

# HOUSE BILL REPORT

## HB 1808

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**As Reported By House Committee On:**  
Government Administration  
Capital Budget

**Title:** An act relating to public works projects for state agencies.

**Brief Description:** Requiring public works projects over five thousand dollars for state agencies to be contracted by public notice and competitive bid or small works roster.

**Sponsors:** Representatives D. Sommers, D. Schmidt, Sherstad and Dunn.

**Brief History:**

**Committee Activity:**

Government Administration: 2/28/97, 3/5/97 [DPS];

Capital Budget: 3/10/97 [DP2S (w/o sub GVAD)].

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### HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Dunn; Reams; Smith; L. Thomas and Wensman.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunshee; Murray and Wolfe.

**Staff:** Bill Lynch (786-7092).

**Background:** Public works projects by institutions of higher education with an estimated value of \$25,000 or more must be let by contract. Projects with an estimated value of less than \$25,000 may be awarded in any fashion, or may be done in-house. If the estimated value of the project is less than \$100,000 the contract may be awarded through a small works roster. Projects with an estimated value of \$100,000 or more must be let through formal competitive bidding procedures.

State agencies may use a small works roster to award public works contracts with an estimated value of \$100,000 or less. If a public works project has an estimated value of more than \$100,000, it must be awarded through a formal competitive bidding process. Although the statutes provide a certain exception from competitive bidding

and the small works roster process for contracts with an estimated value over \$25,000, there is no express dollar threshold which specifies when state agencies must let public works projects by contract.

**Summary of Substitute Bill:** Any public work by a state agency, other than the Department of Transportation or an institution of higher education, with an estimated cost in excess of \$20,000 must be let by contract either through a small works roster or formal competitive bidding. The public work includes the cost of materials, supplies, equipment, and labor.

**Substitute Bill Compared to Original Bill:** The dollar threshold for when public works by state agencies must be done by contract is raised from \$5,000 to \$20,000. The original bill did not exempt institutions of higher education or the Department of Transportation.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This is an opportunity to reduce the size of government by letting more private sector businesses do the work in-house employees are performing. Private contractors are paying taxes to support their competition.

**Testimony Against:** This will raise the cost of projects because prevailing wage is higher than state employee wages. Projects done in-house can be done much quicker than through the bidding process. The current practice is to use in-house employees for small jobs.

**Testified:** Representative Dave Schmidt, prime sponsor; Larry Stevens, United Subcontractors Association; Dave Betschart, Betschart Electric; and Richard A. King, IBCW, 46.

(Concerns) Ron McQueen, Department of General Administration; Kathleen Nicols, University of Washington; and Bill Cahill, Washington Federation of State Employees;

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## HOUSE COMMITTEE ON CAPITAL BUDGET

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Government Administration. Signed by 6 members: Representatives Sehlin, Chairman; Honeyford, Vice Chairman; Hankins; Koster; Mitchell and D. Sommers.

**Minority Report:** Without recommendation. Signed by 4 members: Representatives Sullivan, Assistant Ranking Minority Member; Costa; Lantz and H. Sommers.

**Staff:** Karl Herzog (786-7271).

**New Background:** The Alternative Public Works Contracting Methods Oversight Committee, created by the Legislature in 1994, is responsible for reviewing the utilization of the design-build and general contractor /construction manager methods of public works contracting. The committee includes four members of the Legislature, as well as representatives of government agencies and private industry appointed by the Governor.

**Summary of Second Substitute:** The Department of General Administration (GA), in cooperation with other state agencies, must report to the Alternative Public Works Contracting Methods Oversight Committee regarding methods to increase the efficiency and effectiveness of implementing state agency public works projects valued between \$2,000 and \$300,000. The report must cover, at a minimum, the following two methods: small works roster contracting and job order contracting. The report must be delivered by September 1, 1997.

**Summary of Recommendation of Committee on Capital Budget Compared to Recommendation of Committee on Government Administration:** The requirement that GA report on ways to increase the efficiency and effectiveness of public works projects replaces the requirement that state agencies contract for public works projects valued over \$20,000.

**Appropriation:** None.

**Fiscal Note:** Available for first substitute. Not requested for second substitute.

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

**Testimony For:** Contracting out is good for the state and the economy. Private construction firms create jobs and pay business and occupation taxes. A 1995 University of Washington study found that contract construction in Washington

employs 168,000 workers earning family wage jobs. For every \$1 million invested by the state in construction, over 30 jobs are created. Government should govern. Private sector firms should do the construction work. There are no current limits on how much work the GA can do. The GA has performed a \$250,000 generator installation project in-house. A \$20,000 job is a good size job for a small contractor, and \$5,000 is a good size job for an electrical contractor. It is a concern that GA thinks more work should be done in-house. The private sector should do some of this work. The private sector should not be required to compete with the public sector when government does not pay taxes and is not required to pay prevailing wage. If the private sector were allowed to compete, it would do a much better job at a better cost to government and taxpayers. Private contractors have the expertise required for these projects; state agencies have just not looked for it. The fiscal note on the bill is outrageous.

**Testimony Against:** The bill may preclude the Department of Corrections (DOC) from using inmate labor on prison construction projects. Nearly all prisons have utilized inmate labor for construction and repairs, realizing significant savings to the state. Inmates learn work skills on construction projects, and the jobs reduce inmate idleness and make prisons easier to manage. DOC must meet legislatively mandated inmate employment requirements. Both DOC's operating and capital budgets are premised on the use of inmate labor for expansion and construction projects. The bill may also impact state employees in the area of state contracting-out law. The substantial majority of state construction work is done by private contractors. In-house staff can effectively schedule and accomplish work in sensitive facilities such as hospital wards, group homes, and forensic laboratories. Some of these operations may need to be shut down if private contractors performed the work. All in-house work is done in compliance with local permits. Without the flexibility to perform work in house, agencies cannot respond to emergency issues. State employees earn less than the private sector.

**Testified:** Margaret Vonheeder, Department of Corrections (con); Eugene St. John, WPEA (con); Thomas Neff, State Patrol (con); Sally Hunter, Department of Social and Health Services (con); Grant Fredericks, General Administration (con); Duke Schaub, Association of General Contractors (pro with concerns); Kathleen Collins, Sheet Metal and Air Conditioning Contractors (pro); Dick Ducharme, Association of Utility Contractors (pro); Larry Stevens, United Subcontractors Association (pro); and Dave Betschart, Betschart Electric (pro).