

# HOUSE BILL REPORT

## E2SHB 1071

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### As Amended by the Senate

**Title:** An act relating to limited public works.

**Brief Description:** Creating a limited public works process.

**Sponsors:** By House Committee on State Government (originally sponsored by Representatives Romero and D. Schmidt; by request of Alternative Public Works Methods Oversight Committee).

#### **Brief History:**

##### **Committee Activity:**

State Government: 1/26/99, 2/17/99 [DPS];

State Government: 1/12/00, 2/2/00 [DP2S].

##### **Floor Activity:**

Passed House: 2/11/00, 97-0.

Senate Amended.

Passed Senate: 3/3/00, 46-0.

#### **Brief Summary of Second Substitute Bill**

- Creates a new procedure, called the limited public works procedure, for some state agencies and some local governments to award contracts for construction and repair projects with an estimated cost of less than \$35,000.

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### HOUSE COMMITTEE ON STATE GOVERNMENT

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

**Staff:** Steve Lundin (786-7127).

#### **Background:**

Differing procedures are established for state agencies and various local governments to award contracts for public works projects. Frequently, contracts for public works projects of a relatively small estimated cost are awarded in any manner, contracts for public works of a medium estimated cost may be awarded to the lowest responsible bidder using a small works roster process, and contracts for public works of a higher estimated cost are awarded to the lowest responsible bidder using a formal competitive bidding process with sealed bids.

In most instances, the general contractor on a public works project is required to post a performance bond to faithfully perform all work under the contract and to pay laborers, material men, and subcontractors. In most instances retainage is required on public works contracts where the public entity retains up to 5 percent of the contract amount from the general contractor for 45 days after completion of the project as a trust fund for payment of laborers, subcontractors, material men and excise taxes that are imposed on the project.

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**Summary of Second Substitute Bill:**

The limited public works procedure is authorized for the Department of General Administration, the Department of Fish and Wildlife, the Department of Natural Resources, the State Parks and Recreation Commission, and most local governments to award any contract for work, construction, alteration, repair, or improvement projects with estimated costs of less than \$35,000.

Under this new procedure the government entity solicits electronic or written quotations for the project from at least three contractors. The government entity may be award the contract to the lowest responsible bidder, even if only one quotation is received, or may reject all quotations. If less than all the contractors on the appropriate roster are notified, a contractor on that roster who has been sent a notice shall not be sent another notice until all other contractors on the roster have been sent a notice of a project. A list must be maintained of the contracts awarded under this process.

The government entity using the limited public works process may waive performance bond requirements and retainage requirements, but the government shall have a right of recovery against the contractor for any payments it makes on behalf of the contractor.

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**EFFECT OF SENATE AMENDMENT(S):** Requires an effort be made to include a certified minority or certified women-owned contractor when quotations are sought.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** (Original bill) This will save time and money. We are looking for ways to better manage smaller projects. It is not efficient to go to a full bidding procedure on small projects. This is a slightly less formal procedure. The key is to award a contract expeditiously. This spreads the wealth around to smaller contractors.

**Testimony Against:** (Original bill) This could result in favoritism. This is bad public policy.

**Testified:** (In support) John Lynch, Department of General Administration; Rodney Eng, City of Seattle; Duke Schaub, Associated General Contractors of Washington; Jim King, Coalition for Parks and Recreation; and Tom Boyer, Washington State Parks Department.

(Opposed) Larry Stevens, Contractors Bonding and Insurance Company.