

HOUSE BILL REPORT

HB 2780

As Passed House:
February 14, 2008

Title: An act relating to alternative public works.

Brief Description: Regarding alternative public works contracting procedures.

Sponsors: By Representatives Haigh, Kristiansen, Armstrong, Hunt, Conway, Liias, Takko, Ormsby, Haler and Kenney.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/1/08, 2/5/08 [DP].

Floor Activity:

Passed House: 2/14/08, 93-0.

Brief Summary of Bill

- Allows for 10 demonstration projects using design-build for projects costing between \$2 and \$10 million.
- Allows for two demonstration projects using design-build with provisions for operations and maintenance for a period of longer than three years.
- Clarifies procedures for certifying public bodies.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Kretz, Liias, Miloscia and Ormsby.

Staff: Marsha Reilly (786-7135).

Background:

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.

Alternative methods for constructing public works were first used on a very limited basis and then adopted in statute in 1994 for certain pilot projects. These alternative procedures include a design-build process, a general contractor/construction manager (GCCM) process, and job order contracting. Originally, the use of these alternative methods were granted to a limited number of public entities.

In 2005 the Capital Projects Advisory Review Board (Board) was established to monitor and evaluate the use of traditional and alternative public works contracting procedures and to evaluate potential future use of other alternative contracting procedures. In 2007 the Board presented recommendations for the expanded use of these procedures and processes for approval that the Legislature enacted into law. A project review committee (committee) was created to certify public bodies to use either design-build, GCCM, or both procedures, or to approve projects on a project-by-project basis. The use of the procedures is generally limited to projects with a total project cost of \$10 million or more. However, the GCCM process may be used on projects with a total project cost of less than \$10 million with the approval of the committee.

Summary of Bill:

The committee may authorize two design-build demonstration projects that include operations and maintenance services (DBOM) for a period of longer than three years. Under current law, the DBOM may be used but only for a period of three years.

The committee may approve up to 10 demonstration projects using the design-build process for projects with a total project cost between \$2 and \$10 million. Public bodies must seek approval from the committee for these demonstration projects. The committee must report to the Board on recommendations for continued use of the design-build procedure for projects estimated under \$10 million.

Changes are made to clarify that public bodies seeking certification for the design-build procedure must demonstrate successful management of at least one design-build project within the previous five years, and those seeking certification for the GCCM process must demonstrate successful management of at least one GCCM project within the previous five years.

Honorarium payments for design-build projects are made to the finalists submitting responsive proposals rather than those submitting a "best and final" proposal.

The statute regarding negotiated adjustments to the lowest bid or proposal for design-build projects is repealed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The alternative public works methods of contracting were, at one time, extremely divisive. The Board has brought in people with concerns and has worked hard with all parties to address these concerns. The Board has developed several subcommittees to work on the various issues and report back to the Board. The bill is a result of recommendations made through the work of the Board. The goal is to provide an effective and efficient use of public dollars for public works.

The Board supports this bill. It includes procedural and substantive changes including demonstration projects using design-build with operations and maintenance, and design-build for lower dollar thresholds. It allows public owners more access and a wider access to alternative procurement methods while allowing the private sector a transparent method for assessing and monitoring the impacts of using these methods on their businesses. The bill is a consensus bill and is the work product of many diverse stakeholders of opposing agendas.

The Associated General Contractors are supportive of the bill. While there are still some concerns from many in the contracting community about alternative public works methods, the project review process is a rigorous filter that assures quality, competence, and fairness. It is an on-going function that requires owners to appear before the group and demonstrate their competence and their ability to meet the requirements of the process. The bill requires a report in June 2010 on recommendations for continued use of these methods.

(Opposed) None.

Persons Testifying: Representative Haigh, prime sponsor; Olivia Yang, University of Washington; and Rick Slunaker, Associated General Contractors.

Persons Signed In To Testify But Not Testifying: None