

# FINAL BILL REPORT

## EHB 1690

---

C 21 L 10 E1  
Synopsis as Enacted

**Brief Description:** Concerning public works projects.

**Sponsors:** Representatives Hasegawa, Hunt, Hudgins, Anderson and Kenney.

**House Committee on State Government & Tribal Affairs**  
**House Committee on Capital Budget**  
**Senate Committee on Government Operations & Elections**

### **Background:**

#### Public Works Contracting.

State law provides that public bodies must generally award contracts for public works following a competitive process in which the contract is awarded to the bidder submitting the lowest responsive bid. A public body's specific statutes generally define the process for competitive bidding and often set forth the specific dollar amount that necessitates a public bid.

#### Contracting Procedures.

The traditional contracting method of awarding a public works contract to the lowest responsible bidder is typically referred to as the design-bid-build (DBB) contracting method. Under the DBB procedure, the architectural design phase of a project is separate from the construction process. After the detailed design and construction documents are completed by an architectural firm, the construction phase of the project is put out for competitive bid. A construction contract is awarded to the lowest responsible bidder.

There are three alternative procedures authorized by law: Design-Build (DB), General Contractor/Construction Manager (GCCM), and Job Order Contracting (JOC).

The DB method is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The contract is awarded following a public request for proposals for design-build services. Following extensive evaluation of the proposals, the contract is awarded to the firm that submits the best and final proposal with the lowest price.

---

*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.*

The GCCM method is one in which the public entity employs the services of a project management firm that bears significant responsibility and risk in the contracting process. The public entity first contracts with an architectural and engineering firm to design the facility and, early in the project, also contracts with a GCCM firm to assist in the design of the facility, manage the construction of the facility, act as the general contractor, and guarantee that the facility will be built within budget.

Under the JOC method, the public entity awards a contract to a contractor who agrees to perform an indefinite quantity of public works jobs, defined by individual work orders, over a fixed period of time.

### Housing Authorities.

Each city and county is authorized to create a local housing authority for the purpose of addressing housing issues within the community, especially those affecting low income and elderly persons. Specifically, a housing authority may be created to address myriad housing issues, including:

- the existence of unsafe or unsanitary housing conditions;
- the shortage of affordable, safe, and sanitary housing for low-income persons; and
- the shortage of appropriate, affordable housing for senior citizens.

The powers granted to a housing authority include the power to:

- enter into contracts, partnerships, and joint ventures;
- sue and be sued;
- create, acquire, operate, manage, and/or lease housing projects;
- invest surplus funds;
- investigate, study, or examine housing conditions within its jurisdiction;
- buy and sell property; and
- participate in the organization or operation of a nonprofit entity whose purpose is to provide housing to low-income persons.

The Davis-Bacon Act of 1931 is a federal law which establishes the requirement for paying prevailing wages on public works projects. All federal government construction contracts, and most contracts for federally assisted construction over \$2,000, must include provisions for paying workers on-site no less than the local prevailing wage and benefits paid on similar projects, as determined by the federal Department of Labor.

Under Washington law a contractor is required to pay the prevailing wage as determined by the Department of Labor and Industries for all state and local public works contracts.

### Capital Projects Advisory Review Board.

The Capital Projects Advisory Review Board (CPARB) was established in 2005 to evaluate public capital projects construction processes and to advise the Legislature on policies related to alternative public works delivery methods. Specifically, the CPARB must develop and recommend to the Legislature:

- criteria that may be used to determine effective and feasible use of alternative contracting procedures;
- qualification standards for general contractors bidding on alternative public works projects; and
- policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods, and recommendations on expansion, continuation, elimination, or modification of alternative public works contracting methods.

The CPARB must also evaluate the future use of other alternative contracting procedures, including competitive negotiation contracts.

**Summary:**

The stated intent is to clarify that, unless otherwise specifically provided for in law, public bodies that want to use an alternative public works contracting procedure may use only those procedures as specifically authorized under the statutes for alternative public works. Evaluations of and recommendations for alternative procedures not authorized specifically by law must be submitted by the CPARB to the appropriate committees of the Legislature.

Housing authorities are subject to the alternative public works contracting procedures except where alternative requirements or procedures of federal law or federal regulation are authorized. Housing authorities also must abide by the state prevailing wage laws except where specifically preempted by federal law or federal regulation.

**Votes on Final Passage:**

House 97 0  
 House 97 0

First Special Session

House 96 0  
 Senate 40 5 (Senate amended)  
 House 97 0 (House concurred)

**Effective:** July 13, 2010