

SENATE BILL REPORT

SB 5291

As Reported By Senate Committee On:
Water, Energy & Environment, February 1, 2005

Title: An act relating to construction and operation of renewable energy projects by joint operating agencies.

Brief Description: Authorizing the construction and operation of renewable energy projects by joint operating agencies.

Sponsors: Senators Poulsen, Morton, Fraser, Mulliken and Kohl-Welles.

Brief History:

Committee Activity: Water, Energy & Environment: 1/25/05, 2/1/05 [w/oRec-GO].

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That it be referred to Committee on Government Operations & Elections without recommendation.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Morton, Mulliken, Pridemore and Regala.

Staff: William Bridges (786-7424)

Background: Joint operating agencies (JOA) allow cities and public utility districts to collectively develop electricity generation projects. Energy Northwest is the only JOA currently operating, and it operates the state's only nuclear power plant. Energy Northwest has recently developed a wind power generation site, a solar power demonstration site, and is exploring generation using biomass and fuel cells.

In general, JOA must use a sealed bid process to purchase materials more than \$10,000, or to order work for the construction of generating facilities costing more than \$10,000. A competitive negotiation process may be used, however, to acquire materials, equipment, and supplies, or for work performed, during the commercial operation of a nuclear generating project.

The competitive negotiation process may be used if an existing contract is in default, terminated, or if the managing director and the JOA executive board determines the project will be completed or operated more economically. Contracts awarded under this process may be fixed price or cost-reimbursable, but not cost plus percentage of cost.

The negotiated bid process for selecting a contractor includes several steps:

- JOA issues a request for proposal using the same public notice standards of the sealed bid process;
- JOA holds a pre-bid conference, with any inquiries from potential offerors and JOA responses shared with all potential offerors;

- Offerors submit their proposals, which must be protected from disclosure to competing offerors during the negotiation process;
- JOA selects the offeror's proposal that is most advantageous to the JOA and the state, the basis of the final selection becomes part of the contract file;
- Offerors may request a briefing conference following the award of a contract.

Summary of Bill: The competitive negotiation process for a JOA is extended to the acquisition of materials, equipment, and supplies, or for work to be performed in support of the siting, constructing, developing, or deploying of a renewable electrical energy generation project.

A renewable electrical generation project is a generation facility fueled by wind, solar energy, geothermal energy, landfill gas, wave or tidal action, gas produced by wastewater treatment, qualified hydropower, or biomass energy.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Energy Northwest (ENW) has used the negotiated procurement process since 1987 with good effect. It is good for projects, such as wind generation, that require special experience and that are subject to many variables. ENW still uses sealed bids for most projects.

Testimony Against: This process is not needed. ENW has all the flexibility they need under existing law. Many specialized terms in the bill are not defined. Many decisions made by the executive board and managing director are out of public view, which could lead to favoritism. There is no proof that the alternative procurement process will actually save money. Design-bid-build is the standard process for public contracts; its clear, it works, and it saves the public's money.

Who Testified: PRO: Arlan Lund, Energy Northwest.

CON: Michael Transue, Associated General Contractors; Larry Stevens, Mechanical Contractors Assn of Western Washington & Natl Electrical Contractors Assn.