

HOUSE BILL REPORT

HB 2690

As Reported by House Committee On:

Local Government

Capital Budget

Title: An act relating to clarifying the authority and procedures for contracting by public port districts.

Brief Description: Clarifying the authority and procedures for contracting by public port districts.

Sponsors: Representatives Peterson and Griffey.

Brief History:

Committee Activity:

Local Government: 1/17/18, 1/24/18 [DP];

Capital Budget: 1/30/18, 2/2/18 [DPS].

Brief Summary of Substitute Bill

- Allows a port district to construct public works by contract without calling for bids whenever the estimated cost of the work or improvement, including the cost of materials, supplies, or equipment, will not exceed \$40,000.
- Allows a port district to procure public works with a unit-priced contract, and establishes bidding and other procedures for such contracts.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 5 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Taylor.

Staff: Cassie Jones (786-7303).

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.

Public Works.

"Public works" means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property in the jurisdiction. All public works, including maintenance when performed by contract, must comply with prevailing wage statutes. The prevailing rate of wage is the rate of hourly wage, usual benefits, and overtime paid in the locality to the majority of workers in the same trade or occupation.

Small Works Roster Process.

For public works projects estimated to cost \$300,000 or less, state agencies and local governments may use the small works roster (SWR) process to award contracts. Any responsible contractor may request to be on a SWR, which may be a single general list or may include lists for various specialties or categories of work. Under the SWR process, no advertising of such contract opportunities is required. Instead, a state agency or local government will solicit bids from all contractors who have requested to be on the appropriate SWR or from at least five of the listed contractors.

Port Districts and Procurement of Public Works.

Port districts are special purpose districts established for purposes related to: harbor improvements; rail, motor vehicle, water, air, or any combination of such transfer and terminal facilities; and other commercial transportation, transfer, handling, storage and terminal facilities, and industrial improvements.

A port district may procure materials and work that does not meet the definition of "public work" in the open market or by contract and all work ordered may be done by contract or day labor. A port district must procure public works, the estimated cost of which is greater than \$300,000, through a competitive bidding process. The competitive bidding process requires notice of the contract to be published and to call for bids on the work or materials. Competitive bidding requirements for purchases of public works may be waived for purchases: linked to a single source of supply, involving special market conditions, in the event of an emergency, and of insurance or bonds.

Public works that are estimated to cost less than \$300,000 may be procured using the SWR process in lieu of advertising for bids. Weight must be given to the contractor submitting the lowest and best proposal, and whenever it would not violate the public interest, such contracts must be distributed equally among contractors, including minority contractors, on the SWR.

Summary of Bill:

A port district may construct public works by contract without calling for bids whenever the estimated cost of the work or improvement, including the cost of materials, supplies, or equipment, will not exceed \$40,000. A "public works project" means a complete project. A project may not be divided into units of work or classes of work to avoid calling for bids.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This is a government efficiency bill, and it will help projects be completed more quickly and less expensively. Besides ports, there is only one other special purpose district that does not have some flexibility with regard to competitive bidding requirements for small public works projects. Small ports will benefit from this bill.

The \$40,000 limit is in the middle of the threshold amounts that other special districts and cities have regarding competitive bidding requirements. This bill would help speed up the completion of time sensitive smaller projects as well as reduce the cost of those projects. No one benefits from a system where every small project must go through competitive bidding.

(Opposed) None.

Persons Testifying: Representative Peterson, prime sponsor; Chris Herman, Washington Public Ports Association; Robert McChesney, Port of Edmonds; and Bruce Beckett, Port of Port Angeles and Port of Moses Lake.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Tharinger, Chair; Doglio, Vice Chair; Peterson, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Dye, Eslick, Kraft, MacEwen, Macri, Morris, Riccelli, Ryu, Sells, Steele, Stonier and Walsh.

Staff: Steve Masse (786-7115).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Local Government:

Authorization for the ports to perform public works projects under \$40,000 without competitive bids was added.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Many other districts have authority to not have to bid for small projects. This helps small ports that have difficulty soliciting bids. Industrial clients at the ports are better served as well.

(Opposed) None.

Persons Testifying: Representative Peterson, prime sponsor; Chris Herman, Washington Public Ports Association; and Randy Mueller, Port of Chehalis.

Persons Signed In To Testify But Not Testifying: None.