

HOUSE BILL REPORT

HB 1671

As Reported By House Committee On:
Judiciary

Title: An act relating to actions arising out of public works contracts.

Brief Description: Eliminating a maximum amount threshold for pleadings in actions arising from public works contracts.

Sponsors: Representatives Constantine, Radcliff, Kessler, Mastin, Sullivan, Grant, G. Chandler, Reardon, Lisk, Esser, Alexander, McMorris and Mitchell.

Brief History:

Committee Activity:

Judiciary: 2/22/99, 2/23/99 [DPS].

Brief Summary of Substitute Bill

- Makes all disputes involving public works contracts subject to the offer-of-settlement law.
- Allows the prevailing party in such disputes to recover reasonable attorney fees.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Staff: Bill Perry (786-7123).

Background:

In a civil action for damages of not more than \$10,000, certain procedures apply when a party makes an offer of settlement prior to trial. If the case goes to trial after

an offer of settlement has been made, the "prevailing party" is awarded reasonable attorney fees and costs.

The prevailing party is determined by who bettered his or her position at trial when compared to the offer of settlement. The plaintiff is the prevailing party if he or she is awarded damages that at least equal the amount the plaintiff offered in settlement. The defendant is the prevailing party if the amount awarded is zero, or is not more than the defendant's offer of settlement.

Offers of settlement must be served on the opposing party at least 10 days before trial, but not sooner than 30 days after the filing of the summons and complaint.

Under a separate statute, disputes over public works contracts are made subject to the offer of settlement provision if the amount in dispute does not exceed \$250,000. Under this statute, the filing period for an offer of settlement in a public works case is not less than 30 and not more than 120 days after service of the summons and complaint.

Summary of Substitute Bill:

All public works contract disputes are subject to the offer-of-settlement and prevailing party attorney fees law. The \$250,000 limit is removed.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that the \$10,000 limit in the offer-of-settlement law does not apply to public works contract cases.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (On proposed substitute bill) The offer-of-settlement statute works very well to save both sides time and money. It should be extended to all public works contract disputes. These contracts are very one-sided, and in cases near the \$250,000 limit, the public agency has little incentive to compromise or settle now. This bill is a two-edged sword that will force both sides to act reasonably.

Testimony Against: None.

Testified: Dave Ducharme and Dan Kain, Utility Contractors Association of Washington; Arne Hedeem, attorney; and Ray "Chip" Graeber, Gary Merlino Construction.