter, Seattle Public Schools; Ralph Ibarra, Diverse America Network; Tony Orange, AFAR Association.